

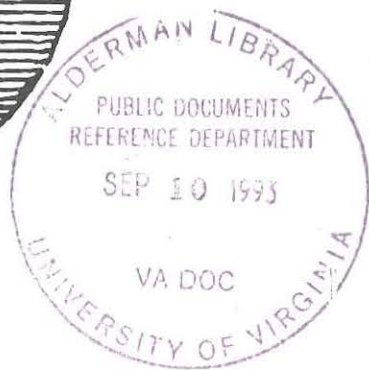
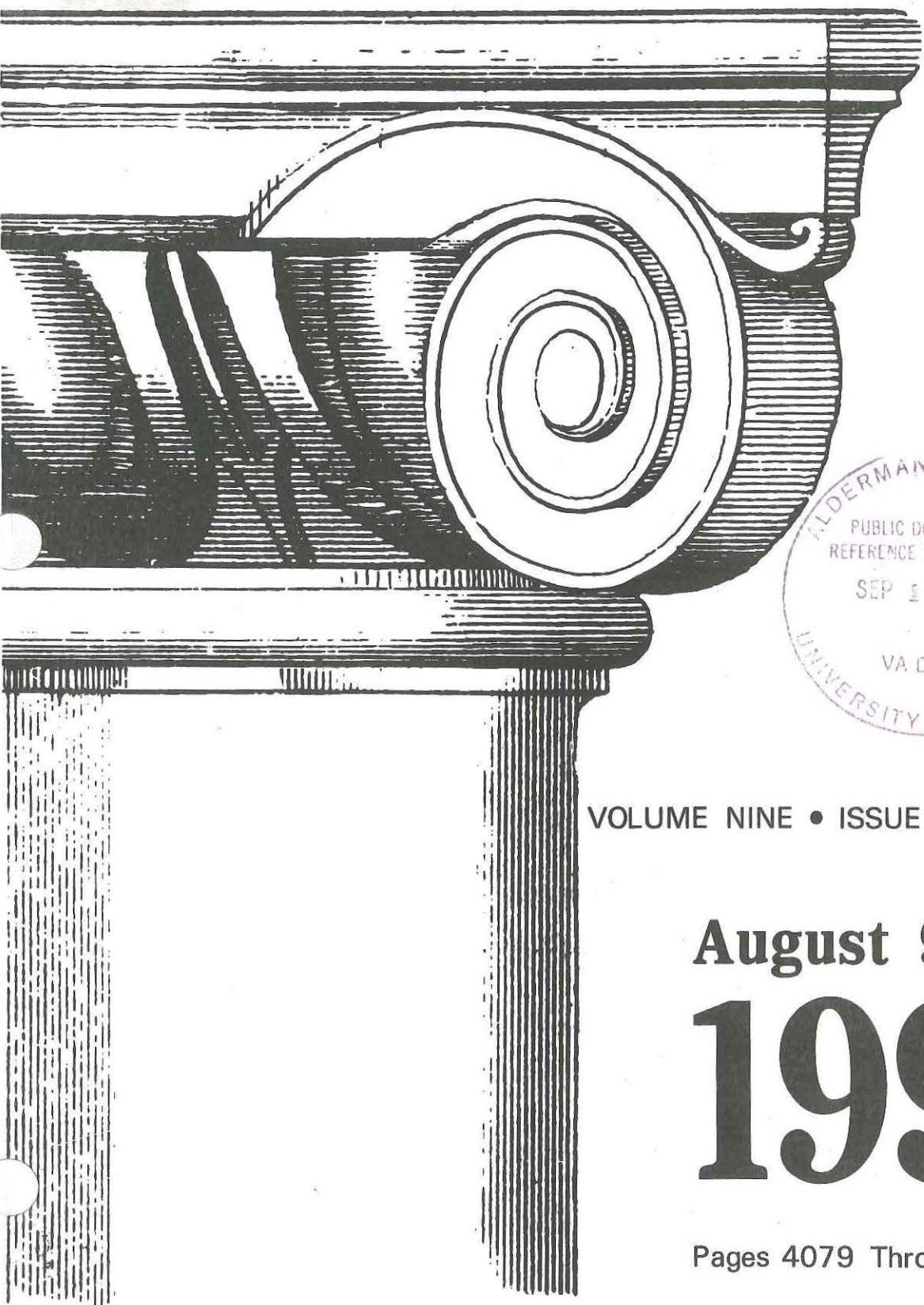
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VIRGINIA REGISTER

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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Symbol Key †

† Indicates entries since last publication of the Virginia Register

BOARD FOR ACCOUNTANCY

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board for Accountancy intends to consider repealing regulations entitled: **VR 105-01-01. Public Participation Guidelines.** The purpose of the proposed action is to promulgate regulations to replace emergency regulations. The agency does not intend to hold a public hearing on the proposed repeal of this regulation.

Statutory Authority: § 54.1-201 of the Code of Virginia.

Written comments may be submitted until September 1, 1993.

Contact: Roberta L. Banning, Assistant Director, Board for Accountancy, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8590.

V.A.R. Doc. No. C93-1716; Filed July 2, 1993, 11:59 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board for Accountancy intends to consider promulgating regulations entitled: **VR 105-01-1:1. Board for Accountancy Public Participation Guidelines.** The purpose of the proposed action is to promulgate public participation guidelines to replace emergency regulations adopted June 1993, and to provide full opportunity for public participation in the regulation formation and promulgation process. The agency does not intend to hold a public hearing on the proposed regulation.

Statutory Authority: §§ 9-6.14:7.1 and 54.1-201 of the Code of Virginia.

Written comments may be submitted until September 1, 1993.

Contact: Roberta L. Banning, Assistant Director, Board for Accountancy, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8590.

DEPARTMENT FOR THE AGING

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department for the Aging intends to consider amending regulations entitled: **VR 110-01-02. Grants to Area Agencies on Aging.** The purpose of the proposed action is to review the regulation to determine whether new regulations should be adopted, the current regulation should be amended, and sections of the current regulation should be repealed. The department does not intend to hold a public hearing after the proposed regulation is published. The department does not anticipate making substantive changes to the current regulations.

Statutory Authority: § 2.1-373(a)(7) of the Code of Virginia.

Written comments may be submitted until September 9, 1993.

Contact: J. James Cotter, Director, Division of Program Development and Management, Virginia Department for the Aging, 700 E. Franklin St., 10th Floor, Richmond, VA 23219-2327, telephone (804) 225-2271 or toll-free 1-800-552-4464.

V.A.R. Doc. No. C93-1938; Filed July 21, 1993, 10:01 a.m.

DEPARTMENT OF AGRICULTURE AND CONSUMER 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 Agriculture and Consumer Services intends to consider amending regulations entitled: **VR 115-01-01. Guidelines for Public Participation.** The purpose of the proposed action is to review the regulation for effectiveness and continued need, including, but not limited to, amending the regulation to comport with newly-enacted provisions of the Administrative Process Act. The agency invites comment on whether there should be an advisor appointed for the present regulatory action. An advisor is (i) a standing advisory panel; (ii) an ad-hoc advisory panel; (iii) consultation with groups; (iv) consultation with individuals; or (v) any combination thereof. As specified by Chapter 898 of the 1993 Acts of Assembly, the agency plans to hold a public hearing on the proposed regulation after it is published.

Statutory Authority: § 9-6.14:7.1 of the Code of Virginia and Chapter 898 of the 1993 Acts of Assembly.

Notices of Intended Regulatory Action

Written comments may be submitted until August 16, 1993.

Contact: L. H. Redford, Regulatory Coordinator, 1100 Bank St., P.O. Box 1163, Richmond, VA 23209-1163, telephone (804) 786-3539.

Pesticide Control Board

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Pesticide Control Board intends to consider amending regulations entitled: **VR 115-04-21. Public Participation Guidelines.** The purpose of the proposed action is to review the regulation for effectiveness and continued need. The agency invites comment on whether there should be an advisor appointed for the present regulatory action. An advisor is (i) a standing advisory panel; (ii) an ad hoc advisory panel; (iii) consultation with groups; (iv) consultation with individuals; or (v) any combination thereof. The agency plans to hold a public hearing on the proposed regulation after it is published.

Statutory Authority: §§ 3.1-249.30 and 9-6.14:7.1 of the Code of Virginia.

Written comments may be submitted until 8:30 a.m. on September 13, 1993.

Contact: Dr. Marvin A. Lawson, Program Manager, Office of Pesticide Management, P.O. Box 1163, 1100 Bank St., Room 401, Richmond, VA 23219, telephone (804) 371-6558.

V.A.R. Doc. No. C93-1840; Filed July 16, 1993, 10:15 a.m.

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. (Rev. HH)** The purpose of the proposed action is to amend the regulations concerning standards of performance for new and expanding industry to address concerns relating to requirements for regulated medical waste incinerators.

Public meeting: A public meeting will be held by the Department in the Board Room, State Water Control Board Office Building, 4900 Cox Road, Innsbrook Corporate Center, Glen Allen, Virginia, at 10:00 A.M. on August 25, 1993, 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.

Public hearing plans: The Department will hold at least

one public hearing to provide opportunity for public comment on any regulation amendments drafted pursuant to this notice.

Need: The 1992 General Assembly of Virginia passed legislation to impose a moratorium on the issuance of permits for commercial regulated medical waste incinerators (MWIs) until September 1, 1993, and to require the promulgation of regulations by September 1, 1993. The legislation was proposed in response to health concerns about commercial MWI emissions. This legislation was again submitted to the General Assembly in the 1993 session, and a new version extending the original moratorium for the issuance of permits for commercial infectious waste incinerators (i.e., MWIs) from September 1, 1993, to December 1, 1993, was passed. However, the deadline for promulgation of regulations remains September 1, 1993.

Although the Virginia Waste Management Board has promulgated regulations regarding the storage, transportation, and disposal of regulated medical wastes, the Virginia State Air Pollution Control Board has not promulgated air pollution permit regulations specifically addressing MWIs. State and federal air quality regulations governing incineration in general and municipal waste combustors in particular do exist, but none specifically address MWIs.

The General Assembly passed legislation directly addressing MWIs for a number of reasons:

1. The State Air Pollution Control Board had not promulgated air pollution permit regulations specifically addressing medical waste incinerators.
2. The State Air Pollution Control Board had issued permits for approximately 17 hospital regulated medical waste incinerators and one commercial regulated medical waste incinerator during the preceding two years.
3. The total regulated medical waste generated in the Commonwealth averaged between 35 and 45 tons per day. Currently, sufficient capacity within the Commonwealth to dispose of such waste may exist.
4. The incineration of regulated medical waste generates toxic or trace metals, dioxins and furans, acid gases, particulate matter, and pathogens, which may adversely affect human health and the environment.

Alternatives:

1. Amend the regulations to satisfy the provisions of the law and associated regulations and policies. This option would meet the stated purpose of the regulation: to limit emissions of certain air pollutants to a specified level necessary to protect public health and welfare. This, then, will accomplish the specific

Notices of Intended Regulatory Action

objectives of the law.

2. Make alternative regulatory changes to those required by the provisions of the law and associated regulations and policies. This option would not necessarily meet the stated purpose of the regulatory action; further, alternative regulatory changes could also go beyond the stated purpose by imposing requirements that may not be consistent with the General Assembly's wishes.

3. Take no action to amend the regulations and continue to regulate regulated medical waste incinerators under existing air quality programs. This option would not accomplish the goals of the law or the agency, nor would it accomplish the stated purpose of the regulatory action.

Costs and benefits: The department is soliciting comments on the costs and benefits of the alternatives stated above or other alternatives.

Applicable statutory requirements: Legislation passed by the 1993 General Assembly imposes a moratorium for the issuance of permits for commercial infectious waste incinerators (i.e., MWIs). An MWI is considered "commercial" if more than 25% of the waste it burns is generated off site. "Infectious waste" (i.e., regulated medical waste) is defined as solid waste with the potential to cause infectious disease in humans. The law states, "No permits for the construction, reconstruction, or expansion of a commercial infectious waste incinerator shall be issued or approved by the State Air Pollution Control Board or the Virginia Waste Management Board prior to December 1, 1993; and no such permits shall be reviewed or processed by the Boards prior to September 1, 1993." Existing and proposed noncommercial MWIs, and existing commercial MWIs are not affected.

The law further states, "The State Air Pollution Control Board and the Virginia Waste Management Board shall each promulgate regulations with respect to the permitting of infectious waste incinerators by September 1, 1993, or as soon as practicable thereafter within the constraints of the Administrative Process Act (§ 9-6.14:1 et seq.)." Factors to be considered by both boards include:

1. An assessment of the annual need for the disposal of infectious waste generated in the Commonwealth;
2. Means of reducing the volume of infectious waste and similar wastes containing or producing toxic substances disposed of in the Commonwealth;
3. The availability and feasibility of methods of disposing of infectious waste other than incineration;
4. Criteria for siting infectious waste incinerators in order to safeguard public health and safety to the maximum extents;

5. Standards for assessing the economic feasibility of proposed commercial infectious waste incinerators;

6. The propriety of establishing different criteria and procedures for the permitting of incinerators disposing of infectious waste generated on-site or off-site;

7. The economic demand for the importation of infectious waste generated outside the Commonwealth to existing and future commercial infectious waste incinerators located in the Commonwealth, and an estimate of the fair share of incinerator capacity to be allowed for infectious waste generated outside the Commonwealth;

8. The impact of the Clean Air Act (42 U.S.C. § 1857 et seq.), as amended by the 1990 amendments (P.L. 101-549), on the incineration of infectious waste by hospitals; and

9. The impact of reports by the Environmental Protection Agency to the Congress of the United States regarding the Medical Waste Tracking Act of 1988 (P.L. 100-582)."

To address these issues, a study working group consisting of Department of Environmental Quality (DEQ) Air and Waste Division staff and the public (including representatives from industry, environmental groups, general public, and the Virginia Department of Health) was established. The group determined each factor's relevance to the regulatory responsibilities of the State Air Pollution Control Board and the Waste Management Board. It was agreed that the factors pertaining to the economics of commercial regulated medical waste incineration (items 1, 5, and 7) were not within the purview of either board to adopt as regulatory performance standards or siting criteria. It was also determined by the group that items 2, 3, 4, 6, and 9 were waste management issues more appropriately studied by the Waste Division, while item 8 was an air quality issue best reviewed by the Air Division. Study results were presented to the General Assembly in January 1993.

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

Written comments may be submitted until close of business September 6, 1993, to Director of Program Development, Air Division, Department of Environmental Quality, P.O. Box 10089, Richmond, Virginia 23240.

Contact: Karen G. Sabasteanski, Policy Analyst, Program Development, Department of Environmental Quality, P.O. Box 10089, Richmond, VA 23240, telephone (804) 786-1624.

VA.R. Doc. No. C93-1783; Filed July 7, 1993, 9:35 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Air Pollution

Notices of Intended Regulatory Action

Control Board intends to consider promulgating regulations entitled: **VR 120-01. Regulations for the Control and Abatement of Air Pollution (Federal Operating Permits for Stationary Sources - Rev. JJ)**. The purpose of the proposed action is to develop a regulation to meet the requirements of Title V of the Clean Air Act, as amended in November 1990.

Public meeting: A public meeting will be held by the department in House Committee Room One, State Capitol Building, Richmond, Virginia, at 10:00 a.m. on August 25, 1993, 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.

Public hearing plans: The department will hold at least one public hearing to provide opportunity for public comment on any regulation amendments drafted pursuant to this notice.

Need: Title V of the Clean Air Act (the Act) as amended November 1990 provides a mechanism to implement the various requirements under the other titles in the Act through the issuance of operating permits. Under this title, the U.S. Environmental Protection Agency (EPA) is required to develop regulations with specific operating permit requirements. The federal regulations (40 CFR Part 70) were promulgated in final form on July 21, 1992. The States are required, in turn, to develop operating permit programs that meet the requirements specified in EPA's regulations. These programs are due to EPA for review by November 15, 1993.

The operating permits issued under this program should enhance the ability of EPA, the states, and citizens to enforce the requirements of the Act; clarify for the permitted sources exactly which air quality requirements apply; and also aid in implementing the Act by providing States with permit fees to support their programs.

Source surveillance activities are those activities undertaken by air pollution control agencies to monitor and determine the compliance status of polluting facilities.

The current new source permit program provides that owners of certain new stationary sources and certain modifications of existing stationary sources must obtain a permit to construct and operate that source. The permit sets out enforceable operating and emission control requirements for the facility and is done one time only, unless an additional new source or modification necessitates a new application. Permits have been issued for facilities in Virginia since 1972.

The current operating permit program provides that owners of new and existing sources that would not be exempt under the new and modified source exemption levels must obtain an operating permit every five years to continue to operate the source. The permit sets out enforceable operating and emission control requirements

for the facility, such as emission limits, processes or operations covered by the permit, limits on hours of operation and process rates, legal obligations and rights accompanying issuance of the permit, maximum permit renewal period, and limits on transferability. Permits can also specify reporting requirements, compliance dates, monitoring requirements, operation and malfunction provisions, and other appropriate factors relating to the operation of the source and enforcement of the permit conditions.

These new source review and operating permit programs provide benefits for the department, those who must obtain permits and the general public. A permit sets out for both the department and the owner the regulatory requirements appropriate to that source's operation. The benefits are that the operator or owner knows what requirements must be fulfilled and the department has an agreement with the owner through the permit that these requirements will be carried out. It enables the department to more efficiently and effectively carry out its source surveillance activities while providing a clear mandate for each source on what its responsibility entails. An operating permit inclusive of all requirements pertaining to the source ensures that the owner of the source is fully informed of all applicable state and federal regulations. The operating permit program provides that both the department and the owner conduct a periodic review of polluting activities to ensure that effective emission reductions are taking place.

At all facilities, operating conditions change over time, new technologies become available, and new regulatory requirements are developed that may necessarily change original permit conditions. Operating permits provide a mechanism to adapt to these changing conditions. The benefits of an operating permit program discussed above are enhanced source surveillance capability for the department and clearer regulatory ground rules for owners and operators of facilities emitting air pollution. Other benefits to the regulated community of an operating permit program are described below.

Owners of sources subject to compliance programs through new regulatory initiatives or other air quality planning requirements must sign a consent order which is, in effect, an agreement between the department and the owner for the source to meet those initiatives or requirements. An operating permit program supplants the use of consent orders under these conditions and removes the negative connotation that comes with signed consent orders. Consent orders are generally used after a facility has been found in violation of the regulations when the department needs an enforceable administrative mechanism to ensure that the facility's operation will change to avoid a violation in the future.

Current federal requirements mandate that allowable emissions of existing sources be used in air quality analyses associated with the new source permit program and air quality planning requirements. For sources that do

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not have a permit under the current new source review program, allowable emissions must be based on the maximum emissions legally allowed, even if it is impossible or unlikely that such levels could be achieved. In some cases, an existing source has been found to cause, by itself, concentration levels that exceed the federal standard for a criteria pollutant such as sulfur dioxide. Without some means to legally restrict the hours of operation, the additional emissions must be counted. An operating permit program enables the department to permit facilities at emission levels closer to actual emission levels with a reasonable margin for normal operation. At present, there is often a disparity between the actual emissions a facility produces and those allowed by emission limits.

Current federal policy allows the use of emissions trading activities by sources to meet emission standards in a more cost effective manner. These activities include bubbling, netting, offsetting and banking. The operating permit provides a mechanism for implementing and enforcing emissions trading activities, provided EPA policy or a state generic policy, as appropriate, is followed. Currently these activities are enforced using consent orders which, as explained above, have a negative connotation.

An operating permit provides the mechanism for the department to assess any facility's compliance with the air quality standards and regulations that provide a basis to protect human health and the environment. The permit provides a direct enforcement mechanism for the department to determine a facility's compliance whereas the enforcement of the standards and regulations without the permit is more difficult because specific conditions for the individual facility have not been derived from those standards and regulations. The public participation requirements of the operating permit program provide an opportunity for citizens to review and to provide comments about the compliance performance of facilities emitting air pollutants along with the department.

Alternatives: In a general sense, the most basic regulatory alternative is either to develop a regulation to satisfy the provisions of Title V of the Clean Air Act and 40 CFR Part 70 or to decide that EPA will carry out the provisions of this part of the Clean Air Act in Virginia. The regulatory alternatives considered below are specific to some of the options available to the board under the provisions of the Act and applicable federal regulations.

1. Applicability

- a. Extend the applicability of the regulation only to major sources as defined in Title V.
- b. Expand the regulation beyond the provisions of the Clean Air Act to cover sources in addition to those defined as major by Title V.

2. Operational flexibility

As specified in the preamble to 40 CFR Part 70 and below, alternatives (i) and (iii) must be provided for in the state's operating permit program under Title V; alternative (ii) may be included in the program.

(i) Allow certain narrowly defined changes within a permitted facility that contravene specific permit terms without requiring a permit revisions, as long as the source does not exceed the emissions allowable under the permit.

(ii) Allow emissions trading at the facility to meet SIP limits where the SIP provides for such trading on seven days notice in cases where trading is not already provided for in the permit.

(iii) Provide for emissions trading for the purposes of complying with a federally enforceable emissions cap established in the permit independent of or more strict than otherwise applicable requirements.

a. Provide only for alternatives (i) and (iii) in the operating permit program.

b. Provide for alternative (ii) as well as (i) and (iii) in the operating permit program. The current Virginia SIP does not provide for an emissions trading program. An emissions trading program would have to be developed but could not be developed by November 15, 1993.

3. Permit modifications

a. Adopt the procedures EPA set out in 40 CFR Part 70, § 70.7 (e) regarding permit modifications.

b. Adopt procedures that are essentially equivalent to those set out in 40 CFR Part 70, § 70.7 (e).

4. General permits

Should the regulation provide for general permits and, if so, what process should be used, what types of processes could or should be covered by general permits and what levels of emissions should be covered by general permits?

5. Temporary permits

Should the regulation provide for one permit to be issued for multiple temporary locations of a source, and, if so, what process should be used?

Costs and benefits: The department is soliciting comments on the costs and benefits of the alternatives stated above or other alternatives.

Applicable federal requirements: The 1990 Amendments create a major change to the approach taken by the U.S. Congress in previous promulgations of the Act. Title V of the Act requires the states to develop operating permit

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programs to cover all stationary sources defined as major by the Act. Permits issued under these programs must set out standards and conditions that cover all the applicable requirements of the Act for each emission unit at each individual stationary source.

Section 502 (a) requires that the following sources be covered under the provisions of any Title V program:

1. Affected sources as defined under the acid deposition provisions of Title IV of the Act.
2. Major sources, defined as follows:
 - a. Any source of air pollutants with the potential to emit 100 tons per year (tpy) or more of any pollutant;
 - b. In nonattainment areas designated as serious, any source emitting 50 TPY or more (in Virginia, the northern Virginia area is designated serious for ozone); for severe or extreme nonattainment areas, sources emitting 25 and 10 TPY, respectively; and
 - c. Any source with the potential to emit 10 tpy of any hazardous air pollutant or 25 tpy of any combination of hazardous air pollutants regulated under section 112.
3. Any other source, including an area source, subject to a hazardous air pollutant standard under section 112.
4. Any source subject to new source performance standards under section 111.
5. Any source required to have a preconstruction review permit pursuant to the requirements of the PSD program under Title I, part C or the nonattainment area new source review program under Title I, part D.
6. Any other stationary source in a category that EPA designates in whole or in part by regulation, after notice and comment.

Section 502 (b) sets out the minimum elements that must be included in each program, as follows:

1. Requirements for permit applications, including standard application forms, compliance plans and criteria for determining the completeness of applications.
2. Monitoring and reporting requirements.
3. A permit fee system.
4. Provisions for adequate personnel and funding to administer the program.

5. Authority to issue permits and assure that each permitted source complies with applicable requirements under the Act.

6. Authority to issue permits for a fixed term, not to exceed five years.

7. Authority to assure that permits incorporate emission limitations in an applicable implementation plan.

8. Authority to terminate, modify, or revoke and reissue permits for cause, which is not further defined, and a requirement to reopen permits in certain circumstances.

9. Authority to enforce permits, permit fees, and the requirement to obtain a permit, including civil penalty authority in a maximum amount of not less than \$10,000 per day, and appropriate criminal penalties.

10. Authority to assure that no permit will be issued if EPA objects to its issuance in a timely fashion.

11. Procedures for (a) expeditiously determining when applications are complete, (b) processing applications, (c) public notice, including offering an opportunity for public comment, and a hearing on applications, (d) expeditious review of permit actions, and (e) state court review of the final permit action.

12. Authority and procedures to provide that the permitting authority's failure to act on a permit or renewal application within the deadlines specified in the Act shall be treated as a final permit action solely to allow judicial review by the applicant or anyone also who participated in the public comment process to compel action on the application.

13. Authority and procedures to make available to the public any permit application, compliance plan, permit emissions or monitoring report, and compliance report or certification, subject to the confidentiality provisions of section 114(c) of the Act; the contents of the permit itself are not entitled to confidentiality protection.

14. Provisions to allow operational flexibility at the permitted facility.

Section 503 (b) requires that applicants shall submit with the permit application a compliance plan describing how the source will comply with all applicable requirements of the Act. The compliance plan must include a schedule of compliance and a schedule under which the permittee will submit progress reports to the permitting authority no less frequently than every six months. The permittee must also certify that the facility is in compliance with any applicable requirements of the permit no less frequently than annually. The permittee must also promptly report any deviations from permit requirements to the permitting

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authority.

Section 503 (d) specifies that a source's failure to have an operating permit shall not be a violation of the Act if the source owner submitted a timely and complete application for a permit and if he submitted other information required or requested to process the application in a timely fashion.

Section 503 (e) requires that a copy of each permit application, compliance plan (including the schedule of compliance), emissions or compliance monitoring report, certification, and each permit issued under this title, shall be available to the public. Any information that is required of an applicant to submit and which is entitled to protection from disclosure under section 114 (c) of the Act can be submitted separately.

Section 504 specifies what is to be included in each operating permit issued under this program. Section 504 (a) requires that each permit shall include enforceable emission limitations and standards, a schedule of compliance, a requirement that the permittee submit to the permitting authority, no less often than every six months, the results of any required monitoring, and such other conditions as are necessary to assure compliance with applicable requirements, including the requirements of any state implementation plan.

Section 504 (b) indicates that the EPA administrator may prescribe, by rule, procedures and methods for determining compliance and for monitoring and analysis of pollutants regulated by the Act. Continuous emissions monitoring need not be required if alternative methods are available that provide sufficiently reliable and timely information for determining compliance.

Section 504 (c) requires that each permit issued under the program shall set forth inspection, entry, monitoring, compliance certification, and reporting requirements to assure compliance with the permit terms and conditions. Such monitoring and reporting requirements shall conform to applicable regulations issued under 504 (b). Any report required to be submitted by a permit issued to a corporation shall be signed by a responsible corporate official, who shall certify its accuracy.

Section 504 (d) allows the state permitting authority to issue a general permit covering numerous similar sources after notice and opportunity for public hearing. Any general permit shall comply with all program requirements. Any source governed by a general permit regulation must still file an application under this program.

Section 504 (e) allows the state permitting authority to issue a single permit authorizing emissions from similar operations at multiple temporary locations. No such permit shall be issued unless it includes conditions that will assure compliance with all the requirements of the Act at all authorized locations, including, but not limited to, ambient standards and compliance with any applicable

increment or visibility requirements under the Act. Any such permit shall in addition require the owner or operator to notify the permitting authority in advance of each change in location.

Section 504 (f) provides a permit shield for permittees. This section specifies that compliance with a permit issued in accordance with Title V shall be deemed in compliance with Section 502, or with the program. And unless otherwise provided by the EPA administrator and by rule, the permit may also provide that compliance with the permit shall be deemed compliance with other applicable provisions of the Act that relate to the permittee, if:

1. The permit includes the applicable requirements of those provisions, or
2. The permitting authority in acting on the permit application makes a determination relating to the permittee that such other provisions (which shall be referred to in such determination) are not applicable and the permit includes the determination or a concise summary thereof.

Section 503 (c) specifies that all sources required to be permitted under a Title V program are required to submit an application within 12 months after the date EPA approves the state's program. The state permitting authority may specify an earlier date for submitting applications. The state permitting authority must establish a phased schedule for acting on permit applications submitted within the first full year after program approval, and must act on at least one-third of the permits each year over a period not to exceed three years after approval of the program. After acting on the initial application, the permitting authority must issue or deny a complete application within 18 months after receiving that application.

Section 505 (a) requires the state permitting authority to send EPA a copy of each permit application and each permit proposed to be issued. For each permit application or proposed permit sent to EPA, Section 505 (a) also requires the permitting authority to notify all states whose air quality may be affected and that are contiguous to the state in which the emission originates, or that are within 50 miles of the source. This notice must provide an opportunity for these affected states to submit written recommendations respecting the issuance of the permit and its terms and conditions. Section 505 (b) provides for EPA objections to any permit which contains provisions that are not in compliance with the requirements of the Act or with the applicable State Implementation Plan. This section also provides that any person may petition the EPA administrator within 60 days after the expiration of the 45-day review period, if no objections were submitted by the EPA administrator. Furthermore the state permitting authority may not issue the permit if the EPA administrator objects to its issuance unless the permit is revised to meet the objection. If the state permitting authority fails to revise and resubmit the permit, EPA

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must issue or deny the permit in accordance with the requirements of Title V. Under section 505 (d), the permit program submitted by the state may not have to meet these requirements for sources other than major sources covered by the program. Section 505 (e) allows the EPA administrator to terminate, modify, or revoke and reissue an operating permit issued under a state's program, if he finds that cause exists for such action.

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

Written comments may be submitted until close of business August 25, 1993, to Director of Program Development, Air Division, Department of Environmental Quality, P.O. Box 10089, Richmond, Virginia 23240.

Contact: Nancy S. Saylor, Policy Analyst, Program Development, Department of Environmental Quality, P.O. Box 10089, Richmond, VA 23240, telephone (804) 786-1249.

VA.R. Doc. No. C93-1786; Filed July 7, 1993, 9:35 a.m.

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 promulgating regulations entitled: **VR 120-01. Regulations for the Control and Abatement of Air Pollution (Permit Program Fees - Revision KK)**. The purpose of the proposed action is to develop a regulation to meet the permit program fee requirements of Title V of the Clean Air Act and of § 10.1-1322 of the Code of Virginia.

Public meeting: A public meeting will be held by the department in House Committee Room One, State Capitol Building, Richmond, Virginia, at 10 a.m. on Wednesday, August 25, 1993, 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.

Public hearing plans: The department will hold at least one public hearing to provide opportunity for public comment on any regulation amendments drafted pursuant to this notice.

Need: Title V of the Clean Air Act (the Act) as amended November 1990, provides a mechanism to implement the various requirements under the other titles in the act through the issuance of operating permits. Under this title, the U.S. Environmental Protection Agency (EPA) is required to develop regulations with specific operating permit requirements. The federal regulations (40 CFR Part 70) were promulgated in final form on July 21, 1992. The states are required, in turn, to develop operating permit programs that meet the requirements specified in EPA's regulations. These programs are due to EPA for review by November 15, 1993.

One of the requirements of Title V is for states to develop permit fee programs to use in funding the costs of developing, implementing and enforcing the other requirements of Title V. The permit fees obtained should fund the resources necessary for states to carry out their programs. The basis of the required permit fees is a charge per ton of emissions of regulated pollutants emitted by stationary sources covered under Title V. While the permit fee program provides a benefit to state agencies, the program also provides other benefits related to air quality. Permit fees charged for emissions may provide an incentive to stationary sources to keep their emissions as low as possible. The charging of permit fees also more directly allows the costs of the air quality programs to be paid for by those who create the pollution, rather than indirectly through the state taxation system.

Alternatives: Generally, the most basic regulatory alternative is either to amend the regulation to satisfy the provisions of Title V of the Clean Air Act, § 10.1-1322 of the Air Pollution Control Law of Virginia and 40 CFR Part 70 or to decide that EPA will carry out the permit fee provisions of Title V of the Act in Virginia. The regulatory options and alternatives set out below more specifically pertain to the requirements of the Act, Virginia law and applicable federal regulations.

1. Program coverage.
 - a. Extend the coverage of the fee program only to those major sources as defined in Title V.
 - b. Extend the coverage of the fee program to sources other than those covered in Title V.
2. Emissions fee approach.
 - a. Provide for a graduated fee program so that the greater the emissions of each regulated pollutant, the higher the fee would be.
 - b. Provide for a straight-line fee program so that each ton of a regulated pollutant emitted would be charged the same fee.
3. Other fee alternatives.
 - a. Provide small businesses with reduced fees, defining a size of small business below which such reductions are appropriate.
 - b. Provide sources that qualify for general permits, if such permits are developed within the state's Title V program, with reduced fees.
 - c. Determine if any source sizes or types should not be assessed a fee, and if so, what source sizes or types should these be.

Costs and benefits: The department is also soliciting comments on the costs and benefits of the alternatives

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stated above or other alternatives.

Statutory Authority: The authority for the adoption of the regulation is § 10.1-1308 of the Virginia Air Pollution Control Law (Title 10.1, Chapter 13 of the Code of Virginia) which authorizes the board to promulgate regulations abating, controlling and prohibiting air pollution in order to protect public health and welfare.

Applicable federal requirements: The legal basis for the regulation is Title V, §§ 501-507 of the Federal Clean Air Act (42 USC 7401 et seq., 91 Stat 685). The regulatory basis for the regulation is 40 CFR Part 70.

The 1990 amendments create a major change to the approach taken by the U.S. Congress in previous promulgations of the Act. Title V of the Act requires the states to develop operating permit programs to cover all stationary sources defined as major by the Act. Permits issued under these programs must set out standards and conditions that cover all the applicable requirements of the Act for each emission unit at each individual stationary source. In addition to requiring that states develop operating permit programs, Congress is also requiring that states develop permit fee programs to pay for the cost of the programs.

Section 502(b)(3) sets out the minimum elements that must be included in each permit fee program. The owner or operator of all sources subject to the requirement to obtain a permit must pay an annual fee, or the equivalent over some other period, sufficient to cover all reasonable (direct and indirect) costs required to develop and administer the permit program requirements of Title V, including the costs of the small business technical assistance program. Section 502(b)(3)(A) specifies what is meant by reasonable costs, as follows:

1. Reviewing and acting upon any application for a permit.
2. Implementing and enforcing the terms and conditions of the permit, but not including any court costs or other costs associated with any enforcement action.
3. Emissions and ambient monitoring.
4. Preparing generally applicable regulations or guidance.
5. Modeling, analyses, and demonstrations.
6. Preparing inventories and tracking emissions.

Section 502(b)(3)(B) specifies the requirements for the total amount of fees to be collected by the state permitting authority, as follows:

1. The state must demonstrate that, except as otherwise provided, the program will collect in the

aggregate from all sources subject to the program an amount not less than \$25 per ton of each regulated pollutant, or such other amount as the EPA administrator may determine adequately reflects the reasonable costs of the permit program.

2. "Regulated pollutant" means (a) a volatile organic compound; (b) each pollutant regulated under Section 111 or 112 of the Act; and (c) each pollutant for which a national primary ambient air quality standard has been promulgated (except carbon monoxide).

3. In determining the amount to be collected, the permitting authority is not required to include any amount of regulated pollutant emitted by any source in excess of 4,000 tons per year of that pollutant.

4. The requirements of paragraph 1 above will not apply if the permitting authority can demonstrate that collecting an amount less than \$25 per ton of each regulated pollutant will meet the requirements of 502(b)(3)(A).

5. The fee calculated under paragraph 1 above shall be increased (consistent with the need to cover the reasonable costs authorized by 502(b)(3)(A)) in each year beginning after the year of the enactment of the Act by the percentage, if any, by which Consumer Price Index for the most recent calendar year ending before the beginning of such year exceeds the Consumer Price Index for the calendar year 1989.

Section 502(b)(3)(C) specifies the requirements of a permit fee program if the EPA administrator finds that the fee provisions of a state program are inadequate or if the Title V operating permit program itself is inadequate and EPA has to administer the fee program itself.

Section 507(f) concerning fees and the Small Business Technical Assistance Program specifies that the state may reduce any fee required under Title V to take into account the financial resources of small business stationary sources.

Section 408(c)(4) of Title IV concerning sources of acid deposition states that Phase I affected units shall not be required to pay permit fees during the years 1995 through 1999.

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

Written comments may be submitted until the close of business on August 25, 1993, to Director of Program Development, Air Division, Department of Environmental Quality, P.O. Box 10089, Richmond, Virginia 23240.

Contact: Dr. Kathleen Sands, Policy Analyst, Department of Environmental Quality, P.O. Box, 10089, Richmond, VA 23240, telephone (804) 225-2722.

VA.R. Doc. No. C93-1782; Filed July 7, 1993, 9:35 a.m.

Notices of Intended Regulatory Action

† 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 (Appendix E - Public Participation Procedures)**. The purpose of the proposed action is to amend the Public Participation Procedures (Appendix E), on a permanent basis, such that the procedures will comply with the 1993 amendments to the Administrative Process Act.

Public meeting: A public meeting will be held by the department in the Board Room, Department of Environmental Quality, Water Division Office Building, 4900 Cox Road, Innsbrook Corporate Center, Glen Allen, Virginia, at 2 p.m. on September 9, 1993, to discuss the intended action. Unlike an informational proceeding (informal hearing), which is intended only to receive testimony, this meeting is being held to discuss and exchange ideas and information relative to regulation development. The meeting will be held jointly by all regulatory agencies within the Secretariat of Natural Resources.

Accessibility to persons with disabilities: The meeting is being held at a public facility believed to be accessible to persons with disabilities. Any person with questions on the accessibility of the facility should contact Doneva Dalton at the Office of Regulatory Services, Department of Environmental Quality, P.O. Box 11143, Richmond, Virginia 23230, or by telephone at (804) 527-5162 or TDD (804) 527-4261. Persons needing interpreter services for the deaf must notify Ms. Dalton no later than August 23, 1993.

Use of collaborative approach: The department is soliciting comments on the advisability of forming an ad hoc advisory group, utilizing a standing advisory committee or consulting with groups or individuals registering interest in working with the department to assist in the drafting and formation of any proposal. The primary function of any group, committee or individuals that may be utilized is to develop recommended regulation amendments for department consideration through the collaborative approach of regulatory negotiation and consensus.

Informational proceeding and public hearing plans: After the proposal is published in the Virginia Register of Regulations, the department will hold at least one informational proceeding (informal hearing) to provide opportunity for public comment on any regulation amendments drafted pursuant to this notice. The department does not intend to hold an evidential hearing (public hearing) on the proposal.

Need: The provisions of Appendix E (Public Participation Procedures) are in need of revision to conform to recent changes in the requirements of the Administrative Process Act and to replace recently adopted emergency procedures. These procedures detail how the State Air

Pollution Control Board will solicit and use public input during the development and formation of regulations in the regulatory adoption process.

The Administrative Process Act (APA) establishes the requirements that state agencies and boards must follow in the adoption of regulations.

In 1993, the Virginia General Assembly passed several amendments to the APA which became effective on July 1, 1993. The Office of the Attorney General later determined that these amendments would require boards with regulations currently in the promulgation process to stop the process and begin anew under the new provisions if final adoption could not occur prior to July 1.

In addition, state boards must also adopt new public participation procedures prior to restarting the regulatory actions. In order to be able to continue to process regulatory actions in order to meet various federal and state statutory deadlines, the State Air Pollution Control Board adopted emergency regulations covering regulatory public participation which became effective on June 29, 1993. However, the emergency regulations only remain in effect for one year from the effective date shown above, unless sooner modified or vacated or superseded by permanent regulations adopted pursuant to the APA.

Although all aspects of the APA do not affect the procedures, the APA imposes new requirements on agencies that directly affect public participation in the processing of regulations under the APA. For example, the APA requires the board to set out in their procedures any methods for the identification and notification of interested persons or groups which the board intends to use in addition to the Notice of Intended Regulatory Action. Also, the APA mandates that the board include in their procedures a general policy for the use of standing or ad hoc advisory groups and consultation with groups and individuals registering interest in working with the board.

Estimated impact: No financial impact on regulated entities or the public is expected from any proposed amendments to the procedures since the procedures only impose requirements on the board. Regulated entities and the public should benefit from the proposed amendments in that the procedures will comply with the amendments to the APA.

Alternatives: The alternatives are to either (i) amend the regulation to meet the needs identified above and comply with the new requirements of the APA or (ii) not amend the regulation and leave the provisions cited outdated and ineffective with regard to compliance with the APA.

Costs and benefits: The department is soliciting comments on the costs and benefits of the alternative stated above or other alternatives.

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

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Written comments may be submitted until the close of business September 15, 1993, to Director of Program Development, Air Division, Department of Environmental Quality, P.O. Box 10089, Richmond, Virginia 23240.

Contact: Robert A. Mann, Director of Program Development, Department of Environmental Quality, P.O. Box 10089, Richmond, VA 23240, telephone (804) 786-5789.

VA.R. Doc. No. C93-1892; Filed July 21, 1993, 10:42 a.m.

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 promulgating regulations entitled: **VR 120-99-03. Regulation for the Control of Motor Vehicle Emissions through Enhanced Testing.** The purpose of the proposed action is to develop a regulation for the testing of vehicle emissions which will conform to federal requirements.

Public meeting: A public meeting will be held by the department in the Pohick Regional Library, 6450 Sydenstricker Road, Burke, Virginia, at 10:30 a.m. on August 25, 1993, 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.

Public hearing plans: The department will hold at least one public hearing to provide opportunity for public comment on any regulations or amendments drafted pursuant to this notice.

Need: The National Ambient Air Quality Standard for ozone is 0.12 parts per million (ppm) and was established by the U.S. Environmental Protection Agency (EPA) to protect the health of the general public with an adequate margin of safety. Ozone is formed when volatile organic compounds and nitrogen oxides in the ambient air reach together in the presence of sunlight. When concentrations of ozone in the ambient air exceed EPA standard the area is considered to be out of compliance and is classified "nonattainment." Numerous counties and cities within the Northern Virginia, Richmond, and Hampton Roads areas have been identified as ozone nonattainment areas according to new provisions of the 1990 Clean Air Act (Act); therefore, over 3.5 million Virginia citizens are being exposed to air quality that does not meet the federal health standard for ozone. States are required to develop plans to ensure that areas will come into compliance with the federal health standard. Failure to develop adequate programs to meet the ozone air quality standard: (i) will result in the continued violations of the standard to the detriment of public health and welfare; (ii) may result in assumption of the program by the EPA at which time the Commonwealth would lose authority over matters affecting its citizens; and (iii) may result in the implementation of sanctions by EPA, such as prohibition of new major

industrial facilities and loss of federal funds for highway construction and sewage treatment plant development. Although the EPA has been reluctant to impose these sanctions in the past, the new Act now includes specific provisions requiring these sanctions to be issued by EPA if so warranted.

Of the consequences resulting from failure to develop an adequate program to control ozone concentrations in the ambient air, the most serious consequence will be the adverse impact on public health and welfare. Ozone not only affects people with impaired respiratory systems, such as asthmatics, but also many people with healthy lungs, both children and adults. It can cause shortness of breath and coughing when healthy adults are exercising, and more serious effects in the young, old, and infirm. There are significant health care costs associated with these adverse effects.

Northern Virginia has an ozone air pollution problem classified by the EPA as "serious." The problem is predominately from motor vehicle emissions. A vehicle emissions inspection and maintenance (I/M) program has been in place in Northern Virginia for 10 years to help reduce these emissions; however, substantially greater emission reductions are now required and a more effective I/M program must be implemented in the Northern Virginia area.

I/M programs provide a way to check whether the emission control system on a vehicle is working correctly. All new passenger cars and trucks sold in the United States today must meet stringent air pollution standards and those standards will become more stringent in model year 1994, but they can only retain this low-polluting profile if the emission controls and engine are functioning properly. I/M is designed to ensure that vehicles stay clean in actual use. Through periodic vehicle checks and required repair of vehicles that fail the test, I/M encourages proper vehicle maintenance and discourages tampering with emission control devices. This, in turn, can substantially reduce the amount of volatile organic compounds, carbon monoxide, and nitrogen oxides emitted to the ambient air, thereby reducing the formation of ozone and lowering ozone concentrations.

Alternatives:

1. Draft new regulations which will provide for implementation of a motor vehicle emissions testing program that meets the provisions of the federal Clean Air Act and associated EPA regulations and policies.
2. Make alternative regulatory changes to those required by the Act. No alternatives have been promulgated by EPA as meeting the requirements of the Act. Adopting an unapprovable program will result in sanctions being imposed by EPA.
3. Take no action to amend the regulations and

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continue to operate the existing program in violation of the Act and risk sanctions by EPA.

Costs and benefits: The department is soliciting comments on the costs and benefits of the alternatives stated above or other alternatives.

Applicable federal requirements: The 1990 amendments to the Clean Air Act represent the most comprehensive piece of clean air legislation ever enacted and for the first time delineates nonattainment areas as to the severity of the pollution problem. Nonattainment areas are now classified as marginal, moderate, serious, severe and extreme. Marginal areas are subject to the least stringent requirements and each subsequent classification is subject to successively more stringent control measures. Areas with higher classification of nonattainment must meet the requirements of all areas in lower classifications. Virginia's nonattainment areas are classified as marginal for the Hampton Roads nonattainment area, moderate for the Richmond nonattainment area, and serious for the Northern Virginia nonattainment area.

Section 182(c)(3) of the federal Act requires "enhanced" I/M programs in all urbanized areas with 1980 populations of 200,000 or more (as defined by the Bureau of Census) that are classified as serious or above ozone nonattainment areas. In addition, the Act created ozone transport regions (OTR) and specifically established one such region in the Northeastern United States, covering Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, and the Consolidated Metropolitan Statistical Area of the District of Columbia, which includes Northern Virginia. The Act requires an enhanced I/M program in any metropolitan statistical area (MSA) or portion of a MSA within the OTR with a 1990 population of 100,000 or more, regardless of its nonattainment status.

The enhanced model I/M program is based on annual, centralized testing of all model year 1968 and later light duty vehicles and light duty trucks to 8,500 pounds gross vehicle weight rating. The model presumes steady-state testing is performed on 1968 through 1985 model year vehicles, while 1986 and later model year vehicles are subject to transient tailpipe emission testing. Also required is a test of the integrity of the fuel system and the effectiveness of the fuel vapor recovery system including charcoal canister operation.

EPA regulations require that enhanced programs utilize a test-only network to achieve the performance standard. EPA does encourage biennial testing as a cost effective alternative to annual testing but the resulting difference in emissions control must be made up by further enhancements to the programs, such as inclusion of more vehicles in the program.

At a minimum, the program must include computerized emission analyzers, on-road testing, denial of waivers for warranted vehicles or repairs related to tampering, a \$450

cost waiver requirement for emission-related repairs not covered by manufacturer's warranty, enforcement through vehicle registration denial, and inspection of the emissions control diagnostic system. In addition, each state must report biennially to EPA on emissions reductions achieved by the program.

An enhanced I/M program must be implemented by January 1, 1995. Areas switching from a test-and-repair to a test-only network, which applies to the Northern Virginia area, may phase in the change between January 1995 and January 1996. The General Assembly of Virginia passed legislation providing for a biennial, test-only, enhanced emission inspection program which will become effective January 1, 1995. The program will apply to motor vehicles that have actual gross weights of 26,000 pounds or less. The new legislation also provides for regulations to address the protection of the following consumer interests in accordance with EPA requirements: (i) the number of inspection facilities and inspection lanes relative to population density; (ii) the proximity of inspection facilities to motor vehicle owners; (iii) the time spent waiting for inspections; and (iv) the days and hours of operation of inspection facilities.

Other key provisions of the legislation include:

Beginning January 1, 1995, an inspection fee cap of \$20 and a minimum repair cost of \$450 to qualify for a waiver;

Motor vehicles being titled for the first time may be registered for up to two years without being subject to an emissions inspection;

Vehicle held for resale by dealers, up to five years old, may be issued a one-year registration without being required to have an I/M test, provided that the dealer states in writing that the emissions equipment on the motor vehicle was operating in accordance with the manufacturer's warranty at the time of resale; and

The requirement for the inspection to apply to all vehicles registered and/or operated in the affected area including (i) vehicles owned by government entities; (ii) vehicles owned by military personnel residing in the affected areas; and (iii) vehicles owned by leasing or rental companies.

The legislation directs the State Air Pollution Control Board to adopt regulations to implement the program. Federal law requires that regulations be adopted and submitted to EPA by November 15, 1993.

Statutory Authority: §§ 46.2-1179 and 46.2-1180 of the Code of Virginia.

Written comments may be submitted until close of business on August 25, 1993, to Director of Program Development, Air Division, Department of Environmental

Notices of Intended Regulatory Action

Quality, P.O. Box 10089, Richmond, Virginia 23240.

Contact: David J. Kinsey, Policy Analyst, Program Development, Department of Environmental Quality, P.O. Box 10089, Richmond, VA 23240, telephone (804) 786-1620.

VA.R. Doc. No. C93-1785; Filed July 7, 1993, 9:35 a.m.

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 promulgating regulations entitled: **VR 120-99-05. Regulation for the Control of Emissions from Fleet Vehicles.** The purpose of the proposed action is to develop a regulation that will conform to the federal and state requirements for control of emissions from fleet vehicles in the Northern Virginia, Richmond and Hampton Roads ozone nonattainment areas.

Public meeting: A public meeting will be held by the department in House Committee Room One, State Capitol Building, Richmond, Virginia, at 2 p.m. on August 25, 1993, 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.

Public hearing plans: The department will hold at least one public hearing to provide opportunity for public comment on any regulation amendments drafted pursuant to this notice.

Need: The National Ambient Air Quality Standard for ozone is 0.12 parts per million (ppm) and was established by the U.S. Environmental Protection Agency (EPA) to protect the health of the general public with an adequate margin of safety. Ozone is formed when volatile organic compounds and nitrogen oxides in the ambient air react together in the presence of sunlight. When concentrations of ozone in the ambient air exceed the EPA standard the area is considered to be out of compliance and is classified as "nonattainment." Numerous counties and cities within the Northern Virginia, Richmond, and Hampton Roads areas have been identified as ozone nonattainment areas according to new provisions of the 1990 Clean Air Act (Act); therefore, over 3.5 million Virginia citizens are being exposed to air quality that does not meet the federal health standard for ozone.

States are required to develop plans to ensure that areas will come into compliance with the federal health standard. Failure to develop adequate programs to meet the ozone air quality standard: (i) will result in the continued violations of the standard to the detriment of public health and welfare, (ii) may result in assumption of the program by EPA at which time the Commonwealth would lose authority over matters affecting its citizens, and (iii) may result in the implementation of sanctions by EPA, such as prohibition of new major industrial facilities and loss of federal funds for sewage treatment plant

development and highway construction. Although the EPA has been reluctant to impose these sanctions in the past, the new Act now includes specific provisions requiring these sanctions to be issued by EPA if so warranted.

Of the consequences resulting from failure to develop an adequate program to control ozone concentrations in the ambient air, the most serious consequence will be the adverse impact on public health and welfare. Ozone not only affects people with impaired respiratory systems, such as asthmatics, but also many people with healthy lungs, both children and adults. It can cause shortness of breath and coughing when healthy adults are exercising, and more serious effects in the young, old, and infirm.

Northern Virginia has been identified by EPA as having a serious ozone air pollution problem. The problem originates in large part from motor vehicle emissions including fleet vehicles. A vehicle emissions inspection program has been in place in Northern Virginia for 10 years to help reduce these emissions; however, substantially greater emission reductions are now required. The 1990 amendments to the Clean Air Act have required the fleet owners in the Northern Virginia nonattainment area to purchase vehicles that conform to stricter exhaust emission standards. These vehicles are known as Clean Fuel Fleet (CFF) vehicles.

In addition, the 1993 General Assembly adopted legislation that requires a clean fuel fleet program in the Richmond and Hampton Roads nonattainment areas. The legislation requires fleet owners to include an increasing percentage of CFF vehicles in their fleet purchases beginning in the 1998 model year. As more and more vehicles in the affected fleets become CFF vehicles the total emissions from the fleets will decrease. This, in turn, can substantially reduce the amount of volatile organic compounds emitted to the ambient air, thereby reducing the formation of ozone and lowering ozone concentrations.

Alternatives:

1. Adopt regulations which will provide for implementation of a clean fuel fleets program to satisfy the provisions of state law and the Clean Air Act and associated EPA regulations and policies.
2. Make alternative regulatory changes to those required by the Act. For example, one control measure that has been identified as an equivalent alternative to the clean fuel fleets program is a low emissions vehicle (LEV) program; however, legal authority to adopt a LEV program does not exist.
3. Take no action to adopt regulations and continue to operate fleets in violation of the Act and risk sanctions by EPA.

Costs and benefits: The department is soliciting comments on the costs and benefits of the alternatives stated above or other alternatives.

Notices of Intended Regulatory Action

Applicable federal requirements: The 1990 amendments to the Clean Air Act delineate nonattainment areas as to the severity of the pollution problem. Nonattainment areas are now classified as marginal, moderate, serious, severe and extreme. Marginal areas are subject to the least stringent requirements and each subsequent classification is subject to successively more stringent control measures. Areas with higher classification of nonattainment must meet the requirements of all the areas in lower classifications. Virginia's nonattainment areas are marginal for the Hampton Roads nonattainment area, moderate for the Richmond nonattainment area, and serious for the Northern Virginia nonattainment area.

Section 246 (a) of Part C of Title II of the federal Act requires CFF programs in all urbanized areas with 1980 populations of 250,000 or more (as defined by the Bureau of Census) that are classified as serious or above ozone nonattainment areas.

The Act requires that a percentage of all new fleet vehicles purchased by each affected fleet operator in serious nonattainment areas (Northern Virginia) in model year 1998 and thereafter be clean-fuel vehicles. In addition, the law further requires that the vehicles shall use clean alternative fuels when operating in the covered areas. Fleet operators have their choice of CFF vehicles and type of clean fuel to be used and requires that the choice of fuel be made available to fleet operators. The phase-in requirements for new purchases are:

Vehicle Type & Gross Vehicle Weight (GVW)	Model Year 1998	Model Year 1999	Model Year 2000
Light-duty vehicles and trucks up to 6,000 lbs GVW	30%	50%	70%
Light-duty trucks between 6,000 and 8,500 GVW	30%	50%	70%
Heavy-Duty trucks above 8,500 GVW	50%	50%	50%

¹ EPA interpretation that LTDs over 6,000 GVW are included in the same phase-in schedule as LTDs below 6,000 pounds GVW.

Credit shall be provided to fleet operators for the purchase of more clean-fuel vehicles than required and/or the purchase of CFF vehicles which meet more stringent standards than required. Credits may be used to demonstrate compliance or may be sold or traded for other fleet operators to demonstrate compliance. Credits may be held or banked for later use with no decrease in the credit value.

In addition to the federal requirement for Northern Virginia, legislation passed by the Virginia General Assembly also requires the CFF program to be implemented in the Richmond and Hampton Roads areas. This requirement is not only for fleet vehicles registered in the affected nonattainment areas, but also applies to

motor vehicles NOT registered in the nonattainment areas, but have either (i) a base of operations or (ii) a majority of their annual travel in one or more of the mentioned localities.

The law also provides for the development of regulations by the State Corporation Commission and the Department of Environmental Quality to ensure the availability of clean alternative fuels to affected fleet operators should it be deemed necessary.

Statutory Authority: § 46.2-1179.1 of the Code of Virginia (Chapters 234 and 571 of the 1993 Acts of Assembly).

Written comments may be submitted until the close of business August 25, 1993, to the Director of Program Development, Air Division, Department of Environmental Quality, P.O. Box 10089, Richmond, Virginia 23240.

Contact: Mary E. Major, Senior Policy Analyst, Program Development, Air Division, Department of Environmental Quality, P.O. Box 10089, Richmond, VA 23240, telephone (804) 786-7913.

V.A.R. Doc. No. C93-1784; Filed July 7, 1993, 9:35 a.m.

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

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board for Architects, Professional Engineers, Land Surveyors and Landscape Architects intends to consider repealing regulations entitled: **VR 130-01-1. Public Participation Guidelines**. The purpose of the proposed action is to establish new public participation guidelines for the Board for Architects, Professional Engineers, Land Surveyors and Landscape Architects. The board does not plan to hold a public hearing in the promulgation of these regulations.

Statutory Authority: §§ 9-6.14:7.1 and 54.1-404 of the Code of Virginia.

Written comments may be submitted until September 8, 1993.

Contact: Willie Fobbs, III, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514.

V.A.R. Doc. No. C93-1936; Filed July 9, 1993, 11:53 a.m.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board for Architects, Professional Engineers, Land Surveyors and Landscape Architects intends to consider promulgating

Notices of Intended Regulatory Action

regulations entitled: **VR 130-01-1.1. Public Participation Guidelines.** The purpose of the proposed action is to establish public participation guidelines for the Board for Architects, Professional Engineers, Land Surveyors and Landscape Architects. The board does not plan to hold a public hearing in the promulgation of these regulations.

Statutory Authority: §§ 9-6.14:7.1 and 54.1-404 of the Code of Virginia.

Written comments may be submitted until September 8, 1993.

Contact: Willie Fobbs, III, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514.

V.A.R. Doc. No. C93-1836; Filed July 9, 1993, 11:53 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board for Architects, Professional Engineers, Land Surveyors and Landscape Architects intends to consider amending regulations entitled: **VR 130-01-2. Board for Architects, Professional Engineers, Land Surveyors and Landscape Architects Rules and Regulations.** The purpose of the proposed action is to (i) amend the current licensure and registration requirements; (ii) promulgate new regulations governing the registration of professional limited liability companies and limited liability companies; and (iii) review current fee structure and other changes as needed. The agency plans to hold a public hearing on the proposed regulation.

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

Written comments may be submitted until August 26, 1993.

Contact: Willie Fobbs, III, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514.

V.A.R. Doc. No. C93-1706; Filed July 1, 1993, 11:57 a.m.

VIRGINIA BOARD FOR ASBESTOS LICENSING

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Board for Asbestos Licensing intends to consider repealing regulations entitled: **VR 190-05-01. Asbestos Licensing Regulations.** The purpose of the proposed action is to review the entire regulation with special attention to sections pertaining to definitions, project designers, asbestos contractors, training requirements, and other changes that are necessary to reflect 1993 General Assembly legislation. The agency does not intend to hold a public hearing on the repeal of this regulation.

Statutory Authority: § 54.1-501 of the Code of Virginia.

Written comments may be submitted until August 26, 1993.

Contact: Kent Steinruck, Regulatory Boards Administrator, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8595.

V.A.R. Doc. No. R93-1707; Filed June 30, 1993, 2:46 p.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Board for Asbestos Licensing intends to consider promulgating regulations entitled: **VR 190-05-1.1. Asbestos Licensing Regulations.** The purpose of the proposed action is to review the entire regulation with special attention to sections pertaining to definitions, project designers, asbestos contractors, training requirements, and other changes that are necessary to reflect 1993 General Assembly legislation. The agency does not intend to hold a public hearing on the proposed regulation.

Statutory Authority: §§ 36-99.7 and 54.1-501 of the Code of Virginia.

Written comments may be submitted until August 26, 1993.

Contact: Kent Steinruck, Regulatory Boards Administrator, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8595.

V.A.R. Doc. No. R93-1708; Filed June 30, 1993, 2:46 p.m.

AUCTIONEERS BOARD

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Auctioneers Board intends to consider repealing regulations entitled: **VR 105-01-1. Public Participation Guidelines.** The purpose of the proposed action is to promulgate public participation guidelines to replace the emergency public participation guidelines adopted in June 1993, and to provide full opportunity for public participation in the regulation formation and promulgation process. The agency does not intend to hold a public hearing on the proposed regulation.

Statutory Authority: §§ 9-6.14:7.1 and 54.1-201 of the Code of Virginia.

Written comments may be submitted until September 8, 1993.

Contact: Geralde W. Morgan, Administrator, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8534.

Notices of Intended Regulatory Action

VA.R. Doc. No. C93-1942; Filed July 24, 1993, 2:30 p.m.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Auctioneers Board intends to consider promulgating regulations entitled: **Public Participation Guidelines**. The purpose of the proposed action is to promulgate public participation guidelines to replace the emergency public participation guidelines adopted in June 1993, and to provide full opportunity for public participation in the regulation formation and promulgation process. The agency does not intend to hold a public hearing on the proposed regulation.

Statutory Authority: §§ 9-6.14:7.1 and 54.1-201 of the Code of Virginia.

Written comments may be submitted until September 8, 1993.

Contact: Geralde W. Morgan, Administrator, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8534.

VA.R. Doc. No. C93-1942; Filed July 24, 1993, 2:30 p.m.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Auctioneers Board intends to consider repealing regulations entitled: **VR 150-01-2. Rules and Regulations of the Virginia Auctioneers Board**. The purpose of the proposed action is to solicit public comment on all existing regulations as to their effectiveness, efficiency, necessity, clarity and cost of compliance in accordance with its public participation guidelines. A public hearing will be held during the proposed comment period.

Statutory Authority: § 54.1-201 of the Code of Virginia.

Written comments may be submitted until September 10, 1993.

Contact: Geralde W. Morgan, Administrator, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8534.

VA.R. Doc. No. C93-1921; Filed July 21, 1993, 11:56 a.m.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Auctioneers Board intends to consider promulgating regulations entitled: **VR 150-01-2:1. Virginia Auctioneers Board Regulations**. The purpose of the proposed action is to solicit public comment on all existing regulations as to their effectiveness, efficiency, necessity, clarity and cost of compliance in accordance with its public participation guidelines. A public hearing will be held during the

proposed comment period.

Statutory Authority: § 54.1-201 of the Code of Virginia.

Written comments may be submitted until September 10, 1993.

Contact: Geralde W. Morgan, Administrator, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8534.

VA.R. Doc. No. C93-1921; Filed July 21, 1993, 11:56 a.m.

BOARD OF AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Audiology and Speech-Language Pathology intends to consider promulgating regulations entitled: **Public Participation Guidelines of the Board of Audiology and Speech-Language Pathology**. The purpose of the proposed action is to provide guidelines for the involvement of the public in the development and promulgation of regulations of the Board of Audiology and Speech-Language Pathology. The agency does not intend to hold a public hearing on the proposed regulation.

Statutory Authority: §§ 9-6.14:7.1 and 54.1-2400 of the Code of Virginia.

Written comments may be submitted until September 9, 1993.

Contact: Meredyth P. Partridge, Executive Director, Department of Health Professions, 6606 W. Broad St., Richmond, VA 23230, telephone (804) 662-9111.

VA.R. Doc. No. C93-1825 Filed July 13, 1993, 9:33 a.m.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Audiology and Speech-Language Pathology intends to consider amending regulations entitled: **VR 155-01-2:1. Regulations of the Board of Audiology and Speech-Language Pathology**. The purpose of the proposed action is to delete obsolete requirements, change the name of the board and profession to audiology and speech-language pathology, and to revise the definition of scopes of practice in adherence with 1992 legislation. The agency does not intend to hold a public hearing on the proposed regulation.

Statutory Authority: §§ 54.1-2400 and 54.1-2602 of the Code of Virginia.

Written comments may be submitted until September 9, 1993.

Notices of Intended Regulatory Action

Contact: Meredyth P. Partridge, Executive Director, Department of Health Professions, 6606 W. Broad St., Richmond, VA 23230, telephone (804) 662-9111.

VA.R. Doc. No. C93-1823 Filed July 13, 1993, 9:33 a.m.

BOARD FOR BRANCH PILOTS

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board for Branch Pilots intends to consider repealing regulations entitled: **VR 535-01-00. Public Participation Guidelines.** The purpose of the proposed action is to establish new public participation guidelines for the Board for Branch Pilots. The board does not plan to hold a public hearing on the proposed regulation.

Statutory Authority: §§ 9-6.14:7.1 and 54.1-902 of the Code of Virginia.

Written comments may be submitted until September 8, 1993.

Contact: Willie Fobbs, III, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514.

VA.R. Doc. No. C93-1935; Filed July 9, 1993, 11:53 a.m.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board for Branch Pilots intends to consider promulgating regulations entitled: **VR 535-01-00:1. Public Participation Guidelines for Board for Branch Pilots.** The purpose of the proposed action is to establish new public participation guidelines for the Board for Branch Pilots. The board does not plan to hold a public hearing on the proposed regulation.

Statutory Authority: §§ 9-6.14:7.1 and 54.1-902 of the Code of Virginia.

Written comments may be submitted until September 8, 1993.

Contact: Willie Fobbs, III, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514.

VA.R. Doc. No. C93-1835; Filed July 9, 1993, 11:53 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board for Branch Pilots intends to consider amending regulations entitled: **VR 535-01-2. Branch Pilots Regulations.** The purpose of the proposed action is to (i) make changes to the

requirements for licensure renewal; and (ii) promulgate changes for ARPA radar for licensed pilots. The agency plans to hold a public hearing on the proposed regulation.

Statutory Authority: § 54.1-902 of the Code of Virginia.

Written comments may be submitted until August 26, 1993.

Contact: Willie Fobbs, III, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514.

VA.R. Doc. No. C93-1705; Filed July 1, 1993, 11:58 a.m.

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

† Notice of Intended Regulation Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Chesapeake Bay Local Assistance Board intends to consider amending regulations entitled: **VR 173-01-00:1. Public Participation Guidelines.** The purpose of the proposed action is to amend permanent Public Participation Guidelines (VR 173-01-00:1) so that the guidelines will comply with the 1993 amendments to the Administrative Process Act.

Basis and Statutory Authority: The basis for this regulation is § 10.1-2102 of the Code of Virginia which authorizes the board to adopt rules and procedures for the conduct of its business. In addition, § 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 persons in the formation and development of its regulations.

Need: This proposed regulatory action is necessary in order to establish guidelines which comply with the 1993 amendments to the Administrative Process Act (Act) and replace emergency guidelines which became effective June 30, 1993.

Substance and Purpose: The purpose of this proposed regulatory action is to amend, on a permanent basis, the board's guidelines such that the guidelines will comply with the 1993 amendments to the Act. Specifically, the Act imposes new requirements on agencies of state government for processing rulemakings under the Act. For example, the Act requires the board to set out in its guidelines any methods for the identification and notification of interested persons, and any specific means of seeking input from interested persons or groups which the board intends to use in addition to the Notice of Intended Regulatory Action. Also, the Act mandates that the board include in its guidelines a general consultation with groups and individuals registering interest in working with the board.

Estimated Impact: No financial impact on regulated entities or the public is expected from any proposed amendments to the guidelines, since the guidelines only

Notices of Intended Regulatory Action

impose requirements on the board. Regulated entities and the public should benefit from the proposed amendments in that the guidelines will comply with the amendments to the Act and provide greater opportunity for public involvement in information regarding the board's regulatory actions.

Alternatives: There is no alternative to taking regulatory action to amend the board's guidelines. The Act requires the board to adopt guidelines and any guidelines adopted must comply with the provisions of the Act.

Public Comments: The board seeks oral and written comments from interested persons on the intended regulatory action and on the costs and benefits of any alternatives. Also, the board seeks comment on whether the agency should form an ad hoc advisory group, utilize a standing advisory committee, or consult with groups or individuals to assist in the drafting and formation of a proposal. To be considered, written comments should be directed to Mr. Scott Crafton at the address below and must be received by 4 p.m. on Wednesday, September 15, 1993.

In addition, the board's staff, with staffs of the other Natural Resource Agencies also amending their public participation guidelines, will hold a public meeting at 2 p.m. on Thursday, September 9, 1993, in the Board Room, Department of Environmental Quality, Water Division, 4900 Cox Road, Innsbrook Corporate Center, Glen Allen, Virginia, to receive views and comments and to answer questions of the public.

Accessibility to Persons with Disabilities: Meetings will be held at public facilities believed to be accessible to persons with disabilities. Any person with questions on the accessibility of the facilities should contact Mr. Crafton at the address or telephone number listed below. Persons needing interpreter services for the deaf must notify Mr. Crafton no later than Monday, August 25, 1993.

Intent to Hold an Informational Proceeding or Public Hearing: The board intends to hold an informational proceeding (informal hearing) on the proposed amendments to the guidelines after the proposal is published in the Virginia Register of Regulations. This may also be a jointly held proceeding with one or more board members in attendance. If held independently, this informational proceeding will be convened by a member of the board. The board does not intend to hold a public hearing (evidential) on the proposed amendments to the guidelines after the proposal is published in the Virginia Register of Regulations.

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 September 15, 1993.

Contact: Scott Crafton, Regulatory Coordinator, 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.

VA.R. Doc. No. C93-1846; Filed July 19, 1993, 12:18 p.m.

CHILD DAY-CARE COUNCIL

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Child Day-Care Council intends to consider repealing regulations entitled: **VR 175-01-01. Public Participation Guidelines.** The purpose of the proposed action is to repeal the existing public participation guidelines so new guidelines can be promulgated. No public hearing on the proposed regulation is planned.

Statutory Authority: § 63.1-202 of the Code of Virginia.

Written comments may be submitted until August 26, 1993, to Peg Spangenthal, Chair, Child Day-Care Council, 730 East Broad Street, Richmond, Virginia 23219.

Contact: Peggy Friedenber, Legislative Analyst, Office of Governmental Affairs, Department of Social Services, 730 E. Broad St., Theater Row Bldg., Richmond, VA 23219, telephone (804) 692-1820.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Child Day-Care Council intends to consider promulgating regulations entitled: **VR 175-01-01:1. Public Participation Guidelines.** The purpose of the proposed action is to develop guidelines the council will use to obtain public input when developing regulations. This regulation will replace the emergency public participation guidelines approved by the council on June 22, 1993. No public hearing on the proposed regulation is planned.

Statutory Authority: §§ 9-6.14:7.1 and 63.1-202 of the Code of Virginia.

Written comments may be submitted until August 26, 1993, to Peg Spangenthal, Chair, Child Day-Care Council, 730 East Broad Street, Richmond, Virginia 23219.

Contact: Peggy Friedenber, Legislative Analyst, Office of Governmental Affairs, Department of Social Services, 730 E. Broad St., Theater Row Bldg., Richmond, VA 23219, telephone (804) 692-1820.

DEPARTMENT OF COMMERCE

Notice of Intended Regulatory Action

Notices 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 190-00-01. Public Participation Guidelines.** The purpose of the proposed action is to promulgate public participation guidelines to replace the emergency public participation guidelines adopted in June 1993, and to provide full opportunity for public participation in the regulation formation and promulgation process. The agency does not intend to hold a public hearing on the proposed regulation.

Statutory Authority: §§ 9-6.14:7.1 and 54.1-501 of the Code of Virginia.

Written comments may be submitted until August 16, 1993.

Contact: David E. Dick, Assistant Director, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8596.

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 regulations entitled: **Asbestos Contractors and Workers Public Participation Guidelines.** The purpose of the proposed action is to promulgate public participation guidelines to replace the emergency public participation guidelines adopted in June, 1993, and to provide full opportunity for public participation in the regulation formation and promulgation process. The agency does not intend to hold a public hearing on the proposed regulation.

Statutory Authority: §§ 9-6.14:7.1 and 54.1-501 of the Code of Virginia.

Written comments may be submitted until August 16, 1993.

Contact: David E. Dick, Assistant Director, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8596.

BOARD OF CONSERVATION AND RECREATION

† 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 amending regulations entitled: **VR 215-00-00. Regulatory Public Participation Procedures.** The purpose of the proposed action is to amend, on a permanent basis, the board's procedures to comply with the 1993 amendments to the Administrative Process Act. Specifically, the Act imposes new requirements on agencies of state government for processing rulemakings under the Act. For example, the Act requires the board to set out in its procedures any methods for the identification and notification of interested

persons, and any specific means of seeking input from interested persons or groups which the board intends to use in addition to the Notice of Intended Regulatory Action. Also, the Act mandates that the board include in its procedures a general policy for the use of standing or ad hoc advisory groups and consultation with groups and individuals registering interest in working with the board.

Basis and Statutory Authority: The basis for this action is the Virginia Administrative Process Act, in particular § 9-6.14:7.1 of the Code of Virginia which requires each agency to develop, adopt and utilize public participation guidelines for soliciting the input of interested persons in the formation and development of its regulations. Statutory authority for this specific action is found in § 10.1-107 of the Code of Virginia, which authorizes the Board of Conservation and Recreation (Board) 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.

Need: This proposed regulatory action is necessary in order to establish procedures which comply with the 1993 amendments to the Administrative Process Act and replace emergency procedures which became effective on June 30, 1993.

Estimated Impact: No financial impact on regulated entities or the public is expected from any proposed amendments to the procedures since the procedures only impose requirements on the board. Regulated entities and the public should benefit from the proposed amendments in that the procedures will comply with the amendments to the Act.

Alternatives: There is no alternative to taking regulatory action to amend the board's procedures. The Act requires the board to adopt procedures and any procedures adopted must comply with the provisions of the Act.

Public Comments: The board seeks oral and written comments from interested persons on the intended regulatory action and on the costs and benefits of any alternatives. Also, the board seeks comment on whether the agency should form an ad hoc advisory group, utilize a standing advisory committee, or consult with groups or individuals to assist in the drafting and formation of a proposal. To be considered, written comments should be directed to Mr. Leon E. App at the address below and must be received by 4 p.m. on Wednesday, September 15, 1993.

In addition, the board's staff will hold a public meeting at 2 p.m. on Thursday, September 9, 1993, in the Board Room, Department of Environmental Quality, Water Division, 4900 Cox Road, Innsbrook Corporate Center, Glen Allen, Virginia, to receive views and comments and to answer questions of the public.

Accessibility to Persons with Disabilities: Meetings will be held at public facilities believed to be accessible to persons

Notices of Intended Regulatory Action

with disabilities. Any person with questions on the accessibility of the facilities should contact Mr. App at the address below or telephone at (804) 786-4570 or TDD (804) 786-2121. Persons needing interpreter services for the deaf must notify Mr. App no later than Monday, August 23, 1993.

Intent to Hold an Informational Proceeding or Public Hearing: The board intends to hold an informational proceeding (informal hearing) on the proposed amendments to the procedures after the proposal is published in the Virginia Register of Regulations. This informational proceeding will be held in coordination with other regulatory authorities and agencies of the Secretariat of Natural Resources. The board does not intend to hold a public hearing (evidential) on the proposed amendments to the procedures after the proposal is published in the Virginia Register of Regulations.

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

Written comments may be submitted until 4 p.m. on September 15, 1993.

Contact: Leon E. App, Executive Assistant, Department of Conservation and Recreation, 203 Governor St., Suite 302, Richmond, VA 23219, telephone (804) 786-4579 or fax (804) 786-6141.

V.A.R. Doc. No. C93-1866; Filed July 20, 1993, 2:23 p.m.

DEPARTMENT OF CONSERVATION AND RECREATION

† 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 amending regulations entitled: **VR 217-00-00, Regulatory Public Participation Procedures**. The purpose of the proposed action is to amend, on a permanent basis, the board's procedures to comply with the 1993 amendments to the Administrative Process Act. Specifically, the Act imposes new requirements on agencies of state government for processing rulemakings under the Act. For example, the Act requires the department to set out in its procedures any methods for the identification and notification of interested persons, and any specific means of seeking input from interested persons or groups which the department intends to use in addition to the Notice of Intended Regulatory Action. Also, the Act mandates that the department include in its procedures a general policy for the use of standing or ad hoc advisory groups and consultation with groups and individuals registering interest in working with the department.

Basis and Statutory Authority: The basis for this action is the Virginia Administrative Process Act, in particular § 9-6.14:7.1 of the Code of Virginia which requires each

agency to develop, adopt and utilize public participation guidelines for soliciting the input of interested persons in the formation and development of its regulations. Statutory authority for this specific action is found in § 10.1-104 of the Code of Virginia, which 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.

Need: This proposed regulatory action is necessary in order to establish procedures which comply with the 1993 amendments to the Administrative Process Act and replace emergency procedures which became effective on June 30, 1993.

Estimated Impact: No financial impact on regulated entities or the public is expected from any proposed amendments to the procedures since the procedures only impose requirements on the department. Regulated entities and the public should benefit from the proposed amendments in that the procedures will comply with the amendments to the Act.

Alternatives: There is no alternative to taking regulatory action to amend the department's procedures. The Act requires the department to adopt procedures and any procedures adopted must comply with the provisions of the Act.

Public Comments: The department seeks oral and written comments from interested persons on the intended regulatory action and on the costs and benefits of any alternatives. Also, the department seeks comment on whether the agency should form an ad hoc advisory group, utilize a standing advisory committee, or consult with groups or individuals to assist in the drafting and formation of a proposal. To be considered, written comments should be directed to Mr. Leon E. App at the address below and must be received by 4 p.m. on Wednesday, September 15, 1993.

In addition, the department's staff will hold a public meeting at 2 p.m. on Thursday, September 9, 1993, in the Board Room, Department of Environmental Quality, Water Division, 4900 Cox Road, Innsbrook Corporate Center, Glen Allen, Virginia, to receive views and comments and to answer questions of the public.

Accessibility to Persons with Disabilities: Meetings will be held at public facilities believed to be accessible to persons with disabilities. Any person with questions on the accessibility of the facilities should contact Mr. App at the address below or telephone at (804) 786-4570 or TDD (804) 786-2121. Persons needing interpreter services for the deaf must notify Mr. App no later than Monday, August 23, 1993.

Intent to Hold an Informational Proceeding or Public

Notices of Intended Regulatory Action

Hearing: The department intends to hold an informational proceeding (informal hearing) on the proposed amendments to the procedures after the proposal is published in the Virginia Register of Regulations. This informational proceeding will be held in coordination with other regulatory authorities and agencies of the Secretariat of Natural Resources. The department does not intend to hold a public hearing (evidential) on the proposed amendments to the procedures after the proposal is published in the Virginia Register of Regulations.

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

Written comments may be submitted until 4 p.m. on September 15, 1993.

Contact: Leon E. App, Executive Assistant, Department of Conservation and Recreation, 203 Governor St., Suite 302, Richmond, VA 23219, telephone (804) 786-4579 or fax (804) 786-6141.

V.A.R. Doc. No. C93-1867; Filed July 20, 1993, 2:23 p.m.

BOARD FOR CONTRACTORS

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board for Contractors intends to consider repealing regulations entitled: **VR 220-01-00. Public Participation Guidelines.** The purpose of the proposed action is to repeal existing public participation guidelines. Public hearings will be held at several locations around the state during the public comment period on the proposed regulations.

Statutory Authority: §§ 9-6.14:7.1 and 54.1-1102 of the Code of Virginia.

Written comments may be submitted until September 10, 1993.

Contact: Florence R. Brassier, Assistant Director, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8557.

V.A.R. Doc. No. C93-1899; Filed July 21, 1993, 11:38 a.m.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board for Contractors intends to consider promulgating regulations entitled: **VR 220-01-00:1. Public Participation Guidelines.** The purpose of the proposed action is to promulgate public participation guidelines. Public hearings will be held at several locations around the state during the public comment period on the proposed regulations.

Statutory Authority: §§ 9-6.14:7.1 and 54.1-1102 of the Code of Virginia.

Written comments may be submitted until September 10, 1993.

Contact: Florence R. Brassier, Assistant Director, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8557.

V.A.R. Doc. No. C93-1898; Filed July 21, 1993, 11:38 a.m.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board for Contractors intends to consider amending regulations entitled: **VR 220-01-2. Regulations of the Board for Contractors.** The purpose of the proposed action is to review and seek public comments on all of its regulations for promulgation, amendment, and repeal in order to carry out its mission to protect the public through the regulation of licensed contractors. Public hearings will be held at several locations around the state during the public comment period on the proposed regulations.

Statutory Authority: § 54.1-1102 of the Code of Virginia.

Written comments may be submitted until September 10, 1993.

Contact: Florence R. Brassier, Assistant Director, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8557.

V.A.R. Doc. No. C93-1870; Filed July 21, 1993, 11:38 a.m.

BOARD OF CORRECTIONS

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Corrections intends to consider amending regulations entitled: **VR 230-01-001. Public Participation Guidelines.** The purpose of the proposed action is to replace the emergency amended regulations VR 230-01-001 which were effective July 1, 1993. The public participation guidelines will outline how the agency plans to ensure public participation in the formation and development of regulations as required in the Administrative Process Act. A public hearing will be held on the proposed regulations after publication. The location, date and time of the public hearing will be published at a later date.

Statutory Authority: § 53.1-5 of the Code of Virginia.

Written comments may be submitted until August 25, 1993.

Contact: Amy Miller, Agency Regulatory Coordinator, Planning and Engineering, P.O. Box 26963, Richmond, VA 23261, telephone (804) 674-3262.

V.A.R. Doc. No. C93-1779; Filed July 7, 1993, 11:43 a.m.

Notice of Intended Regulatory Action

Notices of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Corrections intends to consider promulgating regulations entitled: **VR 230-01-004. Regulations for Human Subject Research.** The purpose of the proposed action is to establish under what circumstances human research is authorized and conducted within the Department of Corrections as required in § 32.1-162 et seq. of the Code of Virginia. This notice replaces the original Notice of Intended Regulatory Action to promulgate these same regulations under the title "Research Regulations" in the February 8, 1993, Virginia Register. By reinitiating this action, the agency is allowing the required 30 days for written comment. A public hearing will be held on the proposed regulations after publication. The location, date and time of the public hearing will be published at a later date.

Statutory Authority: § 53.1-5.1 of the Code of Virginia.

Written comments may be submitted until August 25, 1993.

Contact: Dr. Larry Guenther, Agency Management Lead Analyst, Research and Evaluation Unit, P.O. Box 26963, Richmond, VA 23261, telephone (804) 674-3268.

VA.R. Doc. No. C93-1780; Filed July 7, 1993, 11:43 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Corrections intends to consider amending regulations entitled: **VR 230-20-001:1. Standards for State Correctional Facilities.** The purpose of the proposed action is to update the language and remove conflicting data contained in some of the standards. This notice replaces the Notice of Intended Regulatory Action to promulgate regulations under this same title in the February 8, 1993, Virginia Register. A public hearing will be held on the proposed regulations after publication. The location, date and time of the public hearing will be published at a later date.

Statutory Authority: § 53.1-5 of the Code of Virginia.

Written comments may be submitted until August 25, 1993.

Contact: Lou Ann White, Certification Supervisor, Planning and Engineering, P.O. Box 26963, Richmond, VA 23261, telephone (804) 674-3268.

VA.R. Doc. No. C93-1778; Filed July 7, 1993, 11:43 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Corrections intends to consider promulgating regulations entitled: **VR 230-30-005:1. Standards for Planning, Design, Construction and Reimbursement of Local Correctional Facilities.** The purpose of the proposed action is to promulgate regulations to replace the emergency amended

regulations which were effective July 1, 1993. The regulations will establish minimum standards for the construction, equipment, administration and operation of local correctional facilities, along with regulations establishing criteria to assess need, establish priorities, and evaluate requests for reimbursement of construction costs to ensure fair and equitable distribution of state funds provided. A public hearing will be held on the proposed regulations after publication. The location, date and time of the public hearing will be published at a later date.

Statutory Authority: §§ 53.1-5, 53.1-68, and 53.1-80 through 53.1-82.3 of the Code of Virginia.

Written comments may be submitted until August 25, 1993.

Contact: Mike Howerton, Chief of Operations, Division of Community Corrections, P.O. Box 26963, Richmond, VA 23261, telephone (804) 674-3251.

VA.R. Doc. No. C93-1781; Filed July 7, 1993, 11:43 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Corrections intends to consider repealing regulations entitled: **VR 230-30-005. Guide for Minimum Standards in Design and Construction of Jail Facilities.** The purpose of the proposed action is to repeal regulations which are superseded by the emergency regulations, VR 230-30-005.2, Standards for Planning, Design, Construction and Reimbursement of Local Correctional Facilities, which were effective July 1, 1993. The Board of Corrections does not plan to hold a public hearing on the proposed repeal of the regulations.

Statutory Authority: §§ 53.1-5, 53.1-68, and 53.1-80 through 53.1-82.3 of the Code of Virginia.

Written comments may be submitted until August 25, 1993.

Contact: Mike Howerton, Chief of Operations, Division of Community Corrections, P.O. Box 26963, Richmond, VA 23261, telephone (804) 674-3251.

VA.R. Doc. No. C93-1777; Filed July 7, 1993, 11:43 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Corrections intends to consider repealing regulations entitled: **VR 230-30-006. Jail Work/Study Release Program Standards.** The purpose of the proposed action is to repeal regulations which are not included in VR 230-30-001, Minimum Standards for Jail and Lockups. By this action, the Board of Corrections withdraws the first Notice of Intended Regulatory Action to repeal VR 230-30-006, which was published in the June 14, 1993, Virginia Register. The Board of Corrections does not plan to hold a public hearing on the proposed repeal of the regulations.

Notices of Intended Regulatory Action

Statutory Authority: §§ 53.1-5 and 53.1-131 of the Code of Virginia.

Written comments may be submitted until August 25, 1993.

Contact: Mike Howerton, Chief of Operations, Division of Community Corrections, P.O. Box 26963, Richmond, VA 23261, telephone (804) 674-3251.

V.A.R. Doc. No. C93-1776; Filed July 7, 1993, 11:43 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Corrections intends to consider repealing regulations entitled: **VR 230-30-008. Regulations for State Reimbursement of Local Correctional Facility Costs.** The purpose of the proposed action is to repeal regulations which are superseded by the emergency regulations, VR 230-30-005.2, Standards for Planning, Design, Construction and Reimbursement of Local Correctional Facilities, which were effective July 1, 1993. The Board of Corrections does not plan to hold a public hearing on the proposed repeal of the regulations.

Statutory Authority: §§ 53.1-5, 53.1-68, and 53.1-80 through 53.1-82.1 of the Code of Virginia.

Written comments may be submitted until August 25, 1993.

Contact: Mike Howerton, Chief of Operations, Division of Community Corrections, P.O. Box 26963, Richmond, VA 23261, telephone (804) 674-3251.

V.A.R. Doc. No. C93-1775; Filed July 7, 1993, 11:43 a.m.

CRIMINAL JUSTICE SERVICES BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Criminal Justice Services Board intends to consider promulgating regulations entitled: **Regulations Relating to Private Security Services.** The purpose of the proposed action is to promulgate regulations relating to private security services through the regular process of the Administrative Process Act and to revise and amend the existing emergency regulations. The board intends to conduct a public hearing in the spring of 1994 to hear and consider recommendations concerning the proposed regulations.

Statutory Authority: § 9-182 of the Code of Virginia.

Written comments may be submitted until August 25, 1993, to L. T. Eckenrode, Department of Criminal Justice Services, P.O. Box 10110, Richmond, Virginia 23240-9998.

Contact: Paula Scott Dehetre, Administrative Assistant, Department of Criminal Justice Services, 805 E. Broad St., Richmond, VA 23219, telephone (804) 786-4000.

V.A.R. Doc. No. C93-1795; Filed July 7, 1993, 10:19 a.m.

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 promulgating regulations entitled: **VR 270-01-0042.1. Regulations Governing the Employment of Professional Personnel.** The purpose of the proposed action is to establish new regulations to govern the hiring procedures and contractual agreements.

The 1992 General Assembly required the Department of Education to study local school division hiring process and provide a report to the 1993 session. A team of professionals studied hiring procedures for teachers and professional personnel in conjunction with a Department of Education study on the Revision of Teacher Contracts. The result of the study was report entitled "Report on Contracts for Local School Personnel and Uniform Hiring Procedures for Teachers." The recommendations set forth in the report form the basis for the proposed regulations. All of the major professional organizations participated as full team members in the development of the recommendations. Representatives from the Virginia Education Association, the Virginia Association of School Superintendents, the Virginia School Board Association, and the Virginia Association of School Personnel Administrators were team members and their constituency groups provided input into the team process. In addition, representatives of rural, urban, and suburban school communities participated as full team members. The recommendations represent the result of a thorough and comprehensive study and the agreements made among the team members and other representatives indicated above. Considerable input was provided on the perspective of teachers through the representatives from the Virginia Education Association.

The Board of Education and the Department of Education will hold public hearings on the proposed regulations.

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

Written comments may be submitted until September 30, 1993.

Contact: Brenda F. Briggs or Charles W. Finley, Compliance, P.O. Box 2120, 101 N. 14th St., Richmond, VA 23216-2120, telephone (804) 225-2750 or (804) 225-2747.

V.A.R. Doc. No. C93-1893; Filed July 21, 1993, 10:16 a.m.

STATE EDUCATION ASSISTANCE AUTHORITY

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's

Notices of Intended Regulatory Action

public participation guidelines that the State Education Assistance Authority intends to consider amending regulations entitled: **VR 275-01-1. Regulations Governing Virginia Administration of the Federally Guaranteed Student Loan Programs.** The purpose of the proposed action is to reflect recent changes in federal laws and regulations governing the student loan programs. The State Education Assistance Authority does not intend to hold a public hearing on the proposed regulation after publication.

Statutory Authority: § 23-38.33:1 C 7 of the Code of Virginia.

Written comments may be submitted until August 25, 1993, to Marvin Ragland, VSAA, 411 East Franklin Street, Richmond, Virginia 23219.

Contact: Sherry Scott, Policy Analyst, 411 E. Franklin St., Richmond, VA 23219, telephone (804) 775-4000.

VA.R. Doc. No. C93-1698; Filed July 2, 1993, 3:02 a.m.

DEPARTMENT OF ENVIRONMENTAL QUALITY

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Environmental Quality intends to consider promulgating regulations entitled: **VR 304-01-01. Public Participation Guidelines.** The purpose of the proposed action is to adopt, on a permanent basis, the department's guidelines such that the guidelines will comply with 1993 amendments to the Administrative Process Act (Act). Specifically, the Act imposes new requirements on agencies of state government for processing rulemakings under the Act. For example, the Act requires the department to set out in its guidelines any methods for the identification and notification of interested persons, and any specific means of seeking input from interested persons or groups which the department intends to use in addition to the Notice of Intended Regulatory Action. Also, the Act mandates that the department include in its guidelines a general policy for the use of standing or ad hoc advisory groups and consultation with groups and individuals registering interest in working with the department.

Need: This proposed regulatory action is necessary in order to establish guidelines which comply with the 1993 amendments to the Administrative Process Act and replace emergency guidelines which became effective on June 29, 1993.

Estimated Impact: No financial impact on regulated entities or the public is expected from the proposed adoption of the guidelines since the guidelines only impose requirements on the department. Regulated entities and the public should benefit from the proposed amendments in that the procedures will comply with the amendments to the Act.

Alternatives: There is no alternative to taking regulatory action to amend the department's guidelines. The Act requires the department to adopt guidelines and any guidelines adopted must comply with the provisions of the Act.

Public Comments: The department seeks oral and written comments from interested persons on the intended regulatory action and on the costs and benefits of any alternatives. Also, the department seeks comment on whether the agency should form an ad hoc advisory group, utilize a standing advisory committee, or consult with groups or individuals to assist in the drafting and formation of a proposal. In addition, the department's staff will participate in a joint public meeting to be held at 2 p.m. on Thursday, September 9, 1993, in the Board Room, Department of Environmental Quality, 4900 Cox Road, Innsbrook Corporate Center, Glen Allen, Virginia, to receive views and comments and to answer questions of the public.

Accessibility to persons with disabilities: Meetings will be held at public facilities believed to be accessible to persons with disabilities. Any person with questions on the accessibility of the facilities should contact Ms. Dalton at the address below or by telephone at (804) 527-5162 or TDD (804) 527-4261. Persons needing interpreter services for the deaf must notify Ms. Dalton no later than Monday, August 23, 1993.

Intent to Hold an Informational Proceeding or Public Hearing: The department intends to participate in a joint informational proceeding (informal hearing) on the proposed adoption to the guidelines after the proposal is published in the Virginia Register of Regulations. The department does not intend to hold a public hearing (evidential) on the proposed amendments to the procedures after the proposal is published in the Virginia Register of Regulations.

Statutory Authority: §§ 9-6.14:7.1 and 62.1-195.1 of the Code of Virginia.

Written comments may be submitted until 4 p.m. on September 15, 1993, to Doneva Dalton, Hearing Reporter, Department of Environmental Quality, P.O. Box 11143, Richmond, Virginia 23230.

Contact: Cindy M. Berndt, Policy and Planning Supervisor, Department of Environmental Quality, P.O. Box 11143, Richmond, VA 23230, telephone (804) 527-5158.

VA.R. Doc. No. C93-1909; Filed July 21, 1993, 11:11 a.m.

BOARD OF FUNERAL DIRECTORS AND EMBALMERS

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Funeral

Notices of Intended Regulatory Action

Directors and Embalmers intends to consider promulgating regulations entitled: **Public Participation Guidelines of the Board of Funeral Directors and Embalmers**. The purpose of the proposed action is to provide guidelines for the involvement of the public in the development and promulgation of regulations of the Board of Funeral Directors and Embalmers. The agency does not intend to hold a public hearing on the proposed regulation.

Statutory Authority: §§ 9-6.14:7.1 and 54.1-2803 of the Code of Virginia.

Written comments may be submitted until September 9, 1993.

Contact: Meredyth P. Partridge, Executive Director, 6606 W. Broad St., Richmond, VA 23230, telephone (804) 662-9907.

V.A.R. Doc. No. C93-1826; Filed July 13, 1993, 9:32 a.m.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Funeral Directors and Embalmers intends to consider amending regulations entitled: **VR 320-01-04. Regulations of the Resident Trainee Program for Funeral Service**. The purpose of the proposed action is to amend level of supervision of a registrant who has completed the apprenticeship but is not yet licensed, establish requirements for final reporting, and revise requirements to place a maximum time limit that one can remain registered as a trainee. The agency does not intend to hold a public hearing on the proposed regulation.

Statutory Authority: §§ 54.1-2400 and 54.1-2803 of the Code of Virginia.

Written comments may be submitted until September 9, 1993.

Contact: Meredyth P. Partridge, Executive Director, 6606 W. Broad St., Richmond, VA 23230, telephone (804) 662-9907.

V.A.R. Doc. No. C93-1822; Filed July 13, 1993, 9:33 a.m.

BOARD OF GAME AND INLAND FISHERIES

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Game and Inland Fisheries intends to consider promulgating regulations entitled: **Public Participation Guidelines**. The purpose of the proposed action is to amend, on a permanent basis, the board's guidelines such that the guidelines will comply with the 1993 amendments to the Administrative Process Act. Specifically, the Act imposes new requirements on agencies of state government for

processing rulemakings under the Act. For example, the Act requires the board to set out in its guidelines any methods for the identification and notification of interested persons, and any specific means of seeking input from interested persons or groups which the board intends to use in addition to the Notice of Intended Regulatory Action. Also, the Act mandates that the board include in its guidelines a general policy for the use of standing or ad hoc advisory groups and consultation with groups and individuals registering interest in working with the board.

Need: This proposed regulatory action is necessary in order to establish guidelines which comply with the 1993 amendments to the Administrative Process Act and replace emergency guidelines which became effective on June 23, 1993.

Estimated Impact: No financial impact on regulated entities or the public is expected from the proposed amendments of the guidelines since the guidelines only impose requirements on the board. Regulated entities and the public should benefit from the proposed amendments in that the guidelines will comply with the amendments to the Act.

Alternatives: There is no alternative to taking regulatory action to amend the board's guidelines. The Act requires the board to adopt guidelines and any guidelines adopted must comply with the provisions of the Act.

Public Comments: The board seeks oral and written comments from interested persons on the intended regulatory action and on the costs and benefits of any alternatives. Also, the board seeks comment on whether the agency should form an ad hoc advisory group, utilize a standing advisory committee, or consult with groups or individuals to assist in the drafting and formation of a proposal.

The board's staff will hold a public meeting at 2 p.m. on Thursday, September 9, 1993, in the Board Room of the Department of Environmental Quality, 4900 Cox Road, Innsbrook Corporate Center, Glen Allen, Virginia, to receive views and comments and to answer questions of the public. This public meeting will be a joint meeting of all regulatory agencies within the Natural Resources Secretariat.

Accessibility to Persons with Disabilities: The meetings are being held at public facilities believed to be accessible to persons with disabilities. Any person with questions on the accessibility of the facilities should contact Ms. Doneva Dalton, Department of Environmental Quality, P.O. Box 11143, Richmond, VA 23230 or by telephone at (804) 527-5162 or TDD (804) 527-4261. Persons needing interpreter services for the deaf must notify Ms. Dalton no later than Monday, August 23, 1993.

Intent to Hold an Informational Proceeding or Public Hearing: The board intends to hold an informational proceeding (informal hearing) on the proposed

Notices of Intended Regulatory Action

amendments to the guidelines after the proposal is published in the Virginia Register of Regulations. This informational proceeding may be convened by a member of the board. The board does not intend to hold a public hearing (evidential) on the proposed amendments to the guidelines after the proposal is published in the Virginia Register of Regulations.

Statutory Authority: §§ 9-6.14:7.1 and 29.1-102 of the Code of Virginia.

Written comments may be submitted until 4 p.m. on September 15, 1993, to Belle Harding, 4010 West Broad Street, P.O. Box 11104, Richmond, Virginia 23230.

Contact: Mark D. Monson, Chief, Administrative Services, 4010 West Broad St., P.O. Box 11104, Richmond, VA 23230, telephone (804) 367-1000.

VA.R. Doc. No. C93-1897; Filed July 21, 1993, 9:40 a.m.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Game and Inland Fisheries intends to consider promulgating regulations entitled: **325-02-17. Permits**. The purpose of the proposed action is to set in regulation the discretionary fees to be associated with the different permits that are issued by the department, in accordance with language contained in HB 1777 that gives the Board of Game and Inland Fisheries the authority to set fees for identified permits. A listing of the identified permits and their proposed associated fees follows. In addition to written comments, the board will hear public comments at a meeting to be scheduled in accordance with procedures required by the board's public participation guidelines.

Statutory Authority: §§ 29.1-501 and 29.1-502 of the Code of Virginia.

Written comments may be submitted until 4 p.m. on September 15, 1993, to Belle Harding, 4010 West Broad Street, P.O. Box 11104, Richmond, Virginia 23230.

Contact: Mark D. Monson, Chief, Administrative Services, 4010 West Broad St., P.O. Box 11104, Richmond, VA 23230, telephone (804) 367-1000.

VA.R. Doc. No. C93-1896; Filed July 21, 1993, 9:40 a.m.

MISCELLANEOUS PERMITS -- PROPOSED FEE STRUCTURE
(miscprmt.2 // 6-29-93)

Type of Permit	Current Fee	Authorized Maximum	Proposed Fee
Trout Fishing Preserve	\$0.00	\$50.00	\$50.00
Wildlife (Game) Holders	\$12.50 [1]	\$20.00	\$20.00 [3]
Wolf Hybrid - Individual Non-Neutered	\$0.00	\$20.00	\$20/animal
Wolf Hybrid - Individual Neutered			\$10/animal
Wolf Hybrid - Kennel	\$0.00	\$100.00	\$100.00

- [1] Existing permits issued under the broad definition of game holders permit
 [2] Exemption to fee: Governmental Agencies, Colleges & Universities, DGIF Contractors
 [3] Exemption to Permit: Veterinarians temporarily holding wildlife for medical treatment

MISCELLANEOUS PERMITS -- PROPOSED FEE STRUCTURE
(miscprmt.2 // 6-29-93)

Type of Permit	Current Fee	Authorized Maximum	Proposed Fee
Aquaculture	\$12.50 [1]	\$20.00	\$20.00
Bait Sales	\$0.00	\$20.00	\$20.00
Bird Banding (Validate Fed Permit)	\$0.00	\$20.00	\$0.00
Boat Ramp Special Use Non-profit Public Use	\$0.00	\$50.00	\$0.00
Boat Ramp Special Use Private/Commercial Use	\$0.00	\$50.00	\$50.00
Boat Regattas/Tournaments	\$0.00	\$50/DAY	\$50/DAY
Captive Herpetological Breeders	\$0.00	\$20.00	\$20.00
Captive-Bred Herp. Sales	\$0.00	\$20.00	\$20.00
Commercial Collection of Wildlife	\$0.00	\$50.00	\$45.00
DCAP	\$0.00	\$50.00	\$5.00
DMAP	\$0.00	\$50.00	\$5.00
Deer Farming	\$12.50 [1]	\$350.00	\$350.00
Endangered Species	\$0.00	\$20.00	\$20.00 [2]
Exhibitor	\$12.50 [1]	\$20.00	\$20.00
Exotic Species Importation	\$0.00	\$50.00	\$50.00
Field Trials	\$0.00	\$25.00	\$25.00
Fish Stocking	\$0.00	\$50.00	\$5.00
Grass Carp (Exotic Import)	\$0.00	\$50.00	\$10.00
Nuisance Animals	\$0.00	\$50.00	\$25.00
Scientific Collecting	\$0.00	\$20.00	\$20.00 [2]
Special Education Importation for Dead & Preserved Exotics	\$0.00	\$50.00	\$0.00
Special Hunting	\$0.00	\$20.00	\$10.00
Striped Bass Tournament	\$0.00	\$0.00	\$0.00

Notices of Intended Regulatory Action

BOARD FOR GEOLOGY

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board for Geology intends to consider repealing regulations entitled: **VR 335-01-1. Public Participation Guidelines**. The purpose of the proposed action is to promulgate public participation guidelines to replace the emergency public participation guidelines adopted in June 1993, and to provide full opportunity for public participation in the regulation formation and promulgation process. The agency does not intend to hold a public hearing on the proposed regulation.

Statutory Authority: §§ 9-6.14:7.1 and 54.1-1402 of the Code of Virginia.

Written comments may be submitted until August 16, 1993.

Contact: David E. Dick, Assistant Director, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8596.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board for Geology intends to consider promulgating regulations entitled: **VR 335-01-1:1. Board for Geology Public Participation Guidelines**. The purpose of the proposed action is to promulgate public participation guidelines to replace the emergency public participation guidelines adopted in June 1993, and to provide full opportunity for public participation in the regulation formation and promulgation process. The agency does not intend to hold a public hearing on the proposed regulation.

Statutory Authority: §§ 9-6.14:7.1 and 54.1-1402 of the Code of Virginia.

Written comments may be submitted until August 16, 1993.

Contact: David E. Dick, Assistant Director, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8596.



DEPARTMENT OF HEALTH (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 Health intends to consider amending regulations entitled:

VR 355-01-100. Public Participation Guidelines. The purpose of the proposed action is to amend the public participation guidelines to reflect 1993 amendments to the Administrative Process Act. Currently, emergency public participation guidelines are in place and effective July 1, 1993, through June 30, 1994. No public hearings are planned during the public comment period to commence with publication of the proposed revisions.

Statutory Authority: §§ 32.1-12 and 9-6.14:7.1 of the Code of Virginia.

Written comments may be submitted until August 27, 1993.

Contact: Susan R. Rowland, MPA, Director, Office of Public Affairs, P.O. Box 2448, Richmond, VA 23218, telephone (804) 786-3564.

V.A.R. Doc. No. C93-1798; Filed July 7, 1993, 11:07 a.m.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Board of Health intends to consider amending regulations entitled: **VR 355-18-000. Waterworks Regulations (General Revisions)**. The purpose of the proposed action is to give notice in accordance with the new public participation guidelines that the Board of Health intends to make appropriate amendments to update portions of the regulations pertinent only to state requirements, not federal mandates. The agency intends to hold a public hearing on the proposed amendments after publication.

Statutory Authority: §§ 32.1-170 of the Code of Virginia.

Written comments may be submitted until September 9, 1993, to Allen R. Hammer, P.E., Virginia Department of Health, Division of Water Supply Engineering, P.O. Box 2448, Richmond, Virginia 23218.

Contact: H.J. Eggborn, P.E., Engineering Field Director, Culpeper Field Office, 400 S. Main St., 2nd Floor, Culpeper, VA 22701, telephone (703) 829-7340.

V.A.R. Doc. No. C93-1864; Filed July 20, 1993, 10:44 a.m.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Board of Health intends to consider amending regulations entitled: **VR 355-18-000. Waterworks Regulations (Lead and Copper)**. The purpose of the proposed action is to give notice in accordance with the new public participation guidelines that the Board of Health intends to make state regulations as stringent as the federal lead and copper rule. The agency intends to hold a public hearing on the proposed amendments after publication.

Statutory Authority: § 32.1-170 of the Code of Virginia.

Notices of Intended Regulatory Action

Written comments may be submitted until September 9, 1993, to Allen R. Hammer, P.E., Virginia Department of Health, Division of Water Supply Engineering, P.O. Box 2448, Richmond, Virginia 23218.

Contact: James Moore, III, P.E., District Engineer, Lexington Field Office, 129 S. Randolph St., Lexington, VA 24450, telephone (703) 463-7136.

V.A.R. Doc. No. C93-1865; Filed July 20, 1993, 10:44 a.m.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Board of Health intends to consider amending regulations entitled: **VR 355-18-000. Waterworks Regulations (Phase II and V).** The purpose of the proposed action is to give notice in accordance with the new public participation guidelines that the Board of Health intends to make state regulations as stringent as the federal Phase II, Phase V and standardized monitoring rules. The agency intends to hold a public hearing on the proposed amendments after publication.

Statutory Authority: § 32.1-170 of the Code of Virginia.

Written comments may be submitted until September 9, 1993, to Allen R. Hammer, P.E., Virginia Department of Health, Division of Water Supply Engineering, P.O. Box 2448, Richmond, Virginia 23218.

Contact: Monte J. Waugh, Technical Services Assistant, Virginia Department of Health, Division of Water Supply Engineering, P.O. Box 2448, Richmond, VA 23218, telephone (804) 786-5566.

V.A.R. Doc. No. C93-1863; Filed July 20, 1993, 10:44 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Board of Health intends to consider repealing regulations entitled: **VR 355-19-05. Rules and Regulations for the Sanitary Control of the Picking, Packing and Marketing of Crab Meat for Human Consumption.** The purpose of the proposed action is to replace current regulations with updated regulations. The agency intends to hold a public hearing on the proposed regulation.

Statutory Authority: § 28.2-801 of the Code of Virginia.

Written comments may be submitted until August 11, 1993.

Contact: Keith Skiles, Program Manager, Department of Health, Division of Shellfish Sanitation, 1500 E. Main St., Main Street Station, Room 109, Richmond, VA 23219, telephone (804) 786-7937.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Board of Health intends to consider promulgating regulations entitled: **VR 355-19-500. Shellfish and Crustacea Sanitation Regulations.** The purpose of the proposed action is to provide up-to-date and comprehensive regulations governing the shellfish and crustacea industries and to assure Virginia's compliance with the National Shellfish Sanitation Program. The agency intends to hold a public hearing on the proposed regulation.

Statutory Authority: § 28.2-801 of the Code of Virginia.

Written comments may be submitted until August 11, 1993.

Contact: Keith Skiles, Program Manager, Department of Health, Division of Shellfish Sanitation, 1500 E. Main St., Suite 105, Richmond, VA 23219, telephone (804) 786-7937.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Board of Health intends to consider amending regulations entitled: **VR 355-30-000. Virginia Medical Care Facilities Certificate of Public Need Rules and Regulations.** The purpose of the proposed action is to revise the current regulations to be consistent with the 1993 amendments to the Certificate of Public Need Law. This notice is being resubmitted to ensure promulgation under the new public participation guidelines. The department intends to hold a public hearing following publication of the proposed regulations.

Statutory Authority: §§ 32.1-12 and 32.1-102 of the Code of Virginia.

Written comments may be submitted until September 8, 1993.

Contact: Wendy V. Brown, Project Review Manager, Virginia Department of Health, Office of Resources Development, 1500 E. Main St., Richmond, VA 23219, telephone (804) 786-7463.

V.A.R. Doc. No. C93-1821; Filed July 14, 1993, 10:12 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Board of Health intends to consider amending regulations entitled: **VR 355-34-200. Sewage Handling and Disposal Regulations (previously VR 355-34-02).** The purpose of the proposed action is to implement recommendations of the Secretaries Task Force on Septic System Regulations, which include increased separation distances to water table and rock, reduced system installation depths, easier access for the use of new technologies and the establishment of mass drainfield requirements. The Board of Health intends to hold a series of public hearing across the Commonwealth

Notices of Intended Regulatory Action

of Virginia. Dates and locations for public hearings will be announced when the proposed regulations are published.

Statutory Authority: §§ 32.1-12, 32.1-163, and 32.1-164 of the Code of Virginia.

Written comments may be submitted until August 27, 1993.

Contact: Donald J. Alexander, Director, Division of Onsite Sewer and Water Services, P.O. Box 2448, Suite 117, Richmond, VA 23218, telephone (804) 786-1750.

V.A.R. Doc. No. R93-1797; Filed July 7, 1993, 11:08 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Board of Health intends to consider promulgating regulations entitled: **VR 355-35-700. Swimming Pool Regulations Governing the Posting of Water.** The purpose of the proposed action is to ensure that all public swimming pools are maintained in a manner which does not adversely affect the public health, welfare and safety by specifying how daily water quality tests are to be posted as newly required by the Code of Virginia, effective July 1, 1990. A public hearing will be held during the public comment period after the proposed regulations are published. These regulations, previously initiated, have been withdrawn to assure promulgation under new public participation guidelines.

Statutory Authority: §§ 32.1-248 of the Code of Virginia.

Written comments may be submitted until August 31, 1993.

Contact: John E. Benko, M.P.H., Director, Division of Food and Environmental Services, P.O. Box 2448, Suite 115, Richmond, VA 23218, telephone (804) 786-3559.

V.A.R. Doc. No. R93-1796; Filed July 7, 1993, 11:08 a.m.

VIRGINIA HEALTH SERVICES COST REVIEW COUNCIL

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Health Services Cost Review Council intends to consider amending regulations entitled: **VR 370-01-000. Public Participation Guidelines in the Formation and Development of Regulations.** The purpose of the proposed action is to amend the public participation guidelines to reflect recent statutory changes. No public hearing is planned on the proposed regulation after publication.

Statutory Authority: §§ 9-6.14:7.1 and 9-164 2 of the Code of Virginia.

Written comments may be submitted until September 15, 1993, to John A. Rupp, Executive Director, 805 East Broad

Street, 6th Floor, Richmond, Virginia 23219.

Contact: Kim Bolden, Public Relations Coordinator, 805 E. Broad St., 6th Floor, Richmond, VA 23219, telephone (804) 786-6371.

V.A.R. Doc. No. C93-1703; Filed July 1, 1993, 3:12 p.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Health Services Cost Review Council intends to consider amending regulations entitled: **VR 370-01-001. Rules and Regulations of the Virginia Health Services Cost Review Council.** The purpose of the proposed action is to amend its general rules and regulations so that they will be consistent with other regulations which establish the Virginia Health Services Cost Review Council's new methodology for the review and measurement of efficiency and productivity of health care institutions. A public hearing will be held at noon on December 21, 1993, at 2015 Staples Mill Road, Richmond, Virginia.

Statutory Authority: §§ 9-161.1 and 9-164 of the Code of Virginia.

Written comments may be submitted until September 15, 1993, to John A. Rupp, Executive Director, 805 East Broad Street, 6th Floor, Richmond, Virginia 23219.

Contact: Kim Bolden, Public Relations Coordinator, 805 E. Broad St., 6th Floor, Richmond, VA 23219, telephone (804) 786-6371.

V.A.R. Doc. No. C93-1700; Filed July 1, 1993, 3:12 p.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Health Services Cost Review Council intends to consider promulgating regulations entitled: **VR 370-01-002. Methodology to Measure Efficiency and Productivity of Health Care Institutions.** The purpose of the proposed action is to adopt specific regulations to establish a new Virginia Health Services Cost Review Council methodology to measure efficiency and productivity of health care institutions. A public hearing will be held at noon on December 21, 1993, at 2015 Staples Mill Road, Richmond, Virginia.

Statutory Authority: §§ 9-161.1 and 9-164 2 of the Code of Virginia.

Written comments may be submitted until September 15, 1993, to John A. Rupp, Executive Director, 805 East Broad Street, 6th Floor, Richmond, Virginia 23219.

Contact: Kim Bolden, Public Relations Coordinator, 805 E. Broad St., 6th Floor, Richmond, VA 23219, telephone (804) 786-6371.

Notices of Intended Regulatory Action

V.A.R. Doc. No. C93-1701; Filed July 1, 1993, 3:12 p.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Health Services Cost Review Council intends to consider promulgating regulations entitled: **Regulations of the Virginia Health Services Cost Review Council Patient Level Data System**. The purpose of the proposed action is to adopt regulations to implement the Virginia Health Services Cost Review Council's responsibility for the establishment of a patient level database system in Virginia. A public hearing will be held at noon on December 21, 1993, at 2015 Staples Mill Road, Richmond, Virginia.

Statutory Authority: §§ 9-164.2 and 9-166.5 of the Code of Virginia.

Written comments may be submitted until September 15, 1993, to John A. Rupp, Executive Director, 805 East Broad Street, 6th Floor, Richmond, Virginia 23219.

Contact: Kim Bolden, Public Relations Coordinator, 805 E. Broad St., 6th Floor, Richmond, VA 23219, telephone (804) 786-6371.

V.A.R. Doc. No. C93-1702; Filed July 1, 1993, 3:12 p.m.

BOARD FOR HEARING AID SPECIALISTS

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board for Hearing Aid Specialists intends to consider repealing regulations entitled: **VR 375-01-01. Public Participation Guidelines**. The purpose of the proposed action is to promulgate public participation guidelines to replace the emergency public participation guidelines adopted in June 1993, and to provide full opportunity for public participation in the regulation formation and promulgation process. The agency does not intend to hold a public hearing on the repeal of the regulation.

Statutory Authority: §§ 9-6.14:7.1 and 54.1-201 of the Code of Virginia.

Written comments may be submitted until September 8, 1993.

Contact: Geralde W. Morgan, Administrator, Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8534

V.A.R. Doc. No. C93-1943; Filed June 24, 1993, 2:27 p.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board for Hearing Aid Specialists intends to consider promulgating regulations entitled: **Board for Hearing Aid Specialists Public Participation Guidelines**. The purpose of the proposed action is to promulgate public participation guidelines to replace the emergency public participation guidelines adopted in June 1993, and to provide full opportunity for public participation in the regulation formation and promulgation process. The agency does not intend to hold a public hearing on the proposed regulation.

Statutory Authority: §§ 9-6.14:7.1 and 54.1-201 of the Code of Virginia.

Written comments may be submitted until September 8, 1993.

Contact: Geralde W. Morgan, Administrator, Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8534

V.A.R. Doc. No. C93-1943; Filed June 24, 1993, 2:27 p.m.

STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Council of Higher Education for Virginia intends to consider amending regulations entitled: **VR 380-01-00. Guidelines for Public Participation in the Development and Promulgation of Regulations**. The purpose of the proposed action is to change some unclear language in the emergency and add language so they follow new APA guidelines. The emergency regulations are only effective for 12 months. These will replace the emergency regulations. The agency does not plan to hold a public hearing on the proposed regulations.

§§ 9-6.14:7.1 and 23-9.6:1 of the Code of Virginia.

Written comments may be submitted until September 8, 1993.

Contact: Fran Bradford, Legislative and Public Relations Specialist, 101 N. 14th St., Richmond, VA 23219, telephone (804) 225-2613.

V.A.R. Doc. No. C93-1834; Filed July 9, 1993, 11:32 a.m.

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 of Historic Resources intends to consider amending regulations

Notices of Intended Regulatory Action

entitled: **VR 390-01-01. Public Participation Guidelines.** The purpose of the proposed action is to amend, on a permanent basis, the board's guidelines such that the guidelines will comply with the 1993 amendments to the Administrative Process Act. Specifically, the Act imposes new requirements on agencies of state government for processing rulemakings under the Act. For example, the Act requires the board to set out in their guidelines any methods for the identification and notification of interested persons, and any specific means of seeking input from interested persons or groups which the board intends to use in addition to the Notice of Intended Regulatory Action. Also, the Act mandates that the board include in its guidelines a general policy for the use of standing or ad hoc advisory groups and consultation with groups and individuals registering interest in working with the board.

Need: This proposed regulatory action is necessary in order to establish guidelines which comply with the 1993 amendments to the Administrative Process Act and replace emergency guidelines which became effective on June 25, 1993.

Estimated Impact: No financial impact on regulated entities or the public is expected from the proposed amendments of the guidelines since the guidelines only impose requirements on the board. Regulated entities and the public should benefit from the proposed amendments in that the guidelines will comply with the amendments to the Act.

Alternatives: There is no alternative to taking regulatory action to amend the board's guidelines. The Act requires the board to adopt guidelines and any guidelines adopted must comply with the provisions of the Act.

Public Comments: The board seeks oral and written comments from interested persons on the intended regulatory action and on the costs and benefits of any alternatives. Also, the board seeks comment on whether the agency should form an ad hoc advisory group, utilize a standing advisory committee, or consult with groups or individuals to assist in the drafting and formation of a proposal. To be considered, written comments should be directed to Margaret T. Peters at the Department of Historic Resources, and must be received by 4:30 p.m. on Wednesday, September 15, 1993.

In addition, the Department of Historic Resources will hold a public meeting at 2 p.m. on Thursday, September 9, 1993, in the Board Room, Department of Environmental Quality, Water Division, 4900 Cox Road, Innsbrook Corporate Center, Glen Allen, Virginia, to receive views and comments and to answer questions from the public.

Intent to Hold an Informational Proceeding or Public Hearing: The board intends to hold an informational proceeding (informal hearing) on the proposed amendments to the guidelines after the proposal is published in the Virginia Register of Regulations. The board does not intend to hold a public hearing (evidential)

on the proposed amendments to the guidelines after the proposal is published in the Virginia Register of Regulations.

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

Written comments may be submitted until 4:30 p.m. on September 15, 1993.

Contact: Margaret T. Peters, Information Officer, Department of Historic Resources, 221 Governor St., Richmond, VA 23219, telephone (804) 786-3143.

VA.R. Doc. No. C93-1887; Filed July 21, 1993, 8:39 a.m.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Historic Resources intends to consider promulgating regulations entitled: **VR 390-01-03.1. Evaluation Criteria and Procedures for Designations by the Board of Historic Resources.** The purpose of the proposed action is to set out those criteria to be used by the board in designating Virginia landmarks, to set out the requirements for public notice and public hearings prior to any designation, and to set out the procedures by which property owners may object to and prevent designation.

Estimated Impact: No financial impact on regulated entities or the public is expected from this proposed regulation because the regulation imposes requirements only on the board and Department of Historic Resources. Regulated entities and the public will benefit by having the board's evaluation criteria and its procedures formally set out in the regulation.

Alternatives: There is no alternative to taking regulatory action to set out criteria and procedures for designations by the board. The regulation is specifically required by § 10.1-2205 of the Code of Virginia.

NOIRA public meeting and ad hoc advisory group: The subject of this Notice of Intended Regulatory Action (NOIRA) was the subject of a previous NOIRA published in November 1992. Pursuant to that previous NOIRA, a public meeting was held on December 16, 1992, in Richmond, and an ad hoc advisory group was formed to assist in drafting a proposed regulation. The advisory group completed its work and a draft proposed regulation was prepared. Because the present NOIRA is being published to meet new technical requirements of the Administrative Process Act which became effective on July 1, 1993, no additional public meeting will be held during the comment period established by this NOIRA. No new ad hoc advisory committee will be formed.

Public Comments: The board requests comments on its intended regulatory action. Comments may be generic or they may assess the relative merits of specific alternatives.

Notices of Intended Regulatory Action

The board also seeks comments on the costs and benefits of its intended regulatory action or any alternatives. The draft proposed regulation previously prepared with the assistance of the ad hoc advisory group noted above is available to assist interested persons in preparing comments.

Intent to Hold an Informational Proceeding or Public Hearing: While there will not be a public meeting during this NOIRA comment period that ends on September 10, 1993, the board does intend to hold an informational proceeding (informal hearing) on the proposed regulation after the specific proposal is published in the Register of Regulations. The board does not intend to hold a public hearing (evidential) on the proposed regulation after the proposal is published in the Register of Regulations.

Statutory Authority: §§ 10.1-2205, 10.10-2206.1 and 10.1-2206.2 of the Code of Virginia.

Written comments may be submitted until September 10, 1993.

Contact: Margaret T. Peters, Information Officer, Department of Historic Resources, 221 Governor St., Richmond, VA 23219, telephone (804) 786-3143.

V.A.R. Doc. No. C93-1891; Filed July 21, 1993, 11:42 a.m.

DEPARTMENT OF HISTORIC RESOURCES

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Historic Resources intends to consider amending regulations entitled: **VR 392-01-01. Public Participation Guidelines.** The purpose of the proposed action is to amend, on a permanent basis, the department's guidelines such that the guidelines will comply with the 1993 amendments to the Administrative Process Act. Specifically, the Act imposes new requirements on agencies of state government for processing rulemakings under the Act. For example, the Act requires the department to set out in its guidelines any methods for the identification and notification of interested persons, and any specific means of seeking input from interested persons or groups that the department intends to use in addition to the Notice of Intended Regulatory Action. Also, the Act mandates that the department include in their guidelines a general policy for the use of standing or ad hoc advisory groups and consultation with groups and individuals registering interest in working with the department.

Need: This proposed regulatory action is necessary in order to establish guidelines which comply with the 1993 amendments to the Administrative Process Act and replace emergency guidelines which became effective on June 25, 1993.

Estimated Impact: No financial impact on regulated entities or the public is expected from the proposed amendments of the guidelines since the guidelines only impose requirements on the department. Regulated entities and the public should benefit from the proposed amendments in that the guidelines will comply with the amendments to the Act.

Alternatives: There is no alternative to taking regulatory action to amend the department's guidelines. The Act requires the department to adopt guidelines and any guidelines adopted must comply with the provisions of the Act.

Public Comments: The department seeks oral and written comments from interested persons on the intended regulatory action and on the costs and benefits of any alternatives. Also, the department seeks comment on whether it should form an ad hoc advisory group, utilize a standing advisory committee, or consult with groups or individuals to assist in the drafting and formation of a proposal. To be considered, written comments should be directed to Margaret T. Peters at the Department of Historic Resources, and must be received by 4:30 p.m. on Wednesday, September 15, 1993.

In addition, the Department of Historic Resources will hold a public meeting at 2 p.m. on Thursday, September 9, 1993, in the Board Room, Department of Environmental Quality, Water Division, 4900 Cox Road, Innsbrook Corporate Center, Glen Allen, Virginia, to receive views and comments and to answer questions from the public.

Intent to Hold an Informational Proceeding or Public Hearing: The board intends to hold an informational proceeding (informal hearing) on the proposed amendments to the guidelines after the proposal is published in the Virginia Register of Regulations. The board does not intend to hold a public hearing (evidential) on the proposed amendments to the guidelines after the proposal is published in the Virginia Register of Regulations.

Statutory Authority: §§ 9-6.14:7.1 and 10.1-2202 of the Code of Virginia.

Written comments may be submitted until 4:30 p.m. on September 15, 1993.

Contact: Margaret T. Peters, Information Officer, Department of Historic Resources, 221 Governor St., Richmond, VA 23219, telephone (804) 786-3143.

V.A.R. Doc. No. C93-1886; Filed July 21, 1993, 8:39 a.m.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Historic Resources intends to consider promulgating regulations entitled: **VR 392-01-02.1. Evaluation Criteria**

Notices of Intended Regulatory Action

and Procedures for Nomination of Property to the National Register or for Designation as a National Historic Landmark. The purpose of the proposed action is to set out those criteria to be used by the director in nominating properties to the National Park Service for inclusion in the National Register of Historic Places, or for designation as a National Historic Landmark, and to set out the requirements for public notice and public hearings prior to any nomination.

Estimated Impact: No financial impact on regulated entities or the public is expected from this proposed regulation because the regulation imposes requirements only on the Department of Historic Resources. Regulated entities and the public will benefit by having the director's evaluation criteria and its procedures formally set out in the regulation.

Alternatives: While the Code of Virginia authorizes the director to promulgate regulations but does not explicitly require those regulations, the department finds that the 1992 General Assembly's intent in establishing that authorization was that evaluation criteria and procedures should be formally promulgated as regulations. The department consequently finds that no alternative to regulatory action is available.

NOIRA public meeting and ad hoc advisory group: The subject of this Notice of Intended Regulatory Action (NOIRA) was the subject of a previous NOIRA published in November 1992. Pursuant to that previous NOIRA, a public meeting was held on December 16, 1992, in Richmond, and an ad hoc advisory group was formed to assist in drafting a proposed regulation. The advisory group completed its work, and a draft proposed regulation was prepared. Because the present NOIRA is being published to meet new technical requirements of the Administrative Process Act which became effective on July 1, 1993, no additional public meeting will be held during the comment period established by this NOIRA. No new ad hoc advisory committee will be formed.

Public Comments: The department requests comments on its intended regulatory action. Comments may be generic or they may assess the relative merits of specific alternatives. The department also seeks comments on the costs and benefits of its intended regulatory action or any alternatives. The draft proposed regulation previously prepared with the assistance of the ad hoc advisory group noted above is available to assist interested persons in preparing comments.

Intent to Hold an Informational Proceeding or Public Hearing: While there will not be a public meeting during this NOIRA comment period that ends on September 10, 1993, the department does intend to hold an informational proceeding (informal hearing) on the proposed regulation after the specific proposal is published in the Register of Regulations. The department does not intend to hold a public hearing (evidential) on the proposed regulation after the proposal is published in the Register of

Regulations.

Statutory Authority: § 10.1-2201 of the Code of Virginia.

Written comments may be submitted until September 10, 1993.

Contact: Margaret T. Peters, Information Officer, Department of Historic Resources, 221 Governor St., Richmond, VA 23219, telephone (804) 786-3143.

VA.R. Doc. No. C93-1890; Filed July 21, 1993, 11:42 a.m.

BOARD OF HOUSING AND COMMUNITY DEVELOPMENT

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Housing and Community Development intends to consider amending regulations entitled: **VR 394-01-1. Public Participation Guidelines to be used in the Formation, Promulgation, and Adoption in the Form of Regulations.** The purpose of the proposed action is to amend current regulation to comply with legislative actions. The Board of Housing and Community Development will hold a public hearing on the proposed regulation in this notice.

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

Written comments may be submitted until August 12, 1993, to the Department of Housing and Community Development, Code Development Office, 501 N. 2nd St., Richmond, VA 23219-1321.

Contact: Norman R. Crumpton, Program Manager, Department of Housing and Community Development, 501 N. 2nd St., Richmond, VA 23219-1321, telephone (804) 371-7170.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Housing and Community Development intends to consider amending regulations entitled: **VR 394-01-2. Certification Standards for Building Inspection Personnel, Amusement Device Inspectors, Blasters, Plumber, Electricians, and Building Related Mechanical Workers/1990.** The purpose of the proposed action is to amend current regulation to comply with other revised regulations and standards. The Board of Housing and Community Development will hold a public hearing on the proposed regulation in this notice.

Statutory Authority: §§ 15.1-11.4, 36-98.3, 36-137, and 27-97 of the Code of Virginia.

Written comments may be submitted until August 12, 1993, to the Department of Housing and Community

Notices of Intended Regulatory Action

Development, Code Development Office, 501 N. 2nd St., Richmond, VA 23219-1321.

Contact: Norman R. Crumpton, Program Manager, Department of Housing and Community Development, 501 N. 2nd St., Richmond, VA 23219-1321, telephone (804) 371-7170.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Housing and Community Development intends to consider amending regulations entitled: **VR 394-01-4. Virginia Amusement Device Regulations**. The purpose of the proposed action is to amend current regulation to comply with other revised regulations and standards. The Board of Housing and Community Development will hold a public hearing on the proposed regulation in this notice.

Statutory Authority: §§ 36-98 and 36-98.3 of the Code of Virginia.

Written comments may be submitted until August 12, 1993, to the Department of Housing and Community Development, Code Development Office, 501 N. 2nd St., Richmond, VA 23219-1321.

Contact: Norman R. Crumpton, Program Manager, Department of Housing and Community Development, 501 N. 2nd St., Richmond, VA 23219-1321, telephone (804) 371-7170.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Housing and Community Development intends to consider amending regulations entitled: **VR 394-01-6. Virginia Statewide Fire Prevention Code/1990**. The purpose of the proposed action is to amend current regulation to comply with other revised regulations and standards. The Board of Housing and Community Development will hold a public hearing on the proposed regulation in this notice.

Statutory Authority: § 27-97 of the Code of Virginia.

Written comments may be submitted until August 12, 1993, to the Department of Housing and Community Development, Code Development Office, 501 N. 2nd St., Richmond, VA 23219-1321.

Contact: Norman R. Crumpton, Program Manager, Department of Housing and Community Development, 501 N. 2nd St., Richmond, VA 23219-1321, telephone (804) 371-7170.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Housing

and Community Development intends to consider amending regulations entitled: **VR 394-01-21. Virginia Uniform Statewide Building Code - Vol. I - New Construction Code/1990**. The purpose of the proposed action is to amend current regulation to comply with other revised regulations and standards. The Board of Housing and Community Development will hold a public hearing on the proposed regulation in this notice.

Statutory Authority: § 36-98 of the Code of Virginia.

Written comments may be submitted until August 12, 1993, to the Department of Housing and Community Development, Code Development Office, 501 N. 2nd St., Richmond, VA 23219-1321.

Contact: Norman R. Crumpton, Program Manager, Department of Housing and Community Development, 501 N. 2nd St., Richmond, VA 23219-1321, telephone (804) 371-7170.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Housing and Community Development intends to consider amending regulations entitled: **VR 394-01-22. Virginia Uniform Statewide Building Code - Vol. II - Building Maintenance Code/1990**. The purpose of the proposed action is to amend current regulation to comply with other revised regulations and standards. The Board of Housing and Community Development will hold a public hearing on the proposed regulation in this notice.

Statutory Authority: §§ 36-98 and 36-103 of the Code of Virginia.

Written comments may be submitted until August 12, 1993, to the Department of Housing and Community Development, Code Development Office, 501 N. 2nd St., Richmond, VA 23219-1321.

Contact: Norman R. Crumpton, Program Manager, Department of Housing and Community Development, 501 N. 2nd St., Richmond, VA 23219-1321, telephone (804) 371-7170.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Housing and Community Development intends to consider amending regulations entitled: **VR 394-01-31. Virginia Industrialized Building and Manufactured Home Safety Regulations/1990**. The purpose of the proposed action is to amend current regulation to comply with other revised regulations and standards. The Board of Housing and Community Development will hold a public hearing on the proposed regulation in this notice.

Statutory Authority: § 36-73 and 36-85.7 of the Code of

Notices of Intended Regulatory Action

Virginia.

Written comments may be submitted until August 12, 1993, to the Department of Housing and Community Development, Code Development Office, 501 N. 2nd St., Richmond, VA 23219-1321.

Contact: Norman R. Crumpton, Program Manager, Department of Housing and Community Development, 501 N. 2nd St., Richmond, VA 23219-1321, telephone (804) 371-7170.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Housing and Community Development intends to consider amending regulations entitled: **VR 394-01-200. Virginia Private Activity Bond Regulations.** The purpose of the proposed action is to change allocation priorities and make minor administrative changes. The Board of Housing and Community Development will hold a public hearing on the proposed regulation in this notice.

Statutory Authority: § 51.1-1399.17 of the Code of Virginia.

Written comments may be submitted until August 12, 1993.

Contact: Charles Gravatt, Financial Assistance Coordinator, Department of Housing and Community Development, 501 N. 2nd St., Richmond, VA 23219-1321, telephone (804) 371-7025.

DEPARTMENT OF LABOR AND INDUSTRY

† Withdrawal of Notice of Intended Regulatory Action

The Department of Labor and Industry is **withdrawing** the Notice of Intended Regulatory Action for VR 425-01-81. Regulations Governing the Employment of Minors on Farms, in Gardens and in Orchards, published in 9:11 VA.R. 1622 February 22, 1993.

† Withdrawal of Notice of Intended Regulatory Action

The Department of Labor and Industry is **withdrawing** the Notice of Intended Regulatory Action for VR 425-01-81.1 Regulation Governing the Employment of Minors on Farms, in Gardens and in Orchards, published in 9:11 VA.R. 1622 February 22, 1993.

† Withdrawal of Notice of Intended Regulatory Action

The Department of Labor and Industry is **withdrawing** the Notice of Intended Regulatory Action for VR 425-02-11. Virginia Occupational Safety and Health Administrative Regulations Manual, published in 8:23 VA.R. 4037 August 10, 1992.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Labor and Industry intends to consider repealing regulations entitled: **VR 425-01-68. Public Participation Guidelines.** The purpose of the proposed action is to repeal this regulation which was replaced by emergency regulation effective June 30, 1993. The emergency regulation will expire on June 30, 1994. The department will promulgate new permanent regulations to replace this regulation. The agency will hold a public informational hearing on the proposed repeal of the regulation after publication.

Statutory Authority: §§ 9-6.14:7.1 and 40.1-6 of the Code of Virginia.

Written comments may be submitted until September 8, 1993.

Contact: Bonnie H. Robinson, Agency Regulatory Coordinator, Department of Labor and Industry, Powers-Taylor Bldg., 13 S. 13th St., Richmond, VA 23219, telephone (804) 371-2631.

VA.R. Doc. No. C93-1877; Filed July 20, 1993, 4:01 p.m.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Labor and Industry intends to consider repealing regulations entitled: **VR 425-01-81. Regulation Governing the Employment of Minors on Farms, in Gardens and in Orchards.** The purpose of the proposed action is to repeal this regulation which was replaced by emergency regulation effective June 30, 1993. The emergency regulation will expire on June 30, 1994. Copies of the emergency regulation are available from the agency. The agency will hold a public informational hearing on the proposed repeal of the regulation after publication.

Statutory Authority: §§ 40.1-6(3), 40.1-100(A)(9) and 40.1-114 of the Code of Virginia.

Written comments may be submitted until September 8, 1993, to John J. Crisanti, Director, Office of Enforcement Policy, Department of Labor and Industry, 13 South 13th Street, Richmond, Virginia 23219.

Contact: Dennis Merrill, Labor Law Director, Department of Labor and Industry, Powers-Taylor Bldg., 13 S. 13th St., Richmond, VA 23219, telephone (804) 786-3224.

VA.R. Doc. No. C93-1878; Filed July 20, 1993, 4:01 p.m.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Labor and Industry intends to consider promulgating regulations entitled: **VR 425-01-81:1. Regulation Governing the Employment of Minors on Farms, in Gardens and in**

Notices of Intended Regulatory Action

Orchards. The purpose of the proposed action is to promulgate a new permanent regulation governing the employment of minors on farms, in gardens and in orchards, to replace the emergency regulation (VR 425-01-81) which became effective June 30, 1993. The emergency regulation is effective for one year until June 30, 1994. The agency will hold a public informational hearing on the proposed regulation after it is published.

Statutory Authority: §§ 40.1-6(3), 40.1-100(A)(9) and 40.1-114 of the Code of Virginia.

Written comments may be submitted until September 8, 1993, to John J. Crisanti, Director, Office of Enforcement Policy, Department of Labor and Industry, 13 South 13th Street, Richmond, Virginia 23219.

Contact: Dennis Merrill, Labor Law Director, Department of Labor and Industry, Powers-Taylor Bldg., 13 S. 13th St., Richmond, VA 23219, telephone (804) 371-2631.

V.A.R. Doc. No. C93-1871; Filed July 20, 1993, 4:00 p.m.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Labor and Industry intends to consider promulgating regulations entitled: **VR 425-01-100. Public Participation Guidelines.** The purpose of the proposed action is to promulgate new public participation guidelines for the agency to incorporate the new requirements of the Administrative Process Act, which were the result of legislation enacted by the 1993 General Assembly.

The current public participation guidelines were superseded by an emergency regulation (VR 425-01-68) effective June 30, 1993. This emergency regulation will expire on June 30, 1994. The current and the emergency public participation guidelines were adopted jointly by the Commissioner of Labor and Industry, the Virginia Safety and Health Codes Board, and the Virginia Apprenticeship Council, and govern the promulgation, amendment, and repeal of all regulations by the commissioner, board or council. New public participation guidelines for the agency will only cover regulatory action by the Commissioner of Labor and Industry. The agency will hold a public informational hearing on the proposed regulation after it is published.

Statutory Authority: §§ 9-6.14:7.1 and 40.1-6 of the Code of Virginia.

Written comments may be submitted until September 8, 1993.

Contact: Bonnie H. Robinson, Agency Regulatory Coordinator, Department of Labor and Industry, Powers-Taylor Bldg., 13 S. 13th St., Richmond, VA 23219, telephone (804) 371-2631.

V.A.R. Doc. No. C93-1873; Filed July 20, 1993, 4:00 p.m.

Apprenticeship Council

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that Apprenticeship Council intends to consider promulgating regulations entitled: **VR 425-01-102. Public Participation Guidelines.** The purpose of the proposed action is to promulgate new public participation guidelines for the Virginia Apprenticeship Council to incorporate the new requirements of the Administrative Process Act which were the result of legislation enacted by the 1993 General Assembly.

The current public participation guidelines were superseded by an emergency regulation (VR 425-01-68) effective June 30, 1993. This emergency regulation will expire on June 30, 1994. The current and the emergency public participation guidelines were adopted jointly by the Commissioner of Labor and Industry, the Virginia Safety and Health Codes Board, and the Virginia Apprenticeship Council, and govern the promulgation, amendment, and repeal of all regulations by the commissioner, board or council. New public participation guidelines for the agency will only cover regulatory action by the Apprenticeship Council. The agency will hold a public informational hearing on the proposed regulation after it is published.

Statutory Authority: §§ 9-6.14:7.1 and 40.1-117 of the Code of Virginia.

Written comments may be submitted until September 8, 1993.

Contact: Thomas E. Butler, Assistant Commissioner, Training and Public Services, Department of Labor and Industry, Powers-Taylor Bldg., 13 S. 13th St., Richmond, VA 23219, telephone (804) 371-2327.

V.A.R. Doc. No. C93-1875; Filed July 20, 1993, 4:00 p.m.

Safety and Health Codes Board

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Safety and Health Codes Board intends to consider repealing regulations entitled: **VR 425-02-11. VOSH Administrative Regulations Manual.** The purpose of the proposed action is to repeal this regulation which was replaced by emergency regulation effective June 30, 1993. The emergency regulation will expire on June 30, 1994. The department and board will promulgate a new permanent regulation to replace this regulation. The agency will hold a public informational hearing on the proposed repeal of the regulation after publication.

Statutory Authority: §§ 40.1-6 and 40.1-22 of the Code of Virginia.

Notices of Intended Regulatory Action

Written comments may be submitted until September 8, 1993.

Contact: John J. Crisanti, Director, Office of Enforcement Policy, Department of Labor and Industry, Powers-Taylor Bldg., 13 S. 13th St., Richmond, VA 23219, telephone (804) 786-2384.

VA.R. Doc. No. C93-1876; Filed July 20, 1993, 4:01 p.m.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Safety and Health Codes Board intends to consider promulgating regulations entitled: **VR 425-02-95. VOSH Administrative Regulations Manual.** The purpose of the proposed action is to update the Virginia Occupational Safety and Health Administrative Regulations Manual to reflect legislative and administrative changes to the Virginia Occupational Safety and Health (VOSH) program, and as a result of regulatory review. The board will hold a public hearing on the proposed regulation after it is published.

Statutory Authority: §§ 40.1-6 and 40.1-22 of the Code of Virginia.

Written comments may be submitted until September 8, 1993.

Contact: John J. Crisanti, Director, Office of Enforcement Policy, Department of Labor and Industry, Powers-Taylor Bldg., 13 S. 13th St., Richmond, VA 23219, telephone (804) 786-2324.

VA.R. Doc. No. C93-1872; Filed July 20, 1993, 4:00 p.m.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Safety and Health Codes Board intends to consider promulgating regulations entitled: **VR 425-02-101. Public Participation Guidelines.** The purpose of the proposed action is to promulgate new public participation guidelines for the Virginia Safety and Health Codes Board to incorporate the new requirements of the Administrative Process Act, which were the result of legislation enacted by the 1993 General Assembly.

The current public participation guidelines were superseded by an emergency regulation (VR 425-01-68) effective June 30, 1993. This emergency regulation will expire on June 30, 1994. The current and the emergency public participation guidelines were adopted jointly by the Commissioner of Labor and Industry, the Virginia Safety and Health Codes Board, and the Virginia Apprenticeship Council and govern the promulgation, amendment, and repeal of all regulations by the commissioner, board or council. New public participation guidelines for the agency will only cover regulatory action by the Safety and Health Codes Board. The agency will hold a public informational hearing on the proposed regulation after it is published.

Statutory Authority: §§ 9-6.14:7.1 and 40.1-22 of the Code of Virginia.

Written comments may be submitted until September 8, 1993.

Contact: John J. Crisanti, Director, Office of Enforcement Policy, Department of Labor and Industry, Powers-Taylor Bldg., 13 S. 13th St., Richmond, VA 23219, telephone (804) 786-2384.

VA.R. Doc. No. C93-1874; Filed July 20, 1993, 4:00 p.m.

VIRGINIA MANUFACTURED HOUSING BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Manufactured Housing Board intends to consider promulgating regulations entitled: **VR 449-01-01. Public Participation Guidelines.** The purpose of the proposed action is to develop permanent public participation guidelines to replace the public participation guidelines adopted as emergency regulations. The Manufactured Housing Board will hold a public hearing on the proposed regulations in this notice.

Statutory Authority: §§ 9-6.14:7.1 and 36-85.18 of the Code of Virginia.

Written comments may be submitted until August 12, 1993, to the Department of Housing and Community Development, Code Enforcement Office, 501 North 2nd Street, Richmond, Virginia 23219-1321.

Contact: Curtis L. McIver, Associate Director, Code Enforcement and Manufactured Housing Office, The Jackson Center, 501 N. 2nd St., Richmond, VA 23219-1321, telephone (804) 371-7160.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Manufactured Housing Board intends to consider promulgating regulations entitled: **VR 449-01-02. Manufactured Housing Licensing and Transaction Recovery Fund Regulations.** The purpose of the proposed action is to develop regulations to be used in the administration and enforcement of the Manufactured Housing Licensing Law and Recovery Fund. The Manufactured Housing Board will hold a public hearing on the proposed regulations in this notice.

Statutory Authority: § 36-85.18 of the Code of Virginia.

Written comments may be submitted until August 12, 1993, to the Department of Housing and Community Development, Code Enforcement Office, 501 North 2nd

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Street, Richmond, Virginia 23219-1321.

Contact: Curtis L. McIver, Associate Director, Code Enforcement and Manufactured Housing Office, The Jackson Center, 501 N. 2nd St., Richmond, VA 23219-1321, telephone (804) 371-7160.

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: **Public Participation Guidelines**. The purpose of the proposed action is to amend, on a permanent basis, public participation guidelines so that the guidelines will comply with the 1993 amendments to the Administrative Process Act.

Basis and Statutory Authority: The basis for this regulation is § 28.2-103 of the Code of Virginia which authorizes the commission to promulgate regulations and guidelines necessary to carry out the provisions of Title 28.2. In addition, § 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 persons in the formation and development of its regulations.

Need: This proposed regulatory action is necessary in order to establish guidelines which comply with the 1993 amendments to the Administrative Process Act and replace emergency guidelines which became effective June 30, 1993.

Substance and Purpose: The purpose of this proposed regulatory action is to amend, on a permanent basis, the commission's guidelines such that the guidelines will comply with the 1993 amendments to the Act. Specifically, the Act imposes new requirements on agencies of state government for processing rulemakings under the Act. For example, the Act requires the commission to set out in its guidelines any methods for the identification and notification of interested persons, and any specific means of seeking input from interested persons or groups which the commission intends to use in addition to the Notice of Intended Regulatory Action. Also, the Act mandates that the commission include in its guidelines a general consultation with groups and individuals registering interest in working with the commission.

Estimated Impact: No financial impact on regulated entities or the public is expected from any proposed amendments to the guidelines since the guidelines only impose requirements on the commission. Regulated entities and the public should benefit from the proposed amendments in that the guidelines will comply with the amendments to the Act.

Alternatives: There is no alternative to taking regulatory

action to amend the commission's guidelines. The Act requires the commission to adopt guidelines and any guidelines adopted must comply with the provisions of the Act.

Public Comments: The commission seeks oral and written comments from interested persons on the intended regulatory action and on the costs and benefits of any alternatives. Also, the commission seeks comment on whether the agency should form an ad hoc advisory group, utilize the standing Habitat Management Advisory Committee, or consult with groups or individuals to assist in the drafting and formation of a proposal. To be considered, written comments should be directed to Mr. R. W. Grabb at the address below and must be received by 4 p.m. on Wednesday, September 15, 1993.

In addition, the commission's staff will participate in a joint public meeting at 2 p.m. on Thursday, September 9, 1993, in the Board Room, Department of Environmental Quality Water Division, 4900 Cox Road, Innsbrook Corporate Center, Glen Allen, Virginia, to receive views and comments and to answer questions of the public.

Accessibility to persons with disabilities: The meetings are being held at public facilities believed to be accessible to persons with disabilities. Any person with questions on the accessibility of the facilities should contact Ms. Doneva Dalton at the Department of Environmental Quality by telephoning (804) 527-5162 or TDD (804) 527)4261. Persons needing interpreter services for the deaf must notify Ms. Dalton no later than Monday, August 23, 1993.

Intent to Hold an Informational Proceeding or Public Hearing: The commission intends to hold an informational proceeding (informal hearing) on the proposed amendments to the guidelines after the proposal is published in the Virginia Register of Regulations. The commission does not intend to hold a public hearing (evidential) on the proposed amendments to the guidelines after the proposal is published in the Virginia Register of Regulations.

Statutory Authority: §§ 9-6.14:7.1 and 28.2-103 of the Code of Virginia.

Written comments may be submitted until 4 p.m. on September 15, 1993.

Contact: Robert W. Grabb, Chief, Habitat Management Division, Virginia Marine Resources Commission, P.O. Box 756, 2600 Washington Avenue, Newport News, VA 23607-0756, telephone (804) 247-2250 or toll-free 1-800-541-4646.

VA.R. Doc. No. C93-1858; Filed July 20, 1993, 8:57 a.m.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES
(BOARD OF)

Notices of Intended Regulatory Action

† 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: **VR 460-02-2.600. Eligibility Conditions and Requirements – Guardianship Fees.** The purpose of the proposed action is to provide for the deduction of guardianship fees in post-eligibility treatment of income in determining a Medicaid eligible individual's personal needs allowance in an institutional or home-and-community-based waiver service. DMAS does not intend to hold a public hearing on the proposed amendments.

Statutory Authority: § 32.1-325 of the Code of Virginia.

Written comments may be submitted until September 8, 1993, to Ann Cook Eligibility and Regulatory Consultant, Division of Policy and Research, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, Virginia 23219.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 371-8850.

VA.R. Doc. No. C93-1830; Filed July 13, 1993, 4:22 p.m.

† 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: **VR 460-02-4.1910. Methods and Standards for Establishing Payment Rates: Inpatient Hospital Services: Cost Report Filing and Final Settlement Filing Requirements.** The purpose of the proposed action is to promulgate regulations that require providers to submit additional financial, statistical, and structural information for the following purposes: a) for submission of a completed cost report; b) to enable DMAS to make the findings and assurances required by federal law. These regulations will also include a penalty for the failure to submit the cost report and required information in a timely manner. DMAS does not intend to hold a public hearing on the proposed amendments.

Statutory Authority: § 32.1-325 of the Code of Virginia.

Written comments may be submitted until September 8, 1993, to Scott Crawford, Division of Cost Settlement and Audit, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, Virginia 23219.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 371-8850.

VA.R. Doc. No. C93-1827; Filed July 13, 1993, 4:22 p.m.

† 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: **VR 460-03-3.1102. Case Management Services – Preauthorization of Case Management for the Elderly.** The purpose of the proposed action is to conform the reauthorization requirement for case management for the elderly with the deadlines for reassessment. DMAS does not intend to hold a public hearing on the proposed amendments.

Statutory Authority: § 32.1-325 of the Code of Virginia.

Written comments may be submitted until September 8, 1993, to Ann Cook Eligibility and Regulatory Consultant, Division of Policy and Research, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, Virginia 23219.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 371-8850.

VA.R. Doc. No. C93-1829; Filed July 13, 1993, 4:22 p.m.

† 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: **VR 460-03-4.1940:1. Nursing Home Payment Systems – Balloon Loan Financing.** The purpose of the proposed action is to clarify the treatment and limitations of balloon loan financing and refinancing for nursing facilities. DMAS does not intend to hold a public hearing on the proposed amendments.

Statutory Authority: § 32.1-325 of the Code of Virginia.

Written comments may be submitted until September 8, 1993, to Richard Weinstein, Division of Cost Settlement and Audit, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, Virginia 23219.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 371-8850.

VA.R. Doc. No. C93-1837; Filed July 13, 1993, 4:22 p.m.

† 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: **VR 460-05-1000.0000. State/Local Hospitalization Program.** The purpose of the proposed action is to limit the allocation of remaining state funds

Notices of Intended Regulatory Action

consistent with these regulations and limit the use of funds allocated for one fiscal to that year. DMAS does not intend to hold a public hearing on the proposed amendments.

Statutory Authority: § 32.1-325 of the Code of Virginia.

Written comments may be submitted until September 22, 1993, to Dave Austin, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, Virginia 23219.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7933.

VA.R. Doc. No. C93-1860; Filed July 20, 1993, 11:18 a.m.

† 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: **Provision of Durable Medical Equipment and Supplies**. The purpose of the proposed action is to amend the State Plan for Medical Assistance concerning the provision of durable medical equipment and supplies through the home health program. DMAS does not intend to hold a public hearing on the proposed amendments.

Statutory Authority: § 32.1-325 of the Code of Virginia.

Written comments may be submitted until September 8, 1993, to Mary Chiles, Manager, Division of Quality Care Assurance, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, Virginia 23219.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 371-8850.

VA.R. Doc. No. C93-1828; Filed July 13, 1993, 4:22 p.m.

† 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: **Methods and Standards for Establishing Payment Rates - Inpatient Hospital Care: Nonenrolled Provider Reimbursement**. The purpose of the proposed action is to reimburse nonenrolled providers at amounts which are more consistent with reimbursement amounts for enrolled providers. DMAS does not intend to hold a public hearing on the proposed amendments.

Statutory Authority: § 32.1-325 of the Code of Virginia.

Written comments may be submitted until September 8,

1993, to Scott Crawford, Division of Cost Settlement and Audit, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, Virginia 23219.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 371-8850.

VA.R. Doc. No. C93-1838; Filed July 13, 1993, 4:22 p.m.

† 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: **MR Waiver Services**. The purpose of the proposed action is to remove certain impediments to the effective and efficient implementation of services to persons with mental retardation and mental illness. DMAS does not intend to hold a public hearing on the proposed amendments.

Statutory Authority: § 32.1-325 of the Code of Virginia.

Written comments may be submitted until September 22, 1993, to Chris Prueff, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, Virginia 23219.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 371-8850.

VA.R. Doc. No. C93-1859; Filed July 20, 1993, 11:17 p.m.

† 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: **Organ Transplantation**. The purpose of the proposed action is to expand the Medicaid coverage of organ transplantation to provide for heart, liver and bone marrow transplants for Medicaid eligible children under the age of 21 years. DMAS does not intend to hold a public hearing on the proposed amendments.

Statutory Authority: § 32.1-325 of the Code of Virginia.

Written comments may be submitted until September 8, 1993, to Ellen Zagorin, Analyst, Division of Policy and Research, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, Virginia 23219.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 371-8850.

VA.R. Doc. No. C93-1839; Filed July 13, 1993, 4:22 p.m.

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 promulgating regulations entitled: **VR 465-01-1. Public Participation Guidelines**. The purpose of the proposed regulation is to promulgate permanent regulations that will replace emergency regulations that became effective in June 1993. These regulations are promulgated in conjunction with the Legislative Committee to the Board of Medicine. The agency does not intend to hold a public hearing on the proposed regulation.

Statutory Authority: §§ 9-6.14:7.1 and 54.1-2400 of the Code of Virginia.

Written comments may be submitted until August 27, 1993, to Hilary H. Connor, M.D., Executive Director, 6606 West Broad Street, 4th Floor, Richmond, Virginia 23230-1717.

Contact: Eugenia K. Dorson, Deputy Executive Director, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9908.

VA.R. Doc. No. C93-1717; Filed July 2, 1993, 4:20 p.m.

DEPARTMENT OF MOTOR VEHICLES

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Motor Vehicles intends to consider promulgating regulations entitled: **VR 485-50-9302. Regulations Governing Requirements for Proof of Residency to Obtain a Virginia Driver's License or Photo Identification Card**. The purpose of the proposed action is to provide information on the process that will be used and the documentation that will be required for proof of residency in the Commonwealth of Virginia. The process and documentation requirements will be applicable to all persons applying for agency documents beginning July 1, 1994. The Department of Motor Vehicles will hold public hearings on the proposed regulations after they have been published.

Statutory Authority: §§ 46.2-203, 46.2-323, 46.2-345, and 46.2-348 of the Code of Virginia.

Written comments may be submitted until August 31, 1993, to Robin Brannon, Department of Motor Vehicles, Room 319, P.O. Box 27412, Richmond, Virginia 23269-0001.

Contact: Clarence H. Bradbery, Policy Analyst, Department of Motor Vehicles, Room 314, P.O. Box 27412, Richmond, VA 23269-0001, telephone (804) 367-0408.

VA.R. Doc. No. C93-1697; Filed July 2, 1993, 2:50 p.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Motor Vehicles intends to consider promulgating regulations entitled: **VR 485-50-9303. Insurance and Surety Company Reporting of Information to DMV**. The purpose of the proposed action is to define the process for insurance and surety companies doing business in Virginia to report and furnish motor vehicle liability information to Virginia DMV. The Department of Motor Vehicles will hold public hearings on the proposed regulations after they have been published.

Statutory Authority: § 46.2-706.1 of the Code of Virginia.

Written comments may be submitted until August 31, 1993.

Contact: Jerome L. Stein, DMV Division Manager, Department of Motor Vehicles, Room 315, P.O. Box 27412, Richmond, VA 23269-0001, telephone (804) 367-6728.

VA.R. Doc. No. C93-1699; Filed July 2, 1993, 4:31 p.m.

BOARD OF NURSING HOME ADMINISTRATORS

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Nursing Home Administrators intends to consider promulgating regulations entitled: **Public Participation Guidelines**. The purpose of the proposed action is to provide guidelines for the involvement of the public in the development and promulgation of regulations of the Board of Nursing Home Administrators. The agency does not intend to hold a public hearing on the proposed regulation.

Statutory Authority: §§ 9-6.14:7.1 and 54.1-3100 of the Code of Virginia.

Written comments may be submitted until September 9, 1993.

Contact: Meredyth P. Partridge, Executive Director, 6606 W. Broad St., Richmond, VA 23230, telephone (804) 662-9111.

VA.R. Doc. No. C93-1824; Filed July 13, 1993, 9:33 a.m.

BOARD FOR OPTICIANS

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board for Opticians intends to consider repealing regulations entitled: **VR 505-01-0. Public Participation Guidelines**. The purpose of the proposed action is to promulgate public participation guidelines to replace the emergency public participation

Notices of Intended Regulatory Action

guidelines adopted in June 1993, and to provide full opportunity for public participation in the regulation formation and promulgation process. The agency does not intend to hold a public hearing on the proposed action.

Statutory Authority: §§ 9-6.14:7.1 and 54.1-201 of the Code of Virginia.

Written comments may be submitted until September 8, 1993.

Contact: Geralde W. Morgan, Administrator, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8534.

VA.R. Doc. No. C93-1940; Filed June 29, 1993, 11:41 a.m.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board for Opticians intends to consider promulgating regulations entitled: **Public Participation Guidelines**. The purpose of the proposed action is to promulgate public participation guidelines to replace the emergency public participation guidelines adopted in June 1993, and to provide full opportunity for public participation in the regulation formation and promulgation process. The agency does not intend to hold a public hearing on the proposed action.

Statutory Authority: §§ 9-6.14:7.1 and 54.1-201 of the Code of Virginia.

Written comments may be submitted until September 8, 1993.

Contact: Geralde W. Morgan, Administrator, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8534.

VA.R. Doc. No. C93-1941; Filed June 29, 1993, 11:41 a.m.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board for Opticians intends to consider amending regulations entitled: **VR 505-01-1:1. Board for Opticians Regulations**. The purpose of the proposed action is to solicit public comment on all existing regulations as to the effectiveness, efficiency, necessity, clarity and cost of compliance in accordance with its public participation guidelines. A public hearing will be held during the proposed comment period.

Statutory Authority: § 54.1-201 of the Code of Virginia.

Written comments may be submitted until September 10, 1993.

Contact: Geralde W. Morgan, Administrator, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8534.

VA.R. Doc. No. C93-1922; Filed July 21, 1993, 11:56 a.m.

DEPARTMENT OF STATE POLICE

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of State Police intends to consider amending regulations entitled: **VR 545-00-01. Regulations Relating to Public Participation Policy**. The purpose of the proposed action is to revise this agency's guidelines for public participation consistent with the recent changes to the Administrative Process Act. The agency does not intend to hold a public hearing on the proposed regulation.

Statutory Authority: §§ 9-6.14:7.1, 18.2-295, 18.2-308.2:2, 46.2-1165, 52-8.4, 52-25.1, and 54.1-4009 of the Code of Virginia.

Written comments may be submitted until August 25, 1993.

Contact: Captain W. Gerald Massengill, Safety Officer, P.O. Box 85607, Richmond, VA 23285-5607, telephone (804) 674-2017.

VA.R. Doc. No. C93-1709; Filed July 2, 1993, 11:14 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of State Police intends to consider promulgating regulations entitled: **Regulations Relating to Standards and Specifications for Back-Up Audible Alarm Signals**. The purpose of the proposed action is to establish specifications which define standards and identification for back-up audible alarm signals required on garbage and refuse collection and disposal vehicles, and certain vehicles used primarily for highway repair and maintenance. The agency does not intend to hold a public hearing on the proposed regulation.

Statutory Authority: § 46.2-1175.1 of the Code of Virginia.

Written comments may be submitted until August 25, 1993.

Contact: Captain W. Gerald Massengill, Safety Officer, P.O. Box 85607, Richmond, VA 23285-5607, telephone (804) 674-2017.

VA.R. Doc. No. C93-1712; Filed July 2, 1993, 11:15 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of State Police intends to consider promulgating regulations entitled: **Standards and Specifications of the Safety Lights for Farm Tractors in Excess of 108 Inches in Width**. The purpose of the proposed action is to establish specifications

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for lights used on farm tractors in excess of 108 inches in width as required by § 46.2-1102 of the Code of Virginia. The agency does not intend to hold a public hearing on the proposed regulation.

Statutory Authority: § 46.2-1102 of the Code of Virginia.

Written comments may be submitted until August 25, 1993.

Contact: Captain W. Gerald Massengill, Safety Officer, P.O. Box 85607, Richmond, VA 23285-5607, telephone (804) 674-2017.

VA.R. Doc. No. C93-1715; Filed July 2, 1993, 11:14 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of State Police intends to consider promulgating regulations entitled: **Regulations Relating to Standards and Specifications for Overdimensional Warning Lights**. The purpose of the proposed action is to establish specifications which define standards and identification for warning lights used in the escorting or towing of overdimensional materials, equipment, boats or manufactured housing units by authority of a highway hauling permit issued pursuant to § 46.2-1139 of the Code of Virginia. The agency does not intend to hold a public hearing on the proposed regulation.

Statutory Authority: § 46.2-1026 of the Code of Virginia.

Written comments may be submitted until August 25, 1993.

Contact: Captain W. Gerald Massengill, Safety Officer, P.O. Box 85607, Richmond, VA 23285-5607, telephone (804) 674-2017.

VA.R. Doc. No. C93-1713; Filed July 2, 1993, 11:15 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of State Police intends to consider promulgating regulations entitled: **Regulations Relating to Standards and Specifications for regrooved or Recut Tires**. The purpose of the proposed action is to establish specifications which define standards for regroovable and regrooved tires and identification of regroovable tires. The agency does not intend to hold a public hearing on the proposed regulation.

Statutory Authority: § 46.2-1042 of the Code of Virginia.

Written comments may be submitted until August 25, 1993.

Contact: Captain W. Gerald Massengill, Safety Officer, P.O. Box 85607, Richmond, VA 23285-5607, telephone (804) 674-2017.

VA.R. Doc. No. C93-1710; Filed July 2, 1993, 11:14 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of State Police intends to consider promulgating regulations entitled: **Standards and Specifications for Warning Stickers or Decals for All-Terrain Vehicles**. The purpose of the proposed action is to establish specifications which define standards for stickers or decals required to be placed on all-terrain vehicles sold by retailers within the Commonwealth. The agency does not intend to hold a public hearing on the proposed regulation.

Statutory Authority: § 46.2-915.1 of the Code of Virginia.

Written comments may be submitted until August 25, 1993.

Contact: Captain W. Gerald Massengill, Safety Officer, P.O. Box 85607, Richmond, VA 23285-5607, telephone (804) 674-2017.

VA.R. Doc. No. C93-1714; Filed July 2, 1993, 11:15 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of State Police intends to consider amending regulations entitled: **VR 545-01-07. Motor Vehicle Safety Inspection Rules and Regulations**. The purpose of the proposed action is to revise the Motor Vehicle Safety Inspection Rules and Regulations to be consistent with recent changes in state law, federal regulations, nationally accepted standards and automotive practices. Minor technical and administrative changes are included. The agency does not intend to hold a public hearing on the proposed regulation.

Statutory Authority: §§ 46.2-909, 46.2-1002, 46.2-1011, 46.2-1018, 46.2-1022, 46.2-1023, 46.2-1024, 46.2-1025, 46.2-1052, 46.2-1053, 46.2-1056, 46.2-1058, 46.2-1063, 46.2-1065, 46.2-1070, 46.2-1090.1, 46.2-1093, 46.2-1163, 46.2-1164, 46.2-1165 and 46.2-1171 of the Code of Virginia.

Written comments may be submitted until August 25, 1993.

Contact: Captain W. Gerald Massengill, Safety Officer, Department of State Police, Safety Division, P.O. Box 85607, Richmond, VA 23285-5607, telephone (804) 674-2017.

VA.R. Doc. No. C93-1711; Filed July 2, 1993, 11:16 a.m.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of State Police intends to consider promulgating regulations entitled: **Regulations Governing the Creation of a Criminal Firearms Clearinghouse**. The purpose of the proposed action is to establish permanency of the regulations currently in place as emergency regulations. A public hearing will be held on the proposed regulations after publication.

Notices of Intended Regulatory Action

Statutory Authority: § 52-25.1 of the Code of Virginia.

Written comments may be submitted until September 9, 1993.

Contact: Lieutenant R. Lewis Vass, State Police Lieutenant, P.O. Box 27472, Richmond, VA 23261-7472, telephone (804) 674-2022.

V.A.R. Doc. No. C93-1861; Filed July 20, 1993, 11:14 a.m.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of State Police intends to consider promulgating regulations entitled: **Regulations Governing Purchases of Handguns in Excess of One Within a 30-Day Period**. The purpose of the proposed action is to adopt permanent regulations to carry out the provisions of Chapter 486 of the 1993 Acts of Assembly, which amended § 18.2-308.2:2 of the Code of Virginia. A public hearing will be held on the proposed regulation after publication.

Statutory Authority: § 18.2-302.2:2 of the Code of Virginia.

Written comments may be submitted until September 9, 1993.

Contact: Lieutenant R. Lewis Vass, State Police Lieutenant, P.O. Box 27472, Richmond, VA 23261-7472, telephone (804) 674-2022.

V.A.R. Doc. No. C93-1862; Filed July 20, 1993, 11:14 a.m.

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 repealing regulations entitled: **VR 627-01-1. Public Participation Guidelines**. The purpose of the proposed action is to promulgate public participation guidelines to replace the emergency public participation guidelines adopted in June 1993, and to provide full opportunity for public participation in the regulation formation and promulgation process. The agency does not intend to hold a public hearing on the proposed regulation.

Statutory Authority: § 54.1-201 of the Code of Virginia.

Written comments may be submitted until August 16, 1993.

Contact: David E. Dick, Assistant Director, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8596.

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 promulgating regulations entitled: **VR 627-01-1:1. Board for Professional Soil Scientists Public Participation Guidelines**. The purpose of the proposed action is to promulgate public participation guidelines to replace the emergency public participation guidelines adopted in June 1993, and to provide full opportunity for public participation in the regulation formation and promulgation process. The agency does not intend to hold a public hearing on the proposed regulation.

Statutory Authority: §§ 9-6.14:7.1 and 54.1-201 of the Code of Virginia.

Written comments may be submitted until August 16, 1993.

Contact: David E. Dick, Assistant Director, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8596.

REAL ESTATE BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Real Estate Board intends to consider promulgating regulations entitled: **Real Estate Board Public Participation Guidelines**. The purpose of the proposed action is to promulgate regulations to replace emergency regulations. The agency does not intend to hold a public hearing on the proposed regulation.

Statutory Authority: § 54.1-201 of the Code of Virginia.

Written comments may be submitted until September 1, 1993.

Contact: Joan White, Assistant Director, Department of Occupational and Professional Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8552.

V.A.R. Doc. No. C93-1799; Filed July 7, 1993, 11:34 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Real Estate Board intends to consider repealing regulations entitled: **VR 585-01-0. Public Participation Guidelines**. The purpose of the proposed action is to promulgate regulations to replace emergency regulations. The agency does not intend to hold a public hearing on the proposed regulation.

Statutory Authority: § 54.1-201 of the Code of Virginia.

Written comments may be submitted until September 1, 1993.

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Contact: Joan White, Assistant Director, Department of Occupational and Professional Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8552.

VA.R. Doc. No. C93-1807; Filed July 7, 1993, 11:34 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Real Estate Board intends to consider promulgating regulations entitled: **Common Interest Association Annual Report Regulations**. The purpose of the proposed action is to promulgate regulations which establish the filing fee and time of filing for community association annual reports. The agency does not intend to hold a public hearing on the proposed regulation.

Statutory Authority: §§ 55-79.93:1, 55-504.1 and 55-516.1 of the Code of Virginia.

Written comments may be submitted until August 27, 1993.

Contact: Emily O. Wingfield, Property Registration Administrator, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8510.

VA.R. Doc. No. C93-1704; Filed July 1, 1993, 12:25 p.m.

DEPARTMENT OF SOCIAL SERVICES (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 Social Services intends to consider repealing regulations entitled: **VR 615-01-01. Public Participation Guidelines**. The purpose of the proposed action is to repeal existing public participation guidelines. No public hearing is planned on the proposed regulation.

Statutory Authority: § 63.1-25 of the Code of Virginia.

Written comments may be submitted until August 12, 1993.

Contact: Margaret J. Friedenber, Agency Regulatory Coordinator, Department of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1820.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Board of Social Services intends to consider promulgating regulations entitled: **VR 615-01-01:1. Public Participation Guidelines**. The purpose of the proposed action is to adopt public participation guidelines that conform with the Administrative Process Act as amended by the 1993 Virginia Acts of Assembly. No public hearing is planned on the proposed regulation.

Statutory Authority: §§ 9-6.14:7.1 and 63.1-25 of the Code of Virginia.

Written comments may be submitted until August 12, 1993.

Contact: Margaret J. Friedenber, Agency Regulatory Coordinator, Department of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1820.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Board of Social Services intends to consider amending regulations entitled: **VR 615-27-02. Minimum Standards for Licensed Private Child Placing Agencies**. The purpose of the proposed regulation is to develop standards governing home studies of intended parents and surrogate and her husband as required by § 20-160 of the Code of Virginia, (Children of Assisted Conception Act). The Minimum Standards for Licensed Private Child Placing Agencies are the standards private agencies must meet to obtain a license to place children in foster or adoptive homes. No public hearing is planned on the proposed regulation.

Statutory Authority: § 63.1-202 of the Code of Virginia.

Written comments may be submitted until August 30, 1993, to Doris Jenkins, Division of Licensing Programs, 730 East Broad Street, Richmond, Virginia 23219.

Contact: Margaret J. Friedenber, Policy Analyst, Bureau of Governmental Affairs, Department of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1820.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Board of Social Services intends to consider promulgating regulations entitled: **VR 615-43-4.1. Adoptee Application for Disclosure of Identifying Information on Birth Family in a Closed Adoption Record**. The purpose of the proposed action is to implement the changes in § 63.1-236 of the Code of Virginia, effective July 1, 1992, which allow adults adopted in Virginia to apply to the Commissioner of Social Services for identifying information on their birth families. Emergency regulations were published in The Virginia Register of Regulations on August 24, 1992, and a Notice of Intended Regulatory Action was published on November 16, 1992. A second Notice of Intended Regulatory Action is being published for the purpose of informing the public that there is no plan to hold a public hearing.

Statutory Authority: §§ 63.1-25, 63.1-223, 63.1-226, 63.1-228, 63.1-229, 63.1-236 and 63.1-236.1 of the Code of Virginia.

Written comments may be submitted until September 10, 1993, to Sandra A. Sanroma, Foster Care and Adoptions Unit, 730 East Broad Street, Richmond, Virginia

Notices of Intended Regulatory Action

23219-1849.

Contact: Margaret J. Friedenber, Legislative Analyst, Governmental Affairs, 730 E. Broad St., Richmond, VA 23219-1849, telephone (804) 692-1821.

V.A.R. Doc. No. C93-1833; Filed July 19, 1993, 10:19 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Board of Social Services intends to consider amending regulations entitled: **VR 615-45-3. Child Protective Services Release of Information to Family Advocacy Representatives of the United States Armed Forces.** The purpose of the proposed action is to provide guidelines for sharing information related to child protective services cases. No public hearing is planned on the proposed regulation.

Statutory Authority: §§ 2.1-386 and 63.1-248.6 of the Code of Virginia.

Written comments may be submitted until August 13, 1993, to Rita Katzman, 730 East Broad Street, Richmond, Virginia 23219.

Contact: Margaret J. Friedenber, Policy Analyst, Bureau of Governmental Affairs, Department of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1820.

STATE BOARD OF SOCIAL SERVICES AND CHILD DAY-CARE COUNCIL

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with these agencies' public participation guidelines that the State Board of Social Services and Child Day-Care Council intend to consider amending regulations entitled: **VR 615-30-01 and 175-03-01. General Procedures and Information for Licensure.** The purpose of the proposed action is to amend regulations to include sanctions for child welfare agencies, and to include procedures for issuance of multi-year licenses. The board and council will consider public comments on the subject of the proposed regulation at their regularly scheduled meetings.

Statutory Authority: §§ 63.1-174 and 63.1-202 of the Code of Virginia.

Written comments may be submitted until September 9, 1993, to Kathryn Thomas, 730 East Broad Street, Richmond, Virginia 23219.

Contact: Margaret J. Friedenber, Policy Analyst, Bureau of Governmental Affairs, Department of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1820.

V.A.R. Doc. No. C93-1831; Filed July 19, 1993, 10:19 a.m.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with these agencies' public participation guidelines that the State Board of Social Services and the Child Day-Care Council intend to consider amending regulations entitled: **VR 615-38-01 and 175-11-01. Standards and Regulations for Licensed Child Day Center Systems.** The purpose of the proposed action is to develop regulations for licensed child day center systems – a new program resulting from passage of Senate Bill 777 and House Bill 2380 (1993 General Assembly Session). The board and council will consider public comments on the subject of the proposed regulation at their regularly scheduled meetings.

Statutory Authority: §§ 63.1-174 and 63.1-202 of the Code of Virginia.

Written comments may be submitted until September 9, 1993, to Kathryn Thomas, 730 East Broad Street, Richmond, Virginia 23219.

Contact: Margaret J. Friedenber, Policy Analyst, Bureau of Governmental Affairs, Department of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1820.

V.A.R. Doc. No. C93-1832; Filed July 19, 1993, 10:19 a.m.

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 Soil and Water Conservation Board intends to consider amending regulations entitled: **VR 625-00-00:1. Regulatory Public Participation Procedures.** The purpose of the proposed action is to amend, on a permanent basis, the board's procedures to comply with the 1993 amendments to the Administrative Process Act. Specifically, the Act imposes new requirements on agencies of state government for processing rulemaking under the Act. For example, the Act requires the board to set out in its procedures any methods for the identification and notification of interested persons, and any specific means of seeking input from interested persons or groups which the board intends to use in addition to the Notice of Intended Regulatory Action. Also, the Act mandates that board include in its procedures a general policy for the use of standing or ad hoc advisory groups and consultation with groups and individuals registering interest in working with the board.

Basis and Statutory Authority: The basis for this action is the Virginia Administrative Process Act, in particular § 9-6.14.7.1 of the Code of Virginia which requires each agency to develop, adopt and utilize public participation guidelines for soliciting the input of interested persons in

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the formation and development of its regulations. Statutory authority for this specific action is found in the Code of Virginia at various references. Section 10.1-502 of the Code of Virginia authorizes the Virginia Soil and Water Conservation Board (Board) to promulgate regulations necessary for the execution of Chapter 5 of Title 10.1 of the Code of Virginia (§ 10.1-500 et seq.). 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 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 the article (Article 4).

Need: This proposed regulatory action is necessary in order to establish procedures which comply with the 1993 amendments to the Administrative Process Act (Act) and replace emergency procedures which became effective on June 30, 1993.

Estimated Impact: No financial impact on regulated entities or the public is expected from any proposed amendments to the procedures since the procedures only impose requirements on the board. Regulated entities and the public should benefit from the proposed amendments in that the procedures will comply with the amendments to the Act.

Alternatives: There is no alternative to taking regulatory action to amend the board's procedures. The Act requires the board to adopt procedures and any procedures adopted must comply with the provisions of the Act.

Public Comments: The board seeks oral and written comments from interested persons on the intended regulatory action and on the costs and benefits of any alternatives. Also, the board seeks comment on whether the agency should form an ad hoc advisory group, utilize a standing advisory committee, or consult with groups or individuals to assist in the drafting and formation of a proposal. To be considered, written comments should be directed to Mr. Leon E. App at the address below and must be received by 4:00 p.m. on Wednesday, September 15, 1993.

In addition, the Board's staff will hold a public meeting at 2:00 p.m. on Thursday, September 9, 1993, in the Board Room, of the Department of Environmental Quality, Water Division, 4900 Cox Road, Innsbrook Corporate Center, Glen

Allen, Virginia, to receive views and comments and to answer questions of the public.

Accessibility to Persons with Disabilities: The meetings are being held at public facilities believed to be accessible to persons with disabilities. Any person with questions on the accessibility of the facilities should contact Mr. App at the address below or by telephone at (804) 786-4570 or TDD (804) 786-2121. Persons needing interpreter services for the deaf must notify Mr. App no later than Monday, August 23, 1993.

Intent to Hold an Informational Proceeding or Public Hearings: The board intends to hold an informational proceeding (informal hearing) on the proposed amendments to the procedures after the proposal is published in the Register of Regulations. This informational proceeding will be held in coordination with other regulatory authorities and agencies of the Secretariat of Natural Resources. The board does not intend to hold a public hearing (evidential) on the proposed amendments to the procedures after the proposal is published in the Register of Regulations.

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 4 p.m. on September 15, 1993.

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

V.A.R. Doc. No. C93-1868; Filed July 20, 1993, 2:22 p.m.

DEPARTMENT OF TAXATION

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Taxation intends to consider amending regulations entitled: **VR 630-0-1. Guidelines for Public Participation in Regulation Development and Promulgation.** The purpose of the proposed action is to update the regulation for guidelines for public participation in regulation development and promulgation in accordance with Chapter 898 of the 1993 Acts of the General Assembly. This action will replace emergency regulation 630-0-1, which was effective as of June 30, 1993. The agency intends to hold a public hearing on the proposed regulation.

Statutory Authority: §§ 9-6.14:7.1 and 58.1-203 of the Code of Virginia.

Written comments may be submitted until August 25, 1993.

Contact: David M. Vistica, Tax Policy Analyst, P.O. Box

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1880, Richmond, VA 23282-1880, telephone (804) 367-0167.

VAR. Doc. No. C93-1793; Filed July 7, 1993, 10:48 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Taxation intends to consider promulgating, amending and repealing regulations entitled: **VR 630-3-301 through VR 630-3-504. Virginia Corporate Income Tax Regulations.** The purpose of the proposed action is to update all of the existing corporate income tax regulations by amending or repealing existing regulations and adding new regulations in order to clarify current departmental policy. This notice is being republished to ensure compliance with the changes to the Administrative Process Act pursuant to HB 1652 (Chapter 898) of 1993. The agency intends to hold a public hearing on the proposed regulation.

Statutory Authority: § 58.1-203 of the Code of Virginia.

Written comments may be submitted until August 11, 1993.

Contact: John P. Josephs, Senior Policy Analyst, P.O. Box 1880, Richmond, VA 23282-1880, telephone (804) 367-8010.

VAR. Doc. No. C93-1791; Filed July 7, 1993, 10:48 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Taxation intends to consider promulgating, amending and repealing regulations entitled: **VR 630-10-1 through VR 630-10-113. Virginia Retail Sales and Use Tax Regulations.** The purpose of the proposed action is to update all of the retail sales and use tax regulations by amending or repealing existing regulations and adding new regulations in order to clarify current departmental policy. This notice is being republished to ensure compliance with the changes to the Administrative Process Act pursuant to HB 1652 (Chapter 898) of 1993. The agency intends to hold a public hearing on the proposed regulation.

Statutory Authority: § 58.1-203 of the Code of Virginia.

Written comments may be submitted until August 25, 1993.

Contact: Terry M. Barrett, Policy Analyst, P.O. Box 1880, Richmond, VA 23282-1880, telephone (804) 367-0010.

VAR. Doc. No. C93-1790; Filed July 7, 1993, 10:48 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Taxation intends to consider amending regulations entitled: **VR 630-18-796.11:1 through VR 630-18-796.11:9. Virginia Egg Excise Tax.** The purpose of the proposed action is to amend the existing regulations in order to incorporate the

law change in HB 2113 (Chapter 809) of 1993, which expands egg tax coverage. The agency intends to hold a public hearing on the proposed regulation.

Statutory Authority: § 58.1-203 of the Code of Virginia.

Written comments may be submitted until August 25, 1993.

Contact: Cecilia H. Glembocki, Virginia Egg Board, 911 Saddleback Court, McLean, VA 22102, telephone (703) 790-1984.

VAR. Doc. No. C93-1792; Filed July 7, 1993, 10:48 a.m.

VIRGINIA RACING COMMISSION

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Racing Commission intends to consider amending regulations entitled: **VR 662-01-01. Public Participation Guidelines for Adoption or Amendment of Regulations.** The purpose of the proposed action is to bring the Virginia Racing Commission's public participation guidelines into conformance with the recent changes to the Administrative Process Act. The commission will hold a public hearing on the proposed regulation after it is published in The Virginia Register.

Statutory Authority: §§ 9-6.14:7.1 and 59.1-369 of the Code of Virginia.

Written comments may be submitted until August 27, 1993.

Contact: William H. Anderson, Policy Analyst, Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23208, telephone (804) 371-7363.

VAR. Doc. No. C93-1787; Filed July 6, 1993, 2:03 p.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Racing Commission intends to consider promulgating regulations entitled: **Medication.** The purpose of the proposed action is to establish procedures for post-race testing in racehorses utilized in pari-mutuel wagering and establish guidelines for the use of medication if any medication is permitted by the commission. The commission will hold a public hearing on the proposed regulation after it is published in The Virginia Register.

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

Written comments may be submitted until August 27, 1993.

Contact: William H. Anderson, Policy Analyst, Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23208, telephone (804) 371-7363.

Notices of Intended Regulatory Action

V.A.R. Doc. No. C93-1788; Filed July 6, 1993, 2:03 p.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Racing Commission intends to consider promulgating regulations entitled: **Satellite Facilities**. The purpose of the proposed action is to establish the conditions under which satellite facilities shall be permitted to conduct pari-mutuel wagering on horse races. The commission will hold a public hearing on the proposed regulation after it is published in The Virginia Register.

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

Written comments may be submitted until August 27, 1993.

Contact: William H. Anderson, Policy Analyst, Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23208, telephone (804) 371-7363.

V.A.R. Doc. No. C93-1789; Filed July 6, 1993, 2:03 p.m.

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 amending regulations entitled: **VR 672-01-1.1. Public Participation Guidelines**. The purpose of the proposed action is to amend, on a permanent basis, the board's guidelines such that the guidelines will comply with the 1993 amendments to the Administrative Process Act.

Need: This proposed regulatory action is necessary in order to establish guidelines which comply with the 1993 amendments to the Administrative Process Act and replace emergency guidelines which became effective on June 30, 1993.

Substance and Purpose: The purpose of this proposed regulatory action is to amend, on a permanent basis, the board's guidelines such that the guidelines will comply with the 1993 amendments to the Act. Specifically, the Act imposes new requirements on agencies of state government for processing rulemakings under the Act. For example, the Act requires the board to set out in its guidelines any methods for the identification and notification of interested persons, and any specific means of seeking input from interested persons or groups which the board intends to use in addition to the Notice of Intended Regulatory Action. Also, the Act mandates that board include in its guidelines a general policy for the use of standing or ad hoc advisory groups and consultation with groups and individuals registering interest in working with the board.

Estimated impact: No financial impact on regulated entities or the public is expected from any proposed amendments to the guidelines since the guidelines only impose requirements on the board. Regulated entities and the public should benefit from the proposed amendments in that the guidelines will comply with the amendments to the Act.

Alternatives: There is no alternative to taking regulatory action to amend the board's guidelines. The Act requires the board to adopt guidelines and any guidelines adopted must comply with the provisions of the Act.

Public Comments: The board seeks oral and written comments from interested persons on the intended regulatory action and on the cost and benefits of any alternatives. If you would like to be considered as an interested person, please advise Mr. Gilley. Also, the board seeks comment on whether the agency should form an ad hoc advisory group, utilize a standing advisory committee, or consult with groups or individuals to assist in the drafting and formation of a proposal. To be considered, written comments should be directed to Mr. William F. Gilley at the address below and must be received by 4:00 p.m. on Wednesday, September 15, 1993.

In addition, the board's staff will hold a public meeting at 2:00 p.m. on Thursday, September 9, 1993, in the Board Room, Department of Environmental Quality Water Division, 4900 Cox Road, Innsbrook Corporate Center, Glen Allen, Virginia, to receive views, and comments and to answer questions of the public.

Accessibility to Persons with Disabilities: The meetings are being held at public facilities believed to be accessible to persons with disabilities. Any person with questions on the accessibility of the facilities should contact Mr. Gilley at the address below or by telephone at (804) 225-2966 or TDD (804) 371-8737. Persons needing interpreter services for the deaf must notify Mr. Gilley no later than Monday, August 23, 1993.

Intent to Hold an Informational Proceeding or Public Hearing: The board intends to hold an informational proceeding (informal hearing) on the proposed amendments to the guidelines after the proposal is published in the Register of Regulations. The board does not intend to hold a public hearing (evidential) on the proposed amendments to the guidelines after the proposal is published in the Register of Regulations.

Statutory Authority: §§ 9-6.14.7.1 and 10.1-1402 in the Code of Virginia.

Written comments may be submitted until 5 p.m. on September 15, 1993.

Contact: William F. Gilley, Regulatory Services Manager, Department of Environmental Quality, 11th Floor, 101 N. 14th Street, Richmond, VA 23219, telephone (804) 229-2966.

Notices of Intended Regulatory Action

VA.R. Doc. No. C93-1880; Filed July 20, 1993, 3:06 p.m.

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 amending regulations entitled: **VR 672-20-1. Financial Assurance Regulations of Solid Waste Facilities.** The purpose of the proposed action is to amend the financial assurance regulations to be consistent with EPA criteria for municipal solid waste facilities, consider alternative mechanisms for financial responsibility and liability and to incorporate changes necessary to comply with 1993 legislation.

The current regulations are not consistent with the requirements of EPA Guideline Criteria for Municipal Solid Waste Facilities and must be amended to allow Virginia to become authorized for the full solid waste management program. Financial assurance for liability coverage requires environmental insurance which may not be readily available to many permitted facilities. The Code of Virginia in § 10.1-1410 requires the Waste Management Board to promulgate regulations. There are no appropriate alternatives to the amendment of existing regulations to assure effectiveness.

The purpose is to amend existing regulations to incorporate requirements contained in EPA Guidelines for Municipal Solid Waste Facilities and EPA Financial Assurance Guidelines for local governments which are under development by EPA. It is proposed to revise the applicability of the regulations, the liability coverage requirements and financial assurance mechanisms to be more efficient and effective in the establishment of funds necessary for facility closure and post-closure care of permitted facilities.

Comments are requested on the intended action to include recommendations on the regulations. Comments are requested on the costs and benefits of the regulations, amendments, and any proposed alternatives. Comments are invited on whether the agency should establish an ad hoc advisory committee, utilize a standing advisory committee, or consult with groups registering interest in working with the agency to assist in the drafting and formation of the proposed regulation.

There will be a public meeting to solicit comments on the intended regulatory action on August 17, 1993, at 10 a.m. in the Main Floor Conference Room C at the Monroe Building, 101 North 14th Street, Richmond, Virginia. The department will hold at least one informational proceeding on the proposed regulation after it is published.

Statutory Authority: §§ 10.1-1402 and 10.1-1410 of the Code of Virginia.

Written comments may be submitted until August 31, 1993, to W. Gulevich, Department of Environmental Quality, 101

North 14th Street, 11th Floor, Richmond, Virginia 23219.

Contact: William F. Gilley, Regulatory Service Manager, Department of Environmental Quality, 101 N. 14th St., 11th Floor, 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: **Waste Tire End User Partial Reimbursement Regulation.** The purpose of the proposed action is to fulfill the directive set forth in § 10.1-1422 of the Code of Virginia by establishing a regulation for procedures and guidelines for the partial reimbursement to the end users of waste tires.

The Code of Virginia in § 10.1-1422 requires the Waste Management Board to promulgate regulations establishing a regulation for procedures and guidelines for the partial reimbursement to the end users of waste tires. There are no appropriate alternatives to the adoption of regulations to assure effectiveness and equity in accomplishing the requirement for partial reimbursement.

The purpose is to the means by which reimbursements may be made. The regulations proposed would establish the eligible end uses for reimbursement; the process for verification and tracking of tires; a reimbursement application and process; and methods and amounts of partial reimbursement including levels of reimbursement depending on end uses.

Comments are requested on the intended action to include recommendations on the regulations. Comments are requested on the costs and benefits of the regulations and any proposed alternatives.

Comments are invited on whether the agency should establish an ad hoc advisory committee, utilize a standing advisory committee, or consult with groups registering interest in working with the agency to assist in the drafting and formation of the proposed regulation. The intent is to use the Institute for Environmental Negotiation at the University of Virginia as facilitator and convener. Anyone desiring to participate should contact Mr. Lassiter.

There will be a public meeting to solicit comments on the intended regulatory action on August 18, 1993, at 10 a.m. in the Department of Environmental Quality, SWCB Board Room, located in the Innsbrook Offices at 4900 Cox Road, Glen Allen, Virginia. The department will hold at least one informational proceeding on the proposed regulation after it is published.

Statutory Authority: § 10.1-1422 of the Code of Virginia.

Written comments may be submitted until August 31, 1993.

Contact: Allan Lassiter, Director, Waste Tire Program,

Notices of Intended Regulatory Action

Department of Environmental Quality, 101 N. 14th St., 11th Floor, Richmond, VA 23219, telephone (804) 225-2945.

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 amending regulations entitled: **VR 672-40-01. Regulated Medical Waste Management Regulations.** The purpose is to restart the adoption of amendment of VR 672-40-01, Virginia Regulated Medical Waste Management Regulations as a permanent regulation to amend VR 672-40-01, Virginia Infectious Waste Management Regulations, effective May 2, 1990, and replace the emergency regulation adopted by the Waste Management Board on June 25, 1993. The purpose is to amend those regulations that establish standards and procedures pertaining to regulated medical waste management in this Commonwealth in order to protect the public health and public safety, and to enhance the environment and natural resources.

Basis and statutory authority: The basis for this regulation is the Virginia Waste Management Act as set out in Chapter 14 (§ 10.1-1400 et seq.) of Title 10.1 of the Code of Virginia. Specifically, § 10.1-1402 authorizes the board to promulgate regulations for the supervision and control of waste management activities.

Need: This reissuance of the notice to restart the adoption process is necessary because of changes in the Administrative Process Act which were enacted during the 1993 General Assembly and to comply with the requirements of the board to amend existing regulations.

Substance and purpose: The purpose is to amend those regulations that establish standards and procedures pertaining to regulated medical waste management in this Commonwealth in order to protect the public health and public safety, and to enhance the environment and natural resources. The Virginia Waste Management Board adopted rules and regulations, titled "Infectious Waste Management Regulations," on November 2, 1989. The proposed amendments to the regulation will reflect improved and simpler practices providing more flexibility in waste management options. These improvements are incorporated into an amendment to the regulations, including a change in the name of the regulations to Regulated Medical Waste Regulations.

Estimated impact: There are several thousand facilities or individuals in the Commonwealth who manage, treat, transport or dispose of regulated medical waste including facilities with permits or permits by rule. Adoption of the proposed amendment will provide more flexibility in waste management options.

Alternatives: The General Assembly required the amendment of the regulated medical waste regulations. Therefore, there is no alternative to the proposed amendment. Leaving the regulation unamended would

prevent the implementation of improved management practices.

Public comments: The Department of Environmental Quality will hold a public meeting to consider public comment on the proposed regulatory action. The department requests that the public submit comments, at the meeting or by letter, on the correctness of the regulatory action, any ideas or advice the agency should consider in formation and drafting of the proposed regulations, and the costs and benefits of the proposed regulations amendment. The department intends to use its original ad hoc advisory committee to assist in revising the proposed regulations. Persons interested in being on the interested persons mailing list should provide name, address and specific areas of interest.

The department intends to hold at least one informational proceeding after the proposed regulations are published. On August 25, 1993, at 10 a.m., the department will hold joint public meetings with the Waste Division and Air Division to discuss proposed amendments and to hear public comment on the proposed amendment, VR 672-40-01, Virginia Regulated Medical Waste Management Regulations and proposed Air Pollution Control Board regulations. The meeting will be held in the Main Board Room, at the department's Innsbrook office, 4900 Cox Road, Glen Allen, Virginia.

Accessibility to persons with disabilities: The meetings are being held at a public facility believed to be accessible to persons with disabilities. Any person with question on the accessibility to the facility should contact Mr. William F. Gilley at (804) 225-2966 or TDD (804) 371-8737. Persons needing interpreter services for the deaf must notify Mr. Gilley no later than August 1, 1993.

Statutory Authority: § 10.1-1402 of the Code of Virginia.

Written comments may be submitted until 5 p.m. on September 6, 1993, to Robert G. Wickline, Department of Environmental Quality, 101 North 14th Street, 11th Floor, Richmond, Virginia 23219.

Contact: William F. Gilley, Regulatory Services Manager, Department of Environmental Quality, 101 N. 14th St., 11th Floor, Richmond, VA 23219, telephone (804) 229-2966.

VA.R. Doc. C93-1794, Filed July 7, 1993, 10:57 a.m.

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 amending regulations entitled: **VR 680-13-03. Petroleum Underground Storage Tank Financial Responsibility Requirements.** The purpose of the proposed action is to (i) incorporate amendments

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enacted by the 1992 and 1993 General Assembly to establish revised financial responsibility compliance dates for owners and operators of underground storage tanks and petroleum storage tank vendors, and delete requirements for the Virginia Underground Petroleum Storage Tank Fund, which are to be established concurrently with this proposed regulatory action in a new regulation.

This reissuance of the notice to restart the adoption process is necessary because of changes in the Administrative Process Act, which were enacted during the 1993 General Assembly.

The General Assembly's establishment of a sliding scale for financial responsibility (effective December 22, 1989) will reduce the amount of financial responsibility required of many owners and operators of underground storage tanks and petroleum storage tank vendors. Therefore, there would be no negative financial impact imposed on the regulated community. Extension of compliance dates will benefit the regulated community by providing owners and operators and vendors with more time in which to comply with financial responsibility requirements.

Section 62.1-44.34:11 A 2 a and b requires a reimbursement from the fund at the new reduced sliding scale for financial responsibility. The regulation must be amended to conform with state law.

Alternatives: Section 62.1-44.34:11 a 2 a and b requires reimbursement from the fund at the new reduced sliding scale for financial responsibility. The regulation must be amended to conform with state law.

Public Comments: The board seeks written comments from interested persons on the intended regulatory action and on the costs and benefits of any alternatives. To be considered, comments should be directed to Doneva Dalton, Hearings Reporter, at the address below, and should be received by 4 p.m. on Wednesday, September 8, 1993.

Intent to Hold an Informational Proceeding or Public Hearing: The board intends to hold an informational proceeding (informal hearing) on this proposed regulation after it is published in the Register of Regulations. This informational proceeding will be convened by a member of the board. The board does not intend to hold a hearing (evidential on this proposed regulation after the proposal is published in the Register of Regulations.

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, the Petroleum Storage Tank Financial Responsibility Requirements (VR 680-13-03), and Chapters 456 and 819 of the 1992 Acts of Assembly.

Statutory Authority: §§ 62.1-44.15(10) and 62.1-44.34:9(8) of the Code of Virginia.

Written comments may be submitted until 4 p.m. on September 8, 1993, to Doneva Dalton, Hearings Reporter, Department of Environmental Quality, P.O. Box 11143, Richmond, Virginia 23230.

Contact: Mary-Ellen Kendall, Office of Spill Response and Remediation, Department of Environmental Quality, P.O. Box 11143, Richmond, VA 23230, telephone (804) 527-5195.

VA.R. Doc. No. C93-1900; Filed July 21, 1993, 11:14 a.m.

† 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 680-13-06. Virginia Petroleum Storage Tank Fund Requirements.** The purpose of the proposed action is to adopt a regulation describing the requirements for the Virginia Petroleum Storage Tank Fund.

This reissuance of the notice to restart the adoption process is necessary because of changes in the Administrative Process Act, which were enacted during the 1993 General Assembly.

The amendments to the State Water Control Law enacted by the 1992 and 1993 sessions of the General Assembly (effective July 1, 1992, and July 1, 1993) increased the number of persons who have access to the fund and reduced the amount of financial responsibility required for certain categories of regulated owners and operators. Therefore, there would be no negative financial impact imposed on the regulated community and a substantial benefit may be conferred upon certain persons who are not part of the regulated community.

Alternatives: The current fund regulation is included as part of § 21 of VR 680-13-03, the Underground Storage Tank Financial Responsibility Requirements. The new regulation will provide additional guidelines on administration of the fund and will establish requirements for operators of exempt underground storage tanks and operators of facilities who are not regulated under VR 680-13-03.

Public Comments: The board seeks written comments from interested persons on the intended regulatory action and on the costs and benefits of any alternatives. To be considered, comments should be directed to Doneva Dalton, Hearings Reporter, at the address below and should be received by 4 p.m. on Wednesday, September 8, 1993.

Intent to Hold an Informational Proceeding or Public Hearing: The board intends to hold an informational proceeding (informal hearing) on this proposed regulation after it is published in the Register of Regulations. This informational proceeding will be convened by a member of the board. The board does not intend to hold a hearing (evidential on this proposed regulation after the proposal

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is published in the Register of Regulations.

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, the Petroleum Storage Tank Financial Responsibility Requirements (VR 680-13-03), the Underground Storage Tanks; Technical Standards and Corrective Requirements (VR 680-13-02), and Chapter 819 of the 1992 Acts of Assembly.

Statutory Authority: §§ 62.1-44.34:9(8) and 62.1-44.15(10) of the Code of Virginia.

Written comments may be submitted until 4 p.m. on September 8, 1993, to Doneva Dalton, Hearings Reporter, Department of Environmental Quality, P.O. Box 11143, Richmond, Virginia 23230.

Contact: Mary-Ellen Kendall, Office of Spill Response and Remediation, Department of Environmental Quality, P.O. Box 11143, Richmond, VA 23230, telephone (804) 527-5195.

V.A.R. Doc. No. C93-1902; Filed July 21, 1993, 11:15 a.m.

† 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 680-14-01. Permit Regulation.** The purpose of the proposed regulatory action is to consider repealing the Permit Regulation. The adoption of a new VPDES Permit Regulation will make the VPDES program conform in style and content to the federal program regulations. The VPA Permit Regulation will be separated from the VPDES permitting program in order to recognize the distinction between this wholly state run VPA program and the federal/state NPDES/VPDES permit program.

The board is reissuing this notice to restart the repeal process because of changes in the Administrative Process Act which were enacted during the 1993 General Assembly.

Basis and Statutory Authority: The basis for these regulations is § 62.1-44.2 et seq. of the Code of Virginia. Specifically, § 62.1-44.15(10) authorizes the State Water Control Board to adopt such regulations as it deems necessary to enforce the general water quality management program.

Need: The repeal of this regulation is being considered in order to eliminate any confusion and duplication of regulations which may result from the concurrent incorporation of the intent and purpose of the Permit Regulation into a Virginia Pollutant Discharge Elimination System (VPDES) Permit Regulation (VR 680-14-01:1) and a Virginia Pollution Abatement (VPA) Permit Regulation (VR 680-14-21).

Estimated Impact: The repeal of VR 680-14-01 would have

no impact on the regulated community nor the environment as the purpose and scope of the regulation are being transferred into the VPDES Permit Regulation and the VPA Permit Regulation.

Alternatives: One alternative to the proposed repeal is to continue to administer the VPDES and VPA permit programs under the current regulation (VR 680-14-01).

Public Comments: The board seeks written comments from interested persons on the proposed regulatory action and on the costs and benefits of the stated alternatives.

Intent to Hold an Informational Proceeding or Public Hearing: The board intends to hold an informational proceeding (informal hearing) on the proposed regulatory action after the proposal is published in the Register of Regulations. This informational proceeding will be convened by a member of the board. The board does not intend to hold a hearing (evidential) on the proposal after it is published in the Register of Regulations.

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

Written comments may be submitted until 4 p.m. on September 8, 1993, to Doneva Dalton, Hearings Reporter, Department of Environmental Quality, P.O. Box 11143, Richmond, Virginia 23230.

Contact: Richard Ayers, Department of Environmental Quality, P.O. Box 11143, Richmond, VA 23230, telephone (804) 527-5059.

V.A.R. Doc. No. C93-1911; Filed July 21, 1993, 11:11 a.m.

† 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 680-14-01:1. Virginia Pollutant Discharge Elimination System (VPDES) Permit Regulation.** The purpose of the proposed action is to consider adoption of a new regulation. This regulation will govern point source discharges of pollutants to surface waters within the boundaries of the Commonwealth of Virginia. These discharges are currently regulated under the VPDES permit program and the Permit Regulation (VR 680-14-01). The adoption of the proposed regulation will replace the VPDES portion of the existing Permit Regulation and it will make the VPDES program conform to the federal NPDES regulation. This action is being done concurrently with the repeal of VR 680-14-01. This reissuance of this notice to restart the adoption process is necessary because of changes in the Administrative Process Act which were enacted during the 1993 General Assembly.

Basis and Statutory Authority: The basis for this regulation is § 62.1-44.2 et seq. of the Code of Virginia. Specifically, § 62.1-44.15(7) authorizes the board to adopt rules governing the procedures of the board with respect to the issuance

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of permits. Further, § 62.1-44.15(10) authorizes the State Water Control Board to adopt such regulations as it deems necessary to enforce the general water quality management program, § 62.1-44.15(14) authorizes the board to establish requirements for the treatment of sewage, industrial wastes and other wastes and §§ 62.1-44.16, 62.1-44.17, 62.1-44.18 and 62.1-44.19 authorize the board to regulate discharges of sewage, industrial wastes and other wastes.

Section 402 of the Clean Water Act (33 USC 1251 et seq) authorizes states to administer the National Pollutant Discharge Elimination System permit program under state law. The Commonwealth of Virginia received such authorization in 1975 under the terms of a Memorandum of Understanding with the U.S. EPA. VR 680-14-01:1 will be the specific regulation governing this authorization.

Need: Any point source discharge of pollutants to surface waters is subject to regulation under a Virginia Pollutant Discharge Elimination System (VPDES) permit. The VPDES regulation will delineate the procedures and requirements to be followed in connection with VPDES permits issued by the board pursuant to the Clean Water Act and the State Water Control Law. In order to retain the authority to administer the VPDES permit program, the board must adopt regulations which are consistent with the federal program regulations. The current Permit Regulation (VR 680-14-01) does not reflect the latest revisions to the federal regulations and must be replaced.

Estimated Impact: This regulation will impact all of the approximately 2,800 Virginia Pollutant Discharge Elimination System permittees in that the governing regulation will be replaced with an updated version. There will be no added costs to the permittees beyond those required under the existing state and federal regulations.

Alternatives: One alternative to the proposed regulation is to modify the existing Permit Regulation, rather than adopting a separate regulation for VPDES permits. Another alternative is to take no action and to continue to administer the VPDES permit program under the current regulation which is not up to date with changes in the federal regulations.

Public Comments: The board seeks written comments from interested persons on the intended regulatory action and on the costs and benefits of the stated alternatives or other alternatives.

Intent to Hold an Informational Proceeding or Public Hearing: The board intends to hold an informational proceeding (informal hearing) on the proposed regulation after the proposal is published in the Register of Regulations. This informational proceeding will be convened by a member of the board. The board does not intend to hold a hearing (evidential) on the proposed regulation after the proposal is published in the Register of Regulations.

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

Written comments may be submitted until 4 p.m. on September 8, 1993, to Doneva Dalton, Hearings Reporter, Department of Environmental Quality, P.O. Box 11143, Richmond, Virginia 23230.

Contact: Richard Ayers, Department of Environmental Quality, P.O. Box 11143, Richmond, VA 23230, telephone (804) 527-5059.

VA.R. Doc. No. C93-1910; Filed July 21, 1993, 11:11 a.m.

† 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 680-14-03. Toxics Management Regulations.** The purpose of the proposed regulatory action is to consider repealing the Toxics Management Regulation. This action is being proposed in order to eliminate any confusion and duplication of regulations which may result from the concurrent adoption of a VPDES Permit Regulation (VR 680-14-01:1).

The board is reissuing this notice to restart the regulatory process because of changes in the Administrative Process Act which were enacted during the 1993 General Assembly.

Basis and Statutory Authority: The basis for this regulation is § 62.1-44.2 et seq. of the Code of Virginia. Specifically, § 62.1-44.15(10) authorizes the State Water Control Board to adopt such regulations as it deems necessary to enforce the general water quality management program, and § 62.1-44.21 authorizes the State Water Control Board to require owners to furnish information necessary to determine the effect of the wastes from a discharge on the quality of state waters.

Need: Repeal of the Toxics Management Regulation is necessary since the board intends to consider adoption of a VPDES Permit Regulation which will include language on the evaluation of effluent toxicity and the mechanisms for control of toxicity through chemical specific and whole effluent toxicity limitations.

Estimated Impact: The repeal of this regulation would have no impact on the regulated community nor the environment as the intent and purpose of the regulation will be included in the new VPDES Permit Regulation VR 680-14-01:1. There should be no additional economic impact as a result of this action.

Public Comments: The board seeks written comments from interested persons on the intended regulatory action and on the costs and benefits of the stated alternatives or other alternatives.

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Intent to Hold Informational Proceeding or Public Hearing: The board intends to hold an informational proceeding (informal hearing) on the repeal of the regulations after the proposal is published in the Register of Regulations. This informational proceeding will be convened by a member of the board. The board does not intend to hold a hearing (evidential) on the repeal of the regulations after the proposal is published in the Register of Regulations.

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

Written comments may be submitted until 4 p.m. on September 8, 1993, to Doneva Dalton, Hearings Reporter, Department of Environmental Quality, P.O. Box 11143, Richmond, Virginia 23230.

Contact: Richard Ayers, Department of Environmental Quality, P.O. Box 11143, Richmond, VA 23230, telephone (804) 527-5059.

VA.R. Doc. No. C93-1912; Filed July 21, 1993, 11:11 a.m.

† 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 680-14-10. Virginia Pollutant Discharge Elimination System (VPDES) General Permit Regulation for Discharges from Seafood Processing Establishments.** The purpose of the proposed regulatory action is to adopt a general permit to cover the category of discharges which are generated by seafood packaging houses.

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

Section 402 of the Clean Water Act (33 USC 1251 et seq.) authorizes states to administer the NPDES permit program under state law. The Commonwealth of Virginia received such authorization in 1975 under the terms of a

Memorandum of Understanding with the U.S. EPA. This Memorandum of Understanding was modified on May 20, 1991, to authorize the Commonwealth to administer a General Permit Program.

Need: This proposal is necessary in order to streamline the VPDES permit process as it relates to the covered categories of discharges. Coverage under the general permit would reduce the paper work and expense of obtaining a permit for the dischargers in these categories. It will reduce the time currently required to obtain coverage under the VPDES permitting system. The seafood processors must have a valid permit from the Water Control Board prior to receiving Certificates of Inspection from the State Health Department. Delays in issuance of a permit from the board may have serious economic impacts on this industrial category. Adoption of the proposed regulation would reduce the manpower needed by the Water Control Board for permitting these discharges. This would allow the agency to devote more resources to permitting other sources with greater potential for adverse water quality impacts.

The reissuance of the notice to restart the adoption process is necessary because of changes in the Administrative Process Act which were enacted during the 1993 General Assembly.

Intent: The proposed regulatory action is to adopt general permits for one or more categories of discharges. General permits may be issued for categories of dischargers that: involve the same or similar types of operations; discharge the same or similar types of wastes; require the same effluent limitations or operating conditions; and require the same or similar monitoring. As with an individual permit, the effluent limits in the general permit will be set to protect the quality of the waters receiving the discharge. Also, no discharge would be covered by the general permit unless the local governing body has certified that the facility complies with all applicable zoning and planning ordinances.

Under this proposal the category, or series of categories, of discharges to be covered by proposed general permit regulations is the category of discharges which are generated by seafood packing houses. The facilities covered by this general permit may produce a variety of final products; however, their wastes are similar in nature and can be covered by the same general permit. The covered facilities would be those processors of various seafoods which produce minimal volumes of wastewaters and whose wastes are not considered to be significant threats to water quality. Seafood processing discharges which are believed to impact water quality would be required to obtain individual VPDES permits, rather than be covered by this general permit. This permit would only cover industrial wastes associated with the operation of such facilities. Discharges of sanitary wastes would not be authorized by this permit.

Estimated Impact: Adoption of these regulations will affect

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approximately 300 seafood processing establishments. Coverage under the general permit would ensure a more timely and economical response to permit applications by reducing paper work and manpower for each permit in these categories. This would allow the agency to devote more resources to permitting other sources with greater potential for adverse water quality impacts.

Alternatives: Individual permits can continue to be issued to these facilities as staff time allows. This will require the applicant to pay a permit fee in excess of \$2,000 instead of the \$200 for general permit coverage. The cost of completing the application form for an individual permit is higher than for a general permit, and the time to obtain coverage under an individual permit is significantly longer than for a general permit. More agency resources are required to process an application for an individual permit than for coverage under a general permit.

Public Comments: The board seeks written comments from interested persons on the intended regulatory action and on the costs and benefits of the stated alternative or other alternatives.

Intent to Hold an Informational Proceeding or Public Hearing: The board intends to hold an informational proceeding (informal hearing) on the proposal after it is published in the Register of Regulations. This informational proceeding will be convened by a member of the board. The board does not intend to hold a hearing (evidential) on the proposal after the proposal is published in the Register of Regulations.

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

Written comments may be submitted until 4 p.m. on September 8, 1993, to Doneva Dalton, Hearings Reporter, Department of Environmental Quality, P.O. Box 11143, Richmond, Virginia 23230.

Contact: Richard Ayers, Department of Environmental Quality, P.O. Box 11143, Richmond, VA 23230, telephone (804) 527-5059.

VA.R. Doc. No. C93-1913; Filed July 21, 1993, 11:12 a.m.

† 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 680-14-14. Facility Financial Responsibility Requirements.** The purpose of the proposed regulatory action is to adopt new regulations setting the amount of financial responsibility operators of facilities with aboveground storage tanks must demonstrate.

This reissuance of the notice to restart the adoption process is necessary because of changes in the

Administrative Process Act, which were enacted during the 1993 General Assembly.

The amendments to the State Water Control Law enacted by the General Assembly will require operators of facilities containing oil to demonstrate financial responsibility based on the aggregate capacity of all facilities operated in Virginia. This may require operators to self-insure or obtain additional pollution insurance, a letter of credit, a surety bond, or guarantee to meet the amount required by regulation. No governmental agency is required to comply with these regulations.

Alternatives: Section 62.1-44.34.16(1) requires the board to receive, review and approve financial responsibility documentation from facility operators. This regulation establishes the level of financial responsibility and the types of mechanisms operators may use to demonstrate that they are financially responsible for the cost of cleanup of a petroleum discharge from a facility. Section 62.1-44.34.21 of the Code of Virginia authorizes the board to collect administrative fees for acceptance of evidence of financial responsibility from any operator seeking acceptance of evidence of financial responsibility. The fees must be sufficient to meet, but not exceed, the cost of the board related to implementation of § 62.1-44.34.16 as to an operator seeking acceptance of evidence of financial responsibility. The board seeks comments on the appropriateness of the fee schedule for acceptance of evidence of financial responsibility.

Public Comments: The board seeks written comments from interested persons on the intended regulatory action and on the costs and benefits of any alternatives. To be considered, comments should be directed to Doneva Dalton, Hearings Reporter, at the address below and should be received by 4 p.m. on Wednesday, September 8, 1993.

Intent to Hold an Informational Proceeding or Public Hearing: The board intends to hold an informational proceeding (informal hearing) on the proposal after it is published in the Register of Regulations. This informational proceeding will be convened by a member of the board. The board does not intend to hold a hearing (evidential) on the proposal after the proposal is published in the Register of Regulations.

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 Chapters 456 and 819 of the 1992 Acts of Assembly.

Statutory Authority: §§ 62.1-44.34.16 and 62.1-44.15(10) of the Code of Virginia.

Written comments may be submitted until 4 p.m. on September 8, 1993, to Doneva Dalton, Hearings Reporter, Department of Environmental Quality, P.O. Box 11143, Richmond, Virginia 23230.

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Contact: Mary-Ellen Kendall, Department of Environmental Quality, P.O. Box 11143, Richmond, VA 23230, telephone (804) 527-5195.

V.A.R. Doc. No. C93-1901; Filed July 21, 1993, 11:15 a.m.

† 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 680-14-16. General Permit Regulation for Storm Water Discharges Heavy Manufacturing.** The purpose of the proposed regulatory action is to adopt a general permit for storm water discharges from heavy manufacturing facilities. Heavy manufacturing facilities are defined as facilities classified as Standard Industrial Classification (SIC) 24 (except 2434), 26 (except 265 and 267), 28 (except 283), 29, 311, 32 (except 323), 33, 3441, and 373 (Office of Management and Budget SIC Manual, 1987).

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

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

Need: Most storm water runoff is discharged through conveyances, such as separate storm sewers, ditches, channels, pipes, etc., which are considered point sources under the Clean Water Act, and subject to regulation through the NPDES permit program. On November 16, 1990, EPA published the final NPDES Permit Application Regulations for Storm Water Discharges (55 FR 47990). This federal regulation established permit application requirements for certain municipal and industrial storm

water discharges. Eleven categories of industrial activity were defined in the federal regulation including heavy manufacturing facilities. Any facility covered by the federal regulation that discharges storm water through a point source to surface waters is required to file a storm water permit application. The board is reissuing the notice to restart the adoption process due to changes in the Administrative Process Act which were enacted during the 1993 General Assembly.

Intent: The intent of this general permit regulation is to establish standard language for control of storm water discharges through the development of Storm Water Pollution Prevention Plans and to set minimum monitoring and reporting requirements. A site-specific Storm Water Pollution Prevention Plan will be required to be developed by the permittee for each individual facility covered by this general permit. Facilities will be required to implement the provisions of the plan as a condition of the permit.

The Storm Water Pollution Prevention Plan will identify potential sources of pollution which may reasonably be expected to affect the quality of storm water discharges from the industrial activity at the facility, and shall describe and ensure the implementation of practices which are to be used to reduce the pollutants in storm water discharges associated with the industrial activity.

Monitoring and reporting requirements will be established based upon the pollution potential of the storm water discharges from the industrial activity. Monitoring reports will assist in evaluating the effectiveness of pollution prevention measures and provide information to identify water quality impacts and support future permitting activities.

Estimated Impact: Adoption of these regulations will allow for the streamlining of the permit process as it relates to the covered categories of discharges. Coverage under the general permit would reduce the paper work and expense of obtaining a permit for the owners and operators in this category. It will also reduce the time currently required to obtain coverage under the VPDES permitting system. The staff estimates that there are approximately 1250 facilities in this category of discharger that may be required to apply for storm water permits. The board believes it would be impossible at this time to develop and issue individual permits in a timely manner to all applicants.

The board recognizes the need for storm water general permits to ease the burden on the regulated community and to facilitate the issuance of storm water permits. Issuance of general permits would improve the administrative efficiency of the board's permitting program and allow staff resources to be concentrated on developing individual permits for those facilities which have more potential for impacting water quality in Virginia.

Alternatives: There are two alternatives to comply with the federal requirements to permit storm water discharges

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from heavy manufacturing facilities. One is to issue an individual VPDES permit to each of the estimated 1250 heavy manufacturing facilities. The other is to adopt a general VPDES permit to cover this category of discharger.

Public Comments: The board seeks written comments from interested persons on the intended regulatory action and on the costs and benefits of the stated alternatives or other alternatives.

Intent to Hold an Informational Proceeding or Public Hearing: The board intends to hold an informational proceeding (informal hearing) on the proposal after it is published in the Register of Regulations. This informational proceeding will be convened by a member of the board. The Board does not intend to hold a hearing (evidential) on the proposal after it is published in the Register of Regulations.

Written comments may be submitted until 4 p.m. on September 8, 1993, to Doneva Dalton, Hearings Reporter, Department of Environmental Quality, P.O. Box 11143, Richmond, Virginia 23230.

Contact: Cathy Boatwright, Department of Environmental Quality, P.O. Box 11143, Richmond, VA 23230, telephone (804) 527-5316.

VA.R. Doc. No. C93-1914; Filed July 21, 1993; 11:12 a.m.

† 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 680-14-17. General Permit Regulation for Storm Water Discharges from Light Manufacturing.** The purpose of the proposed regulatory action is to adopt a general permit for storm water discharges from light manufacturing facilities. Light manufacturing facilities are defined as facilities classified as Standard Industrial Classification (SIC) 20, 21, 22, 23, 2434, 25, 265, 267, 27, 283, 30, 31 (except 311), 323, 34 (except 3441), 35, 36, 37 (except 373), 38, 39, and 4221-25 (Office of Management and Budget SIC Manual, 1987).

Basis and Statutory Authority: The basis for these regulations is § 62.1-44.2 (et seq.) of the Code of Virginia. Specifically, § 62.1-44.15(5) authorizes the board to issue permits for the discharge of treated sewage, industrial wastes or other wastes into or adjacent to state waters and § 62.1-44.15(7) authorizes the board to adopt rules governing the procedures of the Board with respect to the issuance of permits. Further, § 62.1-44.15(10) authorizes the State Water Control Board to adopt such regulations as it deems necessary to enforce the general water quality management program, § 62.1-44.15(14) authorizes the board to establish requirements for the treatment of sewage, industrial wastes and other wastes, § 62.1-44.20 provides that agents of the board may have the right of entry to

public or private property for the purpose of obtaining information or conducting necessary surveys or investigations, and § 62.1-44.21 authorizes the State Water Control Board to require owners to furnish information necessary to determine the effect of the wastes from a discharge on the quality of state waters.

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

Need: Most storm water runoff is discharged through conveyances, such as separate storm sewers, ditches, channels, pipes, etc. which are considered point sources under the Clean Water Act, and subject to regulation through the NPDES permit program. On November 16, 1990, EPA published the final NPDES Permit Application Regulations for Storm Water Discharges (55 FR 47990). This federal regulation established permit application requirements for certain municipal and industrial storm water discharges. Eleven categories of industrial activity were defined in the federal regulation including light manufacturing facilities. Any facility covered by the federal regulation that discharges storm water through a point source to surface waters is required to file a storm water permit application.

The board is reissuing this notice to restart the adoption process due to changes in the Administrative Process Act which were enacted during the 1993 General Assembly.

Intent: The intent of this general permit regulation is to establish standard language for control of storm water discharges through the development of Storm Water Pollution Prevention Plans and to set minimum monitoring and reporting requirements. A site-specific Storm Water Pollution Prevention Plan will be required to be developed by the permittee for each individual facility covered by this general permit. Facilities will be required to implement the provisions of the plan as a condition of the permit.

The Storm Water Pollution Prevention Plan will identify potential sources of pollution which may reasonably be expected to affect the quality of storm water discharges from the industrial activity at the facility, and shall describe and ensure the implementation of practices which are to be used to reduce the pollutants in storm water discharges associated with the industrial activity.

Monitoring and reporting requirements will be established based upon the pollution potential of the storm water discharges from the industrial activity. Monitoring reports will assist in evaluating the effectiveness of pollution prevention measures and provide information to identify water quality impacts and support future permitting

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activities.

Estimated Impact: Adoption of these regulations will allow for the streamlining of the permit process as it relates to the covered categories of discharges. Coverage under the general permit would reduce the paper work and expense of obtaining a permit for the owners and operators in this category. It will also reduce the time currently required to obtain coverage under the VPDES permitting system. The staff estimates that there are approximately 3650 facilities in this category of discharger that may be required to apply for storm water permits. The board believes it would be impossible at this time to develop and issue individual permits in a timely manner to all applicants.

The board recognizes the need for storm water general permits to ease the burden on the regulated community and to facilitate the issuance of storm water permits. Issuance of general permits would improve the administrative efficiency of the board's permitting program and allow staff resources to be concentrated on developing individual permits for those facilities which have more potential for impacting water quality in Virginia.

Alternatives: There are two alternatives to comply with the federal requirements to permit storm water discharges from light manufacturing facilities. One is to issue an individual VPDES permit to each of the estimated 3650 light manufacturing facilities. The other is to adopt a general VPDES permit to cover this category of discharger.

Public Comments: The board seeks written comments from interested persons on the intended regulatory action and on the costs and benefits of the stated alternatives or other alternatives.

Intent to Hold an Informational Proceeding or Public Hearing: The board intends to hold an informational proceeding (informal hearing) on the proposal after it is published in the Register of Regulations. This informational proceeding will be convened by a member of the board. The board does not intend to hold a hearing (evidential) on the proposal after it is published in the Register of Regulations.

Statutory Authority: § 62.1-44-15(10) of the Code of Virginia.

Written comments may be submitted until 4 p.m., Wednesday, September 8, 1993 to Doneva Dalton, Department of Environmental Quality, P.O. Box 11143, Richmond, VA 23230.

Contact: Ms. Cathy Boatwright, Water Division, Department of Environmental Quality, P.O. Box 11143, Richmond, VA 23230, telephone (804) 527-5316

VA.R. Doc. No. C93-1915; Filed July 21, 1993, 11:12 a.m.

† 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 680-14-18. General Permit Regulation for Storm Water Discharges from Transportation Facilities; Landfills, Land Application Sites and Open Dumps; Materials Recycling Facilities; and Steam Electric Power Generating Facilities.** The purpose of the proposed action is to adopt a general permit for storm water discharges from the facilities defined as follows: (1) Transportation facilities classified as Standard Industrial Classification (SIC) 40, 41, 42 (except 4221-25), 43, 44, 45, and 5171 which have vehicle maintenance shops, equipment cleaning operations, or airport deicing operations (Office of Management and Budget SIC Manual, 1987); (2) Landfills, land application sites, and open dumps that receive or have received any industrial wastes including those that are subject to regulation under Subtitle D of RCRA (42 USC 6901 et seq.); (3) Facilities involved in the recycling of materials, including metal scrapyards, battery reclaimers, salvage yards, and automobile junkyards, including but limited to those classified as SIC 5015 and 5093; and (4) Steam electric power generating facilities, including coal handling sites.

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

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

Need: Most storm water runoff is discharged through conveyances, such as separate storm sewers, ditches, channels, pipes, etc., which are considered point sources under the Clean Water Act, and subject to regulation through the NPDES permit program. On November 16, 1990, EPA published the final NPDES Permit Application

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Regulations for Storm Water Discharges (55 FR 47990). This federal regulation established permit application requirements for certain municipal and industrial storm water discharges. Eleven categories of industrial activity were defined in the federal regulation including transportation facilities; landfills, land application sites and open dumps; materials recycling facilities; and steam electric power generating facilities. Any facility covered by the federal regulation that discharges storm water through a point source to surface waters is required to file a storm water permit application.

The board is reissuing the notice to restart the adoption process due to changes in the Administrative Process Act which were enacted during the 1993 General Assembly.

Intent: The intent of this general permit regulation is to establish standard language for control of storm water discharges through the development of Storm Water Pollution Prevention Plans and to set minimum monitoring and reporting requirements. A site-specific Storm Water Pollution Prevention Plan will be required to be developed by the permittee for each individual facility covered by this general permit. Facilities will be required to implement the provisions of the plan as a condition of the permit. The Storm Water Pollution Prevention Plan will identify potential sources of pollution which may reasonably be expected to affect the quality of storm water discharges from the industrial activity at the facility, and shall describe and ensure the implementation of practices which are to be used to reduce the pollutants in storm water discharges associated with the industrial activity.

Monitoring and reporting requirements will be established based upon the pollution potential of the storm water discharges from the industrial activity. Monitoring reports will assist in evaluating the effectiveness of pollution prevention measures and provide information to identify water quality impacts and support future permitting activities.

Estimated Impact: Adoption of these regulations will allow for the streamlining of the permit process as it relates to the covered categories of discharges. Coverage under the general permit would reduce the paper work and expense of obtaining a permit for the owners and operators in this category. It will also reduce the time currently required to obtain coverage under the VPDES permitting system. The staff estimates that there are approximately 1500 facilities in this category of discharger that may be required to apply for storm water permits. The board believes it would be impossible at this time to develop and issue individual permits in a timely manner to all applicants.

The board recognizes the need for storm water general permits to ease the burden on the regulated community and to facilitate the issuance of storm water permits. Issuance of general permits would improve the administrative efficiency of the board's permitting program and allow staff resources to be concentrated on developing

individual permits for those facilities which have more potential for impacting water quality in Virginia.

Alternatives: There are two alternatives to comply with the federal requirements to permit storm water discharges from the facilities in this category. One is to issue an individual VPDES permit to each of the estimated 1500 facilities in this category. The other is to adopt a general VPDES permit to cover this category of discharger.

Public Comments: The board seeks written comments from interested persons on the intended regulatory action and on the costs and benefits of the stated alternatives or other alternatives.

Intent to Hold an Informational Proceeding or Public Hearing: The board intends to hold an informational proceeding (informal hearing) on the proposal after it is published in the Register of Regulations. This informational proceeding will be convened by a member of the board. The board does not intend to hold a hearing (evidential) on the proposal after it is published in the Register of Regulations.

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

Written comments may be submitted until September 8, 1993, to Ms. Doneva Dalton, Department of Environmental Quality, P.O. Box 11143, Richmond, VA 23230.

Contact: Ms. Cathy Boatwright, Water Division, Department of Environmental Quality, P.O. Box 11143, Richmond, VA 23230, telephone (804) 527-5316.

V.A.R. Doc. No. C93-1916; Filed July 21, 1993, 11:12 a.m.

† 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 680-14-19. General Permit Regulations for Storm Water Discharges from Construction Sites.** The purpose of this proposed action is to adopt a general permit for storm water discharges from construction sites that are defined as follows: construction activity including clearing, grading and excavation activities except: operations that result in the disturbance of less than five acres of total land area which are not part of a larger common plan of development or sale.

Basis and statutory authority: The basis for these regulations is § 62.1-44.2 et seq. of the Code of Virginia. Specifically, § 62.1-44.15(5) authorizes the board to issue permits for the discharge of treated sewage, industrial wastes or other wastes into or adjacent to state waters and § 62.1-44.15(7) authorizes the board to adopt rules governing the procedures of the board with respect to the issuance of permits. Further, § 62.1-44.15(10) authorizes the State Water Control Board to adopt such regulations as it

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deems necessary to enforce the general water quality management program, § 62.1-44.15(14) authorizes the board to establish requirements for the treatment of sewage, industrial wastes and other wastes, § 62.1-44.20 provides that agents of the board may have the right of entry to public or private property for the purpose of obtaining information or conducting necessary surveys or investigations, and § 62.1-44.21 authorizes the State Water Control Board to require owners to furnish information necessary to determine the effect of the wastes from a discharge on the quality of state waters.

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

Need: Most storm water runoff is discharged through conveyances, such as separate storm sewers, ditches, channels, pipes, etc., which are considered point sources under the Clean Water Act, and subject to regulation through the NPDES permit program. On November 16, 1990, EPA published the final NPDES Permit Application Regulations for Storm Water Discharges (55 FR 47990). This federal regulation established permit application requirements for certain municipal and industrial storm water discharges. Eleven categories of industrial activity were defined in the federal regulation including construction sites. Any facility covered by the federal regulation that discharges storm water through a point source to surface waters is required to file a storm water permit application.

The board is reissuing the notice to restart the adoption process due to changes in the Administrative Process Act which were enacted during the 1993 General Assembly.

Intent: The intent of this general permit regulation is to establish standard language for control of storm water discharges through the development of Storm Water Pollution Prevention Plans and to set minimum monitoring and reporting requirements. A site-specific Storm Water Pollution Prevention Plan will be required to be developed by the permittee for each construction site covered by this general permit. Owners/operators will be required to implement the provisions of the plan as a condition of the permit.

The Storm Water Pollution Prevention Plan will identify potential sources of pollution which may reasonably be expected to affect the quality of storm water discharges from the construction activity at the site, and shall describe and ensure the implementation of practices which are to be used to reduce the pollutants in storm water discharges associated with the construction activity.

Monitoring and reporting requirements will be established

based upon the pollution potential of the storm water discharges from the construction activity. Monitoring reports will assist in evaluating the effectiveness of pollution prevention measures and provide information to identify water quality impacts and support future permitting activities.

Estimated Impact: Adoption of these regulations will allow for the streamlining of the permit process as it relates to construction activity permits. Coverage under the general permit would reduce the paper work required to obtain a permit for the owners/operators at construction sites. It will also reduce the time currently required to obtain coverage under the VPDES permitting system. The staff estimates that there are between 5,000 to 10,000 construction sites that may be required to apply for storm water permits. The board believes it would be impossible at this time to develop and issue individual permits in a timely manner to all applicants.

The board recognizes the need for storm water general permits to ease the burden on the regulated community and to facilitate the issuance of storm water permits. Issuance of general permits would improve the administrative efficiency of the board's permitting program and allow staff resources to be concentrated on developing individual permits for those facilities which have more potential for impacting water quality in Virginia.

Alternatives: There are two alternatives to comply with the federal requirements to permit construction site storm water discharges. One is to issue an individual VPDES permit to each of the estimated 5,000 to 10,000 construction sites. The other is to adopt a general VPDES permit to cover this category of discharger.

Public Comments: The board seeks written comments from interested persons on the intended regulatory action and on the costs and benefits of the stated alternatives or other alternatives.

Intent to Hold an Informational Proceeding or Public Hearing: The board intends to hold an informational proceeding (informal hearing) on the proposal after it is published in the Register of Regulations. This informational proceeding will be convened by a member of the board. The board does not intend to hold a hearing (evidential) on the proposal after it is published in the Register of Regulations.

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

Written comments may be submitted until 4 p.m., on September 8, 1993, to Ms. Doneva Dalton, Department of Environmental Quality, P.O. Box 11143, Richmond, VA 23230.

Contact: Ms. Cathy Boatwright, Water Division, Department of Environmental Quality, P.O. Box 11143, Richmond, VA 23230, telephone (804) 527-5316.

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V.A.R. Doc. No. C93-1917; Filed July 21, 1993, 11:12 a.m.

† 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 promulgate regulations entitled: **VR 680-14-20. General Virginia Pollution Discharge Elimination System Permit Regulation for Nonmetallic Mineral Mining.** The purpose of the proposed action is to adopt a general permit for the category of industrial waste discharges associated with establishments primarily engaged in mining or quarrying, developing mines or exploring for nonmetallic minerals, except fuels. General permits may be issued for categories of dischargers that involve the same or similar types of operations, discharge the same or similar types of wastes, require the same effluent limitations or operating conditions, and require the same or similar monitoring. The intent of this proposed general permit regulation is to establish standard language for the limitations and monitoring requirements necessary to regulate this category of discharges under the VPDES permit program. As with an individual VPDES permit, the effluent limits in the general permit will be set to protect the quality of the waters receiving the discharge. No discharge would be covered by the general permit unless the local governing body has certified that the facility complies with all applicable zoning and planning ordinances.

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

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

Need: This proposed regulatory action is needed in order

to establish appropriate and necessary permitting of industrial waste discharges associated with establishments primarily engaged in mining or quarrying, developing mines or exploring for nonmetallic minerals, except fuels. The board is reissuing this notice in order to restart the adoption process due to changes in the Administrative Process Act which were enacted during the 1993 General Assembly.

Intent: The intent of this proposed general permit regulation is to establish standard language for the limitations and monitoring requirements necessary to regulate this category of discharges under the VPDES permit program. As with an individual VPDES permit, the effluent limits in the general permit will be set to protect the quality of the waters receiving the discharge. No discharge would be covered by the general permit unless the local governing body has certified that the facility complies with all applicable zoning and planning ordinances.

Estimated Impact: There are approximately 90 establishments currently permitted under the individual VPDES permit program which may qualify for this proposed general permit. Adoption of this regulation will allow for the streamlining of the permit process as it relates to the covered categories of discharges. Coverage under the general permit would reduce the paper work, time and expense of obtaining a permit for the owners and operators in this category. Adoption of the proposed regulations would also reduce the manpower needed by the board for permitting these discharges.

Alternatives: There are two alternatives for compliance with federal and state requirements to permit industrial waste discharges associated with establishments primarily engaged in mining or quarrying, developing mines or exploring for nonmetallic minerals, except fuels. One is the issuance of an individual VPDES permit to each establishment. The other is to adopt and issue a general VPDES permit to cover this category of discharger.

Public Comments: The board seeks written comments from interested persons on the intended regulatory action and on the costs and benefits of the stated alternatives.

Intent to Hold an Informational Proceeding or Public Hearing: The board intends to hold an informational proceeding (informal hearing) on the proposal after it is published in the Register of Regulations. This informational proceeding will be convened by a member of the board. The board does not intend to hold a hearing (evidential) on the proposal after it is published in the Register of Regulations.

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

Written comments may be submitted until 4 p.m. on September 8, 1993, to Ms. Doneva Dalton, Department of Environmental Quality, P.O. Box 11143, Richmond, VA

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23230.

Contact: Richard Ayers, Water Division, Department of Environmental Quality, P.O. Box 11143, Richmond, VA 23230, telephone (804) 527-5059.

VA.R. Doc. No. C93-1918; Filed July 21, 1993, 11:13 a.m.

† 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 promulgate regulations entitled: **VR 680-14-21. Virginia Pollution Abatement Permit Regulation.** The purpose of the proposed action is to consider adoption of a new regulation. This regulation will govern sources of pollutants within the boundaries of the Commonwealth of Virginia that are not point source discharges to surface waters. These types of pollutant management activities are currently regulated under the VPA permit program and the Permit Regulation (VR 680-14-01). The VPA permit program is being separated from the Permit Regulation in order to recognize the distinction between this wholly state run permit program and the federal/state NPDES/VPDES permit program. This action is being done concurrently with the repeal of VR 680-14-01.

The board is reissuing this notice to restart the adoption process because of changes in the Administrative Process Act which were enacted during the 1993 General Assembly.

Basis and Statutory Authority: The basis for this regulation is § 62.1-44.2 et seq. of the Code of Virginia. Specifically, § 62.1-44.15(7) authorizes the board to adopt rules governing the procedures of the board with respect to the issuance of permits. Further, § 62.1-44.15(10) authorizes the State Water Control Board to adopt such regulations as it deems necessary to enforce the general water quality management program, § 62.1-44.15(14) authorizes the board to establish requirements for the treatment of sewage, industrial wastes and other wastes, §§ 62.1-44.16, 62.1-44.17, 62.1-44.18 and 62.1-44.19 authorize the board to regulate discharges of sewage, industrial wastes and other wastes.

Need: Any pollutant management activity which does not result in a point source discharge to surface waters may be required to obtain a VPA permit in order to ensure that the activity does not alter the physical, chemical or biological properties of state waters. VPA permits may be utilized to authorize the land application of sewage, sludge or industrial waste or the complete reuse and recycle of wastewater. The VPA regulation will delineate the procedures and requirements to be followed in connection with VPA permits issued by the board pursuant to the State Water Control Law.

Estimated Impact: This regulation will impact all of the approximately 1,500 holders of Virginia Pollution Abatement permits. However, there should not be a

significant difference in the regulation of these permits or the costs incurred by permittees under the new regulation compared to the previous Permit Regulation (VR 680-14-01).

Alternatives: One alternative to the proposed regulation is to modify the existing Permit Regulation, rather than adopting a separate regulation for VPA permits. Another alternative is to take no action and to continue to administer the VPA permit program under the current regulation.

Public Comments: The board seeks written comments from interested persons on the intended regulatory action and on the costs and benefits of the stated alternatives or other alternatives.

Intent to Hold an Informational Proceeding or Public Hearing: The board intends to hold an informational proceeding (informal hearing) on the proposed regulation after the proposal is published in the Register of Regulations. This informational proceeding will be convened by a member of the board. The board does not intend to hold a hearing (evidential) on the proposed regulation after the proposal is published in the Register of Regulations.

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

Written comments may be submitted until 4 p.m. on September 8, 1993, to Ms. Doneva Dalton, Department of Environmental Quality, P.O. Box 11143, Richmond, VA 23230.

Contact: Richard Ayers, Water Division, Department of Environmental Quality, P.O. Box 11143, Richmond, VA 23230, telephone (804) 527-5059.

VA.R. Doc. No. C93-1919; Filed July 21, 1993, 11:13 a.m.

† 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 680-14-22. Virginia Pollution Abatement (VPA) General Permit for Animal Feeding Operation.** The purpose of the proposed action is to restart the process for adoption of regulations for a general permit for animal feeding operations which establishes standard language for the limitations and monitoring requirements necessary to regulate the activities of this category of operations under the VPA permit program.

Basis and Statutory Authority: The basis for this regulation is § 62.1-44.2 et seq. of the Code of Virginia. Specifically, § 62.1-44.15(7) authorizes the board to adopt rules governing the procedures of the Board with respect to the issuance of permits. Further, § 62.1-44.15(10) authorizes the board to adopt such regulations as it deems necessary to enforce

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the general water quality management program, § 62.1-44.15(14) authorizes the board to establish requirements for the treatment of sewage, industrial wastes and other wastes, § 62.1-44.20 provides that agents of the board may have the right of entry to public or private property for the purpose of obtaining information or conducting necessary surveys of investigations, and § 62.1-44.21 authorizes the board to require owners to furnish information necessary to determine the effect of the wastes from a discharge on the quality of state waters.

Need: This proposed regulatory action is needed in order to establish appropriate and necessary permitting of the pollutant management activities at animal feeding operations and to further streamline the permitting process. The reissuance of the Notice of Intended Regulatory Action to restart the adoption process is necessary because of changes in the Administrative Process Act which were enacted during the 1993 General Assembly and to comply with the board's Public Participation Guidelines.

Substance and Purpose: General permits may be issued for categories of dischargers that involve the same or similar types of operations, manage the same or similar types of wastes, require the same effluent limitations or operating conditions, and require the same or similar monitoring. The purpose of this proposed regulatory action is to adopt a general permit for animal feeding operations which may operate and maintain treatment works for waste storage, treatment or recycle and which may perform land application of wastewater or sludges. The intent of this proposed general permit regulation is to establish standard language for the limitations and monitoring requirements necessary to regulate the activities of this category of operations under the VPA permit program. The possibility exists that more than one general permit may be developed to cover certain activities in this category of operations.

Estimated Impact: There are several hundred animal feeding operations, including both concentrated and intensified operations, that may be required to be permitted under the VPA permit program and which may qualify for this proposed general permit. Adoption of these regulations will allow for the streamlining of the permit process as it relates to the covered categories of activities. Coverage under the general permit would reduce the paper work, time and expense of obtaining a permit for the owners and operators in this category. Adoption of the proposed regulation would also reduce the manpower needed by the board for permitting these activities.

Alternatives: There are several alternatives for compliance with state requirements to permit pollutant management activities at animal feeding operations. One is the issuance of an individual VPA permit to each facility. The others include adopting general VPA permits to cover specific operations in this category of activities including concentrated and intensified operations.

Public Comments: The board seeks written comments from interested persons on the intended regulatory action and on the costs and benefits of the stated alternative or other alternatives.

Intent to Hold an Informational Proceeding or Public Hearing: The board intends to hold an informational proceeding (informal hearing) on the proposed regulations after the proposal is published in the Register of Regulations. This informational proceeding will be convened by a member of the board. The board does not intend to hold a hearing (evidential) on the proposed regulation after the proposal is published in the Register of Regulations.

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

Written comments may be submitted until 4 p.m. on September 8, 1993, to Ms. Doneva Dalton, Department of Environmental Quality, P.O. Box 11143, Richmond, VA 23230.

Contact: Ms. Cathy Boatwright, Water Division, Department of Environmental Quality, P.O. Box 11143, Richmond, VA 23230, telephone (804) 527-5316.

V.A.R. Doc. No. C93-1920; Filed July 21, 1993, 11:13 a.m.

† 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 680-15-04. Shenandoah River Surface Water Management Area - The Shenandoah River, including the portions of the North Fork Shenandoah River and the South Fork Shenandoah River within Warren County.** The purpose of the proposed action is to define the boundaries of the surface water management area and establish the flow level at which permit conditions will be in effect.

This reissuance of the notice to restart the adoption process is necessary because of changes in the Administrative Process Act which were enacted during the 1993 General Assembly.

Need: Surface water management areas are needed where low flow conditions threaten, or could threaten, beneficial stream uses. The Code of Virginia, § 62.1-246, provides local governments the right to petition the board for consideration of surface water management areas. The board has received petitions from the Clarke and Warren Counties Board of Supervisors' requesting a surface water management area for the Shenandoah River.

Substance and Purpose: The purpose of a surface water management area is to provide for the protection of beneficial uses of designated surface waters of the Commonwealth during periods of drought by managing the supply of surface water in order to balance competing

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beneficial uses. By adopting this regulation the Commonwealth is protecting the beneficial uses of the Shenandoah River in Clarke County and Warren County for the public welfare, health and safety of the citizens of the Commonwealth.

The proposed regulation will define the boundaries of the surface water management area and establish the flow level at which permit conditions will be in effect. 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. Surface water users in existence after July 1, 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.

Estimated Impact: The proposed regulation will impact persons withdrawing surface water equal to or greater than 300,000 gallons per month from the area. The staff estimates 15 surface water withdrawers in the proposed area will be required to obtain Surface Water Withdrawal Permits or Certificates from the State Water Control Board. There may be more agricultural irrigators who are not currently reporting their use.

It is estimated that the time required of each affected withdrawer to fill out the application forms and to prepare water conservation or management plans will be no more than 40 hours. Simple operations such as agricultural irrigation will require less time. Assistance in filling out the application forms and in developing water conservation or management plans will be available from the Department of Environmental Quality.

Applicants for permits or certificates, except for certain agricultural uses, will have to pay a fee of up to \$3,000 for permits and \$2,000 for certificates, depending on the type of withdrawal. It should be noted that these permit fees are established in a separate regulation, Fees for Permits and Certificates (VR 680-01-01), which has been adopted by the board.

These regulations also impact the board. This is a new program and additional staffing will be needed. The staffing and budget implications are not known at this time. However, the cost of administering this program should be partially offset by the revenue from permit fees.

Alternatives: Alternatives under consideration include whether the board should adopt the proposed surface water management area and issue Surface Water Withdrawal Permits and Surface Water Withdrawal Certificates, minimum instream flow levels, the boundaries of the area and guidelines for conservation and management plans.

Intent to Hold an Informational Proceeding or Public Hearing: The board intends to hold an informational

proceeding (informal hearing) on this proposed regulation after it is published in the Register of Regulations. This informational proceeding will be convened by a member of the board. The board does not intend to hold a hearing (evidential) on this proposed regulation after the proposal is published in the Register of Regulations.

Public Comments: The board seeks written comments from interested persons on the intended regulatory action and on the costs and benefits of the stated alternatives and other alternatives.

Statutory Authority: § 62-1-246 of the Code of Virginia.

Written comments may be submitted until 4 p.m. on September 8, 1993, to Ms. Doneva Dalton, Department of Environmental Quality, P.O. Box 11143, Richmond, VA 23230.

Contact: Mr. Thomas Felvey, Office of Water Resources Management, Department of Environmental Quality, P.O. Box 11143, Richmond, VA 23230, telephone (804) 527-5092.

VA.R. Doc. No. C93-1906; Filed July 21, 1993, 11:16 a.m.

† 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 680-15-05. North River Surface Water Management Area - The North River and all its Tributaries Above the Confluence with the Middle River.** The purpose of the proposed action is to define the boundaries of the surface water management area and establish the flow level at which permit conditions will be in effect.

This reissuance of the notice to restart the adoption process is necessary because of changes in the Administrative Process Act which were enacted during the 1993 General Assembly.

Need: Surface water management areas are needed where low flow conditions threaten, or could threaten, beneficial stream uses. The Code of Virginia, § 62.1-246, provides local governments the right to petition the board for consideration of surface water management areas. The Board has received a letter from the Town of Bridgewater's attorneys requesting a surface water management area for the North River.

Substance and Purpose: The purpose of a surface water management area is to provide for the protection of beneficial uses of designated surface waters of the Commonwealth during periods of drought by managing the supply of surface water in order to balance competing beneficial uses. By adopting this regulation the Commonwealth is protecting the beneficial uses of the North River in Augusta and Rockingham Counties for the public welfare, health and safety of the citizens of the Commonwealth.

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The proposed regulation will define the boundaries of the surface water management area and establish the flow level at which permit conditions will be in effect. 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. Surface water users in existence after July 1, 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.

Estimated Impact: The proposed regulation will impact persons withdrawing surface water equal to or greater than 300,000 gallons per month from the North River in the proposed area. The staff estimates 15 surface water withdrawers in the proposed area will be required to obtain Surface Water Withdrawal Permits or Certificates from the State Water Control Board. There may be more agricultural irrigators who are not currently reporting their use.

It is estimated that the time required of each affected withdrawer to fill out the application forms and to prepare water conservation or management plans will be no more than 40 hours. Simple operations such as agricultural irrigation will require less time. Assistance in filling out the application forms and in developing water conservation or management plans will be available from the Department of Environmental Quality.

Applicants for permits or certificates, except for certain agricultural uses, will have to pay a fee of up to \$3,000 for permits and \$2,000 for certificates depending on the type of withdrawal. It should be noted that these permit fees are established in a separate regulation, Fees for Permits and Certificates (VR 680-01-01), which has been adopted by the Board.

These regulations also impact the board. This is a new program and additional staffing will be needed. The staffing and budget implications are not known at this time. However, the cost of administering this program should be partially offset by the revenue from permit fees.

Alternatives: Alternatives under consideration include whether the board should adopt the proposed surface water management area and issue Surface Water Withdrawal Permits and Surface Water Withdrawal Certificates, minimum instream flow levels, the boundaries of the area and guidelines for conservation and management plans.

Intent to Hold an Informational Proceeding or Public Hearing: The board intends to hold an informational proceeding (informal hearing) on this proposed regulation after it is published in the Register of Regulations. This informational proceeding will be convened by a member of the board. The board does not intend to hold a hearing (evidential) on this proposed regulation after the proposal

is published in the Register of Regulations.

Public Comments: The board seeks written comments from interested persons on the intended regulatory action and on the costs and benefits of the stated alternatives and other alternatives.

Statutory Authority: § 62.1-246 of the Code of Virginia.

Written comments may be submitted until 4 p.m. on September 8, 1993, to Ms. Doneva Dalton, Hearings Reporter, Management, Department of Environmental Quality, P.O. Box 11143, Richmond, VA 23230.

Contact: Mr. Thomas Felvey, Office of Water Resources Management, Department of Environmental Quality, P.O. Box 11143, Richmond, VA 23230, telephone (804) 527-5092.

VA.R. Doc. No. C93-1905; Filed July 21, 1993, 11:16 a.m.

† 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 680-15-06. James River Surface Water Management Area - The Richmond Metropolitan Area.** The purpose of the proposed action is to define the boundaries of the surface water management area and establish the flow level at which permit conditions will be in effect.

This reissuance of the notice to restart the adoption process is necessary because of changes in the Administrative Process Act which were enacted during the 1993 General Assembly.

Need: Surface water management areas are needed where low flow conditions threaten, or could threaten, beneficial stream uses. The Code of Virginia, § 62.1-246, provides local governments the right to petition the board for consideration of surface water management areas. The Board has received a petition from the Henrico County Board of Supervisors requesting a surface water management area for the James River.

Substance and Purpose: The purpose of a surface water management area is to provide for the protection of beneficial uses of designated surface waters of the Commonwealth during periods of drought by managing the supply of surface water in order to balance competing beneficial uses. By adopting this regulation the Commonwealth is protecting the beneficial uses of the James River in the Richmond metropolitan area for the public welfare, health and safety of the citizens of the Commonwealth.

The proposed regulation will define the boundaries of the surface water management area and establish the flow level at which permit conditions will be in effect. Existing water users as of July 1, 1989, will have to apply for a Surface Water Withdrawal Certificate which will contain a

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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. Surface water users in existence after July 1, 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.

Estimated Impact: The proposed regulation will impact persons withdrawing surface water equal to or greater than 300,000 gallons per month from the James River in the Richmond metropolitan area. The staff estimates 10 surface water withdrawers in the proposed area will be required to obtain Surface Water Withdrawal Permits or Certificates from the State Water Control Board. There may be some agricultural irrigators who are not currently reporting their use. Some counties are not direct withdrawers but purchase water from a withdrawer and will therefore be impacted, such as Chesterfield, Hanover and Henrico Counties.

It is estimated that the time required of each affected withdrawer to fill out the application forms and to prepare water conservation or management plans will be no more than 40 hours. Simple operations such as agricultural irrigation will require less time. Assistance in filling out the application forms and in developing water conservation or management plans will be available from the Department of Environmental Quality.

Applicants for permits or certificates, except for certain agricultural uses, will have to pay a fee of up to \$3,000 for permits and \$2,000 for certificates depending on the type of withdrawal.

It should be noted that these permit fees are established in a separate regulation, Fees for Permits and Certificates (VR 680-01-01), which has been adopted by the Board.

These regulations also impact the board. This is a new program and additional staffing will be needed. The staffing and budget implications are not known at this time. However, the cost of administering this program should be partially offset by the revenue from permit fees.

Alternatives: Alternatives under consideration include whether the board should adopt the proposed surface water management area and issue Surface Water Withdrawal Permits and Surface Water Withdrawal Certificates, minimum instream flow levels, the boundaries of the area and guidelines for conservation and management plans.

Intent to Hold an Informational Proceeding or Public Hearing: The board intends to hold an informational proceeding (informal hearing) on this proposed regulation after it is published in the Register of Regulations. This informational proceeding will be convened by a member of the board. The board does not intend to hold a hearing (evidential) on this proposed regulation after the proposal is published in the Register of Regulations.

Public Comments: The Board seeks written comments from interested persons on the intended regulatory action and on the costs and benefits of the stated alternatives and other alternatives.

Statutory Authority: § 62.1-246 of the Code of Virginia.

Written comments may be submitted until 4 p.m. on September 8, 1993, to Ms. Doneva Dalton, Hearings Reporter, Department of Environmental Quality, P.O. Box 11143, Richmond, VA 23230.

Contact: Mr. Thomas Felvey, Office of Water Resources Management, Department of Environmental Quality, P.O. Box 11143, Richmond, VA 23230, telephone (804) 527-5092.

V.A.R. Doc. No. C93-1904; Filed July 21, 1993, 11:15 a.m.

† 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 amending regulations entitled: **VR 680-21-00. Water Quality Standards.** The purpose of the proposed action is to amend Water Quality Standards to meet state and federal requirements for a complete review of the water quality standards once every three years, modify the standards to ensure that water quality is protected, to update beneficial water uses, to cancel obsolete standards, and to designate exceptional waters.

This is a reissuance of the notice to start the adoption process for the triennial review of the water quality standards and to modify VR 680-21-07 and VR 680-21-08 (scenic rivers, endangered species, nutrient enriched waters, special standards, trout waters and public water supplies). This reissuance of the notice to restart the adoption process is necessary because of the changes in the Administrative Process Act which were enacted during the 1993 General Assembly. This notice also serves to begin the adoption process for exceptional waters under VR 680-21-01.3.C (Antidegradation Policy).

The type of information that would help the department draft these amendments includes but is not limited to the following:

- information to update existing standards or to add new standards (especially for toxic pollutants),
- information related to site specific modifications to water quality standards for metals (water effects ratios),
- suggestions for a narrative biological criteria,
- evaluations of the 1986 Environmental Protection Agency's bacteria and dissolved oxygen criteria,
- provisions to ensure that standards apply to wetlands,

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information related to the designation of endangered species waters in Virginia (including protection areas or buffer zones upstream of endangered species locations),

information related to the designation of nutrient enriched waters, trout waters or public water supplies in Virginia,

information or nominations related to the designation of "exceptional" waters under VR 680-21-01.3C (Antidegradation Policy).

Any amendments to the water quality standards proposed as a result of the triennial review amendments have the potential to impact every VPDES permit holder in the Commonwealth of Virginia. The impact on an individual VPDES permit holder would range from additional monitoring costs through upgrades to existing wastewater facilities.

Impacts resulting from stream reclassifications will be primarily upon those permittees discharging into endangered species waters. Certain requirements (VR 680-21-02.22.5) apply in these waters such that any permittee discharging into one of these streams either must use an alternate form of disinfection other than chlorine or add dechlorination depending on the volume of their discharge.

Impacts resulting from designations of exceptional waters will be primarily upon the local governments in the area where the exceptional waters are located. No new or increased discharges will be allowed into these exceptional waters.

Alternatives: Alternatives under consideration include whether the Board should propose amendments to the Water Quality Standards regulation for Triennial Review, to the Special Designations in Surface Waters in VR 680-21-07 (Endangered Species, Scenic Rivers and Nutrient Enriched Waters), to the River Basin Section Tables in VR 680-21-08 (trout waters and public water supplies) and to the Antidegradation Policy in VR 680-21-01.3.C (exceptional waters). Other alternatives are whether to make amendments related to the issues described under "Substance and Purpose."

Public Comments: The board seeks written comments from interested persons on the intended regulatory actions and on the cost and benefits of the stated actions. Written comments should be directed to Ms. Doneva Dalton, Hearings Reporter, at the address below and must be received by 4 p.m. on September 8, 1993.

Intent to Hold an Informational Proceeding or Public Hearing: The board intends to hold an informational proceeding (informal hearing) on these proposed regulatory actions after they are published in the Register of Regulations. This informational proceeding will be convened by a member of the board. The board does not

intend to hold a hearing (evidential) on these proposed regulations after the proposal is published in the Register of Regulations.

Applicable laws and regulations include Section 303(c)(2)(B) and Section 307(a) of the Clean Water Act, the Federal Water Quality Standards Regulation (40 CFR 131), State Water Control Law, VR 680-21-00 (Water Quality Standards Regulations) and VR 680-14-01 (Permit Regulation).

Statutory Authority: § 62.1-44.15(3a) of the Code of Virginia.

Written comments may be submitted until 4 p.m. on September 8, 1993, to Ms. Doneva Dalton, Hearings Reporter, Department of Environmental Quality, P.O. Box 11143, Richmond, VA 23230.

Contact: Ms. Eleanore Daub, Office of Environmental Research and Standards, Department of Environmental Quality, P.O. Box 11143, Richmond, VA 23230, telephone (804) 527-5091.

V.A.R. Doc. No. C93-1903; Filed July 21, 1993, 11:15 a.m.

† 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 amending regulations entitled: **VR 680-21-00. Water Quality Standards (VR 680-21-07:1.b. Potomac Embayment Standards)**. The purpose of the proposed action is to consider amendments to the Potomac Embayment standards.

Need: The board adopted the Potomac Embayment Standards (PES) in 1971 to address serious nutrient enrichment problems evident in the Virginia embayments and Potomac River at that time. These standards apply to sewage treatment plants discharging into Potomac River embayments in Virginia from Jones Point to the Route 301 bridge and for expansions of existing plants discharging into the nontidal tributaries of these embayments.

Based upon these standards, several hundred million dollars were spent during the 1970s and 1980s upgrading major treatment plants in the City of Alexandria and the Counties of Arlington, Fairfax, Prince William, and Stafford. Today these localities operate highly sophisticated advanced wastewater treatment plants which have contributed a great deal to the dramatic improvement in the water quality of the upper Potomac estuary.

Even before the planned upgrades at these facilities were completed, questions arose over the high capital and operating costs that would result from meeting all of the requirements contained in the PES. Questions also arose due to the fact that the PES were blanket effluent standards that applied equally to different bodies of water. Therefore, in 1978, the Board committed to reevaluate the

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PES. In 1984, a major milestone was reached when the Virginia Institute of Marine Science (VIMS) completed state-of-the-art models for each of the embayments. The Board then selected the Northern Virginia Planning District Commission (NVPDC) to conduct waste load allocation studies of the Virginia embayments using the VIMS models. In 1988, these studies were completed and effluent limits were developed for each major facility that would protect the embayments and the mainstem of the Potomac river. However, the PES were not amended to reflect the results of these efforts.

Since the PES have not been amended or repealed, VPDES permits have included the PES standards as effluent limits. Since the plants cannot meet all of the requirements of the PES, the plant owners have operated under consent orders or consent decrees with operating effluent limits for the treatment plants that were agreed upon by the owners and the Board.

In 1991, several Northern Virginia jurisdictions with embayment treatment plants submitted a petition to the board requesting that the Board address the results of the VIMS/NVPDC studies and that the PES be replaced with a descriptive process for establishing effluent limits for these plants to meet water quality standards. The petitioners claimed the current standards do not allow for scientifically based permit limits.

A board staff workgroup was formed to consider the changes to the PES recommended by the petitioners. At their June 1991 meeting, the board authorized holding a public hearing to solicit comments on proposed amendments based upon the recommendations of the work group. These amendments would allow permit by permit development of appropriate effluent limits for the affected discharges using the Board's Permit Regulation and Water Quality Standards Regulation. They would also apply a total phosphorus effluent limit of 0.18 mg/l which is the regionally agreed limit to protect the embayments and the upper Potomac estuary from nutrient enrichment.

Based upon the request of Fairfax County, a hearing was not scheduled on the proposed amendments so the petitioners could consider revisions to their original petition. By letter dated October 28, 1992, Fairfax County requested the board to proceed with a revised petition to change the PES. The revised petition was supported by the Counties of Arlington, Prince William, and Stafford and the Alexandria Sanitation Authority.

Substance and Purpose: The purpose of this proposed regulatory action is to consider amendments to the Potomac Embayment Standards.

Under the recent petition from the Northern Virginia localities for amending the PES, minimum effluent limits are retained in the Standards and state-of-the-art modeling is required to be performed for construction of any major new plant or expansion of an existing plant.

Information on the following issues would help the Board develop appropriate amendments to the PES:

- adopting the amendments included with the revised petition from the local governments,
- repealing the Potomac Embayment Standards and using the Permit Regulation and Water Quality Standards Regulation to determine effluent limits,
- replacing the standards with a comprehensive policy to protect the embayments (similar to the approach used with the Occoquan Policy),
- coverage of existing small sewage treatment plants and single family home discharges by the Potomac Embayment Standards.

Estimated Impact: Amendments to the Potomac Embayment Standards would impact eight major and several smaller sewage treatment plants discharging to the Potomac embayments. Upgrading the existing treatment plants to meet the current standards would cost millions of dollars. The alternatives identified thus far for amending the current standards would result in significant cost savings.

Alternatives: Three alternatives have so far been identified: 1. no change to the current standards; 2. amend the standards to remove specific effluent limits and rely on the Permit Regulation and Water Quality Standards Regulation (approach previously authorized for hearing by the Board); or 3. amend the standards by changing the specific effluent limits (local government petition).

Public Meeting: The board will hold a public meeting to receive views and comments on the local government petition as well as other comments on amending the Potomac Embayment Standards. The meeting will be held at 7:00 p.m. on Thursday, September 16, 1993, Fairfax County Government Center, Conference Center, Rooms 4 & 5, 12000 Government Center Parkway, Fairfax.

Accessibility to Persons with Disabilities: The meeting is being held at a public facility believed to be accessible to persons with disabilities. Any person with questions on the accessibility of the facilities should contact Mrs. Doneva A. Dalton at the address listed below or by telephone at (804) 527-5162 or TDD (804) 527-4261. Persons needing interpreter services for the deaf must notify Mrs. Dalton no later than Wednesday, September 1, 1993.

Statutory Authority: § 62.1-44.15(3a) of the Code of Virginia.

Written comments may be submitted until 4 p.m. on September 23, 1993, to Ms. Doneva Dalton, Department of Environmental Quality, P.O. Box 11143, Richmond, VA 23230.

Contact: Alan E. Pollock, Chesapeake Bay Program,

Notices of Intended Regulatory Action

Department of Environmental Quality, P.O. Box 11143, Richmond, VA 23230, telephone (804) 527-5155.

V.A.R. Doc. No. C93-1907; Filed July 21, 1993, 11:17 a.m.

† 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 amending regulations entitled: **VR 680-41-01:1. Public Participation Guidelines.** The purpose of this proposed action is to amend, on a permanent basis, the board's guidelines such that the guidelines will comply with 1993 amendments to the Administrative Process Act (Act). Specifically, the Act imposes new requirements on agencies of state government for processing rulemakings under the Act. For example, the Act requires the board to set out in their guidelines any methods for the identification and notification of interested persons, and any specific means of seeking input from interested persons or groups which the board intends to use in addition to the Notice of Intended Regulatory Action. Also, the Act mandates that the board include in their guidelines a general policy for the use of standing or ad hoc advisory groups and consultation with groups and individuals registering interest in working with the Board.

Need: This proposed regulatory action is necessary in order to establish guidelines which comply with the 1993 amendments to the Act and replace emergency guidelines which became effective on June 29, 1993.

Estimated Impact: No financial impact on regulated entities or the public is expected from any proposed amendments to the Guidelines since the Guidelines only impose requirements on the board. Regulated entities and the public should benefit from the proposed amendments in that the guidelines will comply with the amendments to the Act.

Alternatives: There is no alternative to taking regulatory action to amend the board's guidelines. The Act requires the board to adopt guidelines and any guidelines adopted must comply with the provisions of the Act.

Public Comments: The Board seeks oral and written comments from interested persons on the intended regulatory action and on the costs and benefits of any alternatives. Also, the board seeks comment on whether the agency should form an ad hoc advisory group, utilize a standing advisory committee, or consult with groups or individuals to assist in the drafting and formation of a proposal. In addition, the board's staff will participate in a joint public meeting to be held at 2:00 p.m. on Thursday, September 9, 1993, in the Board Room, Department of Environmental Quality, 4900 Cox Road, Innsbrook Corporate Center, Glen Allen, Virginia, to receive views and comments and to answer questions of the public.

Accessibility to Persons with Disabilities: The meetings are

being held at public facilities believed to be accessible to persons with disabilities. Any person with questions on the accessibility of the facilities should contact Ms. Dalton at the address below or be telephone at (804) 527-5162 or TDD (804) 527-4261. Persons needing interpreter services for the deaf must notify Ms. Dalton no later than Monday, August 23, 1993.

Intent to Hold an Informational Proceeding or Public Hearing: The Board intends to hold an informational proceeding (informal hearing) on the proposed amendments to the guidelines after the proposal is published in the Register of Regulations. This informational proceeding will be convened by a member of the board. The board does not intend to hold a public hearing (evidential) on the proposed amendments to the Guidelines after the proposal is published in the Register of Regulations.

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 September 15, 1993, to Ms. Doneva Dalton, Hearing Reporter, Department of Environmental Quality, P.O. Box 11143, Richmond, VA 23230.

Contact: Ms. Cindy M. Berndt, Policy and Planning Supervisor, Department of Environmental Quality, P.O. Box 11143, Richmond, VA 23230, telephone (804) 327-5158.

V.A.R. Doc. No. C93-1908; Filed July 21, 1993, 11:10 a.m.

BOARD FOR WATERWORKS AND WASTEWATER WORKS OPERATORS

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board for Waterworks and Wastewater Works Operators intends to consider repealing regulations entitled: **VR 675-01-01. Public Participation Guidelines.** The purpose of the proposed action is to promulgate public participation guidelines to replace emergency public participation guidelines adopted in June 1993, and to provide full opportunity for public participation in the regulation formation and promulgation process. The agency does not intend to hold a public hearing on the proposed regulation during the comment period.

Statutory Authority: §§ 9-6.14:7.1 and 54.1-201 of the Code of Virginia.

Written comments may be submitted until September 8, 1993.

Contact: Geralde W. Morgan, Administrator, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8534.

Notices of Intended Regulatory Action

VA.R. Doc. No. C93-1944; Filed June 24, 1993, 2:28 p.m.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board for Waterworks and Wastewater Works Operators intends to consider promulgating regulations entitled: **Public Participation Guidelines**. The purpose of the proposed action is to promulgate public participation guidelines to replace emergency public participation guidelines adopted in June 1993, and to provide full opportunity for public participation in the regulation formation and promulgation process. The agency does not intend to hold a public hearing on the proposed regulation during the comment period.

Statutory Authority: §§ 9-6.14:7.1 and 54.1-201 of the Code of Virginia.

Written comments may be submitted until September 8, 1993.

Contact: Geralde W. Morgan, Administrator, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8534.

VA.R. Doc. No. C93-1944; Filed June 24, 1993, 2:28 p.m.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board for Waterworks and Wastewater Works Operators intends to consider amending regulations entitled: **VR 675-01-02. Board for Waterworks and Wastewater Works Operators**. The purpose of the proposed action is to solicit public comment on all existing regulations as to their effectiveness, efficiency, necessity, clarity and cost of compliance in accordance with its public participation guidelines. A public hearing will be held during the proposed comment period.

Statutory Authority: § 54.1-201 of the Code of Virginia.

Written comments may be submitted until September 10, 1993.

Contact: Geralde W. Morgan, Administrator, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8534.

VA.R. Doc. No. C93-1923; Filed July 21, 1993, 11:56 a.m.

BOARD OF YOUTH AND FAMILY SERVICES

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Youth and Family Services intends to consider promulgating regulations entitled: **Standards for Intensive Community Supervision**. The purpose of the proposed action is to set minimum standards for the care and custody of youth in intensive community supervision programs. These standards apply to the following types of programs: Home-Based Family Treatment Services; Intensive Home Supervision Services; Serious Offender Services; Alternative Day Services; Assessment and Evaluation Services Crisis Management Services; Electronic Monitoring Services. The board intends to hold a public hearing on these standards.

Statutory Authority: § 66-10 of the Code of Virginia.

Written comments may be submitted until September 9, 1993.

Contact: Donald R. Carignan, Policy Coordinator, Department of Youth and Family Services, P.O. Box 1110, Richmond, VA 23208-0692, telephone (804) 371-0692.

VA.R. Doc. No. C93-1894; Filed July 21, 1993, 9:49 a.m.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Youth and Family Services intends to consider promulgating regulations entitled: **Minimum Standards for Secure Juvenile Detention Facilities**. The purpose of the proposed action is to set minimum operation standards for the care and custody of youth in secure detention facilities. This new proposed regulation replaces proposed standards as published in the Register of Regulations as VR 690-30-001 on November 18, 1991. The board intends to hold a public hearing on these standards.

Statutory Authority: § 66-10 of the Code of Virginia.

Written comments may be submitted until September 9, 1993.

Contact: Donald R. Carignan, Policy Coordinator, Department of Youth and Family Services, P.O. Box 1110, Richmond, VA 23208-0692, telephone (804) 371-0692.

VA.R. Doc. No. C93-1895; Filed July 21, 1993, 9:49 a.m.

PROPOSED REGULATIONS

For information concerning Proposed Regulations, see information page.

Symbol Key

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

BOARD OF AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY

Title of Regulation: VR 155-01-2:1. Regulations of the Board of Audiology and Speech-Language Pathology.

The Board of Audiology and Speech-Language Pathology is **WITHDRAWING** its proposed regulation entitled, "VR 155-01-2:1. Regulations of the Board of Audiology and Speech-Language Pathology," which was published in 9:16 V.A.R. 2434-2443 May 3, 1993.

BOARD OF FUNERAL DIRECTORS AND EMBALMERS

Title of Regulation: VR 320-01-04. Resident Trainee Program for Funeral Service.

The Board of Funeral Directors and Embalmers is **WITHDRAWING** its proposed regulation entitled, "VR 320-01-04. Resident Trainee Program for Funeral Service," which was published in 9:16 V.A.R. 2547-2554 May 3, 1993.

DEPARTMENT OF GAME AND INLAND FISHERIES (BOARD OF)

REGISTRAR'S NOTICE: The following regulation is exempt from the Administrative Process Act pursuant to subdivision A 3 of § 9-6.14:4.1 of the Code of Virginia, which excludes from this Act the Department of Game and Inland Fisheries when promulgating regulations regarding the management of wildlife. However, the Department is required by § 9-6.14:22 of the Code of Virginia to publish all proposed and final wildlife management regulations, including the length of seasons and bag limits allowed on the wildlife resources within the Commonwealth of Virginia.

Title of Regulation: VR 325-03. Fish.
VR 325-03-2. Trout Fishing.

Statutory Authority: §§ 29.1-501 and 29.1-502 of the Code of Virginia.

Proposed Effective Date: October 20, 1993.

Notice to the Public:

The Board of Game and Inland Fisheries has ordered to be published, pursuant to §§ 29.1-501 and 29.1-502 of the Code of Virginia, the following proposed new board regulation. A public hearing on the advisability

of adopting, or amending and adopting, the proposed regulation, or any part thereof, will be held at the Virginia Beach Resort and Conference Center, 2000 Shore Drive, Virginia Beach, Virginia, beginning at 9 a.m., on Saturday, August 28, 1993, at which time any interested citizen present shall be heard. If the board is satisfied that the proposed regulation, or any part thereof, is advisable, in the form in which published or as amended as a result of the public hearing, the board may adopt such proposal at that time, acting upon the proposals separately or in block.

Summary:

Summaries are not provided since, in most instances, the summary would be as long or longer than the full text.

VR 325-03.

VR 325-03-2. Trout Fishing.

§ 17. *Special provisions applicable to Urban Fishing Program waters.*

Waters selected by the director for inclusion into the Urban Fishing Program will be considered designated stocked trout waters only from November 1 through April 30, thus a trout license is not required from May 1 through October 31. In addition, trout may be creeled from these waters year around and the daily trout creel limit shall be four.

V.A.R. Doc. No. R93-729; Filed July 21, 1993, 9:41 a.m.

DEPARTMENT OF GENERAL SERVICES

Title of Regulation: VR 330-02-06. Regulations for the Certification of Laboratories Analyzing Drinking Water (REPEALING).

Title of Regulation: VR 330-02-06:1. Regulations for the Certification of Laboratories Analyzing Drinking Water.

Statutory Authority: § 2.1-429 of the Code of Virginia.

Public Hearing Date: N/A – Written comments may be submitted until October 11, 1993.

Basis: The regulation VR 330-02-06:1, "Regulations for the Certification of Laboratories Analyzing Drinking Water," is based upon the statutory authority, Code of Virginia, § 2.1-429.

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Purpose: The purpose of repealing VR 330-02-06 and issuing VR 330-02-06:1 is to conform to the revisions that have been made to the federal Safe Drinking Water Act (40 CFR 141-143).

Specifically, the Department of General Services, Division of Consolidated Laboratory Services, intends to promulgate the regulations entitled "Regulations for the Certification of Laboratories Analyzing Drinking Water" in order to comply with 40 CFR 141.28 which requires all testing for compliance to the Safe Drinking Water Act to be performed by laboratories which are certified by the state. The Department of General Services, Division of Consolidated Laboratory Services, is responsible for establishing and maintaining a state program for the certification of these laboratories.

Substance: The substance of the regulation is to provide for the implementation of the changes in the federal standards for the certification of drinking water laboratories.

Issues: The primary advantage for the public is the continued assurance of the safety of the drinking water throughout the Commonwealth of Virginia by ensuring that the private laboratories analyzing drinking water samples meet minimum quality standards. The primary disadvantages are the cost, if any, of the enhanced instrumentation necessary to be acquired by laboratories to adequately test the drinking water samples. However, it is expected that any cost will be passed along to the waterworks for which the sample was analyzed.

Estimated Impact: The impact of the regulations is expected to be minimal. There are approximately 200 labs which perform testing of water samples designed to meet the requirements of the federal Safe Drinking Water Act. Since the certification requirements are effective statewide, there are no localities particularly affected. The incremental cost of a laboratory complying with the standards varies to such a degree it would not be practical to assign a dollar range. The instrumentation specifications required to meet these regulations are also essential in the performance of a number of other unrelated laboratory tests. The allocated cost per test would also vary depending upon the quantity of tests performed by each individual lab.

There will be little or no impact to the state. No additional staff will be needed to certify laboratories under the Safe Drinking Water Act.

Summary:

The regulations for the Certification of Laboratories Analyzing Drinking Water will allow the Commonwealth to carry out the provisions of the Safe Drinking Water Act. The regulations will also provide a mechanism to assure that laboratories are capable of providing valid data. The regulations will impact those laboratories seeking certification for the testing

of drinking water.

VR 330-02-06:1. Regulations for the Certification of Laboratories Analyzing Drinking Water.

PART I. GENERAL PROVISIONS.

§ 1.1. Introduction.

The Safe Drinking Water Act (SDWA) of December 16, 1974, mandated the establishment of drinking water regulations. The United States Environmental Protection Agency (USEPA) was authorized to set the national drinking water regulations and oversee the implementation of the SDWA. State governments through their health departments or environmental agencies were to accept the responsibility for the implementation and enforcement of the SDWA'S provisions.

The Virginia Department of Health, Division of Water Supply Engineering (VDH-DWSE) has accepted and maintains the primary enforcement responsibility (primacy) under the SDWA and the requirements of the National Primary Drinking Water Regulations (NPDWR) 40 CFR 141, 142 and 143. The regulation at 40 CFR 141.28 requires that all testing for compliance purposes except turbidity, free chlorine residual, temperature and pH be performed by laboratories certified by the state.

The Department of General Services, Division of Consolidated Laboratory Services (DGS-DCLS) has been designated by VDH-DWSE as the principal state laboratory. Pursuant to regulation 40 CFR 142.10(b)(3)(i), DGS-DCLS has established and maintains the state program for the certification of laboratories conducting analytical measurements of drinking water contaminants.

These regulations provide the mechanism to assure that laboratories are capable of providing valid data for compliance under the SDWA.

§ 1.2. Definitions.

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

"Analyst" means a chemist, microbiologist, physicist, or technician who actually performs a test. The analyst may carry out the complete test or participate jointly with other analysts. The qualifications an analyst needs depend greatly on functions being performed.

"Certifying team" means experienced professionals to perform laboratory on-site evaluations under the SDWA.

"Compliance sample" means any sample required by the Virginia Department of Health to determine that the water quality does not exceed the maximum contaminant level (MCL) for each specified parameter.

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"Maximum contaminant level (MCL)" means the maximum permissible level of a contaminant in water which is delivered to the free flowing outlet of the ultimate user of a waterworks.

"Minimum requirements" means criteria which are critical to the generation of valid data. These criteria describe the lowest level of capability at which the analyses can be successfully performed.

"Performance evaluation sample" means annual sample to be analyzed by a laboratory on certain parameters for which certification has been requested or granted. This annual sample is a form of documentation of a laboratory's capabilities in conjunction with on-site inspection evaluations of the laboratory by the certifying team.

"Primary enforcement responsibility (Primacy)" means the primary responsibility for administration and enforcement of primary drinking water regulations and related requirements applicable to public water systems within a state.

"Quality Assurance (QA) Plan" means a written description of a laboratory's quality assurance activities.

"Virginia laboratory officer" means a coordinator of drinking water laboratory certification activities.

§ 1.3. Public notification for exceeded MCL.

The public notification regulations require that a laboratory analyzing compliance samples immediately notify the VDH-DWSE of all results which exceed an MCL in accordance with Virginia Waterworks Regulations, VR 355-18-005.09, § 2.18 Reporting, August 1, 1991; the Public Notification Final Rule, Federal Register Vol. 52, No. 208, October 28, 1987; and the Public Notification Technical Amendment, Federal Register Vol. 54, No. 72, April 17, 1989.

§ 1.4. Compliance data report.

A waterworks with an on-site certified laboratory shall follow the reporting requirements outlined in Virginia Waterworks Regulations, VR 355-18-005.09, § 2.18 Reporting, August 1, 1991.

A contract laboratory analyzing compliance samples shall complete the appropriate VDH-DWSE Sample Input Form in accordance with the instructions for compliance under the SDWA. The contract laboratory shall report the analysis result to the VDH-DWSE within three days of completion date of sample analysis.

§ 1.5. Laboratory Quality Assurance Plan.

A certified laboratory shall establish a QA Plan complying with USEPA and state standards. The QA Plan may be a separately prepared QA document or may

incorporate by reference already available standard operating procedures. Documentation for the items listed below can be made by reference to the laboratory's standard operating procedures or to other literature.

1. Laboratory Organization, Personnel Qualifications, Training and Responsibility.
2. Sample Collection, Handling, Preservation and Rejection.
3. Instrument and Equipment Calibration, Standardization, and Temperature Checks.
4. Maintenance Procedures.
5. Standards, Reagents, Laboratory Pure Water, Media and Glassware.
6. A current working manual of procedures shall be available to the working analyst. The procedures shall be written as they are exactly performed in the laboratory, not ideally how they should be performed.
7. Data Reduction, Validation, Reporting and Review.
8. Internal and External Quality Control.
9. Precision, Accuracy, Quantitation and Detection Levels.
10. Corrective Action Contingencies.
11. Safety.
12. Sample and Waste Disposal.

§ 1.6. Certification fee.

A fee shall be charged by the Commonwealth for the certification process. Fees are currently waived for state, local, and federal government laboratories. The annual fee shall be based on the current schedule, the location of the laboratory and the categories for which the laboratory requests certification. The categories are microbiology, inorganic chemicals, organic chemicals and radiochemicals.

§ 1.7. Reciprocity.

An out-of-state laboratory shall be granted reciprocal certification provided the laboratory demonstrates the need to serve customers in Virginia and is certified by USEPA or another state under equivalent certification criteria.

The laboratory's certificate, current performance evaluation study report, most recent on-site evaluation report, personnel qualifications and QA Plan shall be received by DGS-DCLS prior to consideration for certification. An annual fee is charged per category. The categories are microbiology, inorganic chemicals, organic chemicals and radiochemicals.

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§ 1.8. Update on regulations.

Whenever USEPA adopts a new manual for the "Certification of Laboratories Analyzing Drinking Water," the Virginia laboratory officer shall inform local laboratories of the availability of the manual. Local laboratories shall comply with the updated manual. DGS-DCLS may update these regulations to be equivalent or more stringent than the USEPA Manual. DGS-DCLS, as necessary, may adopt in these regulations new NPDWR on or before their effective date.

PART II. CERTIFICATION OF LABORATORIES.

§ 2.1. Application for certification.

A. A laboratory shall request the application form from DGS-DCLS.

B. An application packet consisting of the application form; forms for personnel, equipment and methodology; the regulations; and pertinent information regarding the SDWA shall be provided to the laboratory.

C. DGS-DCLS shall administratively review the application packet when received.

D. DGS-DCLS shall provide a performance evaluation sample or enroll the laboratory in the USEPA Performance Evaluation Study, if applicable.

E. DGS-DCLS shall schedule an on-site evaluation for in-state laboratories. For chemical certification, the laboratory shall obtain acceptable results on the performance evaluation study (or EMSL-LV Cross Check Samples) before an on-site evaluation is scheduled.

F. Certification fee shall be payable at the time the application is filed with DGS-DCLS, and is nonrefundable.

§ 2.2. Evaluation procedure.

A. DGS-DCLS shall notify a laboratory three weeks before the on-site evaluation. When a certified laboratory is due for recertification, DGS-DCLS shall provide preliminary survey forms for updates on personnel, equipment and methodology.

B. During the on-site evaluation, the certifying team shall evaluate the laboratory on its equipment and supplies, general laboratory practices, sample collection, handling and preservation, methodology and quality assurance. A laboratory may be required to analyze an unknown sample or perform analysis on a parameter during the evaluation.

Survey forms may be used as guidelines for complete coverage of the laboratory's activities. Each deviation observed during the laboratory evaluation shall be discussed at the time it is observed. The certifying team

shall make an oral report to the laboratory staff at the end of the evaluation.

C. The certifying team shall prepare a narrative and action report for the Virginia laboratory officer. This report shall contain information pertinent to the evaluation. The report shall recommend the parameters in a category for which certification can be granted.

D. DGS-DCLS shall obtain from VDH-DWSE an identification number for a newly certified laboratory. DGS-DCLS shall inform VDH-DWSE of the certification status of a laboratory.

E. The Virginia laboratory officer shall advise the laboratory within 30 days after the on-site evaluation of its certification status and forward the certifying team's complete report.

F. Each laboratory found to be in noncompliance with these regulations, as indicated in the certifying team report, shall submit documentation of the corrective actions at the specified time.

G. Additional actions toward certification shall be determined based on the specific circumstances.

§ 2.3. Levels of certification.

Certification is granted for individual parameters in a category except for the volatile organic chemicals. The volatile organic chemicals are certified as a group based on the method employed and successful completion of the performance evaluation study.

1. "Certified" means a laboratory that meets the minimum requirements as determined by the certifying team using these regulations. The certification shall be valid for up to three years.

2. "Provisionally certified" means a laboratory which has deficiencies but can still produce valid data. The laboratory can continue to report compliance data to VDH-DWSE. A laboratory shall be permitted up to six months for correction of deficiencies. The certifying team may perform an announced or unannounced on-site evaluation to determine the adequacy of documented corrective actions. The certifying team shall recommend to the Virginia laboratory officer to upgrade the laboratory's certification status.

3. "Not certified" means a laboratory that does not meet the minimum requirements as determined by the certifying team using these regulations.

§ 2.4. Notice of appeal.

A laboratory may appeal its not certified status and make a request for an on-site reevaluation to the Virginia laboratory officer. A different certifying team shall perform the reevaluation. The reevaluation report shall be

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ent to the laboratory within 30 days. Should the reevaluation confirm the not certified status, the laboratory shall correct the deficiencies and reapply for certification.

§ 2.5. Maintenance of certified status.

To maintain certified status, a laboratory shall:

1. Continue to meet the requirements listed in these regulations based on the on-site evaluation.
2. Pass performance evaluation samples on an annual basis (for radiochemistry pass additional two cross-check samples).
3. Perform a minimum of five water analyses for each chemical parameter per month. Refer to § 4.5 for the minimum number of microbiology analyses. This shall ensure that the analyst maintains expertise in the certified categories.
4. Notify DGS-DCLS within 30 days of major changes in personnel, equipment or laboratory location which may change the laboratory's analytical capability.
5. Use approved methodology.
6. Notify VDH-DWSE in accordance with § 1.3 of these regulations.

§ 2.6. Downgrading of certified status.

A laboratory's certified status shall be downgraded to a provisionally certified status for:

1. Failure to meet the requirements listed under § 2.5 of these regulations.
2. Failure to successfully analyze the same parameter on two consecutive performance evaluation studies.
3. Failure to submit documentation of corrective actions on the failed parameters on a performance evaluation study.

§ 2.7. Revocation of certified status.

A laboratory shall be downgraded from certified or provisionally certified to not certified status for:

1. Failure to employ USEPA approved methods.
2. Failure to submit report for the performance evaluation study at the specified time limit unless a waiver is approved.
3. Failure to successfully analyze a parameter that is provisionally certified.
4. Submission of a performance evaluation sample to another laboratory for analysis and reporting the data

as its own.

5. Failure to correct identified deficiencies based on an on-site visit.
6. Permitting persons other than qualified personnel to perform and report results for drinking water analysis.
7. Falsification of data or use of other deceptive practices.
8. Failure to notify the VDH-DWSE in accordance with § 1.3 of these regulations.

§ 2.8. Action to downgrade or revoke certification.

The laboratory shall be notified by certified mail of the circumstances which form the basis of downgrading or revocation of certified status.

§ 2.9. Reinstatement of certification.

Certification shall be reinstated when the laboratory can demonstrate that the deficiencies which produced the downgrading or revocation of certified status have been corrected. An on-site evaluation or successful completion of a performance evaluation study or both may be required.

§ 2.10. Certification for additional parameters.

A laboratory shall submit a request for additional parameters to DGS-DCLS. To obtain certification, the laboratory, when applicable, shall pass the performance evaluation study and be subjected to an on-site evaluation. If the laboratory's capability and proficiency has been established for similar parameters in a category, an on-site evaluation may not be required.

§ 2.11. Recertification process.

DGS-DCLS shall notify and mail recertification forms to the laboratory at least 60 days before the expiration of certification. The continuing on-site evaluations shall be performed as in the initial evaluation with emphasis on past deficiencies and their corrections.

PART III. CHEMISTRY.

§ 3.1. Personnel.

The laboratory shall provide a curriculum vitae on each employee involved in analyzing drinking water with sufficient information to show that personnel are adequately trained and experienced to perform the specific analyses for the categories being considered for certification. Whenever there is a change of personnel, DCLS shall be notified and provided with data on the status change of present personnel or curriculum vitae for new personnel within 60 days of the change.

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§ 3.2. Laboratory facilities.

The laboratory facilities shall be clean, have controlled temperature and humidity and have adequate lighting at the bench top.

The laboratory shall provide for the disposal of chemical wastes. Exhaust hoods are required for preparation, extraction and analysis, where applicable, of drinking water inorganic and organic parameters.

It is recommended that inorganic and organic facilities be in separate rooms. Sample storage shall be isolated for protection from sources of contamination.

§ 3.3. Laboratory equipment and instrumentation.

The laboratory is only required to have those instruments that are needed to perform the approved methods for which certification has been requested. Those instruments shall meet the following specifications:

1. General.

a. Analytical balance. Each analytical balance shall have a sensitivity of 0.1 mg. The balance shall be seated on a steady base to prevent interference from vibration and protection from sudden drafts and humidity changes.

b. pH meter. The accuracy of the pH meter shall be within ± 0.05 pH units. Scale readability of the pH meter shall be ± 0.1 pH units. Glass electrodes shall be either immersed in distilled water or stored according to the manufacturer's recommendations during periods of inactivity. Usable with specific ion electrode.

c. Magnetic stirrer. Variable speed with TFE or inert material coated stir bar.

d. Conductivity meter. Suitable for checking distilled water quality, readable in ohms or mhos with a range from 2 ohms to 2 megohms.

e. Hot plate. Hot plate shall have selectable temperature control.

f. Refrigerator. Standard refrigerator for storage of aqueous reagents and samples. An explosion-proof type of refrigerator for organic storage.

g. Drying oven. Gravity or convection units with selectable temperature control from room temperature to 180°C or higher ($\pm 2^\circ\text{C}$). To 400°C for cleaning organic glassware.

h. Thermometer. Any good grade mercury-filled centigrade thermometer with 1°C or finer subdivisions calibrated to 180°C or higher.

i. Centrifuge. Centrifuge to 3000 rpm with option of handling 4 x 50 mL tubes.

j. Glassware. All volumetric glassware shall be marked Class A, denoting that it meets federal specifications and need not be calibrated before use. Borosilicate glass which is more resistant than regular soft glass to damage by heat, chemicals, and physical abuse, is recommended.

k. Waterbath. Electric or steam heated capable of temperature control to within 5°C to 100°C.

l. Pipets and tips. Microliter capacity 5 to 100 microliters with metal-free disposable tips.

m. Desiccator. Glass or plastic models depending on particular application.

2. Inorganic contaminants.

a. Photometer.

(1) Spectrophotometer. Usable wavelength range, 400 to 700 nm. Maximum spectral band width, no more than 20 nm. Several sizes and shapes of absorption cells providing a sample path length from approximately 1 to 5 cm.

(2) Filter photometer (abridged spectrophotometer). Capable of measuring radiant energy in range of 400 to 700 nm. Relatively broad bands (10 to 75 nm) of this radiant energy are isolated by absorption of the colorimetric methods. Photometer shall be capable of using several sizes and shapes of absorption cells providing a sample path length varying from approximately 1 to 5 cm.

(3) Color standards. To verify wavelength on photometer. Shall cover 200-800 nanometers.

b. Automated analysis systems. Exact equipment used is specified by the individual methods and includes:

(1) Sampler

(2) Proportioning pump

(3) Manifold of analytical cartridge

(4) Heating bath

(5) Heating bath with distillation head

(6) Continuous filter

(7) Colorimeter with filters

(8) Ion selective electrode detector with electrodes

(9) Recorder

c. Arsine generator and absorption system. A Gutzeit generator or equivalent used in conjunction with an absorber tube or assembly.

d. Atomic absorption spectrophotometer. Single-channel, single- or double-beam instrument having a grating monochromator, photomultiplier detector, adjustable slits, and a wave-length range of least 190 to 800 nm.

(1) Readout system. An appropriate readout system that has a response time capable of measuring the atomic absorption signal generated is required. This includes the capability to detect positive interference on the signal from intense nonspecific absorption. In furnace analysis a strip chart recorder should be used for verification of adequate background correction if a CRT video readout or hard copy plotter is not available.

(2) Fuel and oxidant. Commercial grade acetylene is generally acceptable. Air may be supplied from a compressed air line, a laboratory compressor, or from a cylinder of compressed air. Reagent grade nitrous oxide is also required for certain determinations. Standard commercially available argon or nitrogen or both are required for furnace work, and hydrogen is required for the flame hydride systems. The supplies of fuel and oxidant shall be maintained at pressures somewhat higher than the controlled operating pressure of the instrument.

(3) Burner. The burner recommended by the particular instrument manufacturer and consistent with the approved method should be used. For certain elements the nitrous oxide burner is required.

(4) Hollow cathode lamps. Single element lamps are preferred but multi-element lamps may be used. Electrodeless discharge lamps may also be used.

(5) Graphite furnace. Any furnace device capable of reaching the specified temperatures is satisfactory.

(6) Background corrector. A background correction system or provision for a subsequent analysis using a nonabsorbing line is required for furnace analysis.

(7) Hydride generation system. Any gaseous hydride system used in conjunction with an atomic absorption spectrophotometer equipped for direct aspiration analysis.

e. Mercury cold vapor analyzer. Commercially available vapor mercury analyzer can be substituted for the equipment listed below.

(1) Absorption cell. Standard 10 cm quartz cell with end windows or 11.5 cm plexiglass cell with an I.D. of 2.5 cm.

(2) Air pump. Peristaltic pump with an air flow of 1 L per minute.

(3) Flowmeter. Capable of measuring an air flow of 1 L per minute.

(4) Spectrophotometer. Atomic absorption spectrophotometer equipped with a mercury hollow cathode lamp.

(5) Aeration tube. A straight glass frit having a coarse porosity.

(6) Drying unit. A 6-inch drying tube containing 20 grams of magnesium perchlorate or a heating device is required to prevent condensation of moisture.

f. Inductively Coupled Plasma. Computer control, background correction, radio frequency generator and argon gas supply.

g. Ion Chromatograph. Conductivity detector or UV detector, suppressor column and separator column.

3. Organic contaminants.

a. Gas chromatograph. A commercial or custom-designed gas chromatograph (GC) with a column oven capable of isothermal temperature control $\pm 0.2^\circ\text{C}$ to at least 220°C . Additional accessories and specifications are listed below by methodology.

(1) Chlorinated hydrocarbons. Equipped with a glass-lined injection port suitable for chlorinated hydrocarbon pesticides with a minimum of decomposition, and equipped with either an electron capture detector or electrolytic conductivity detector.

(2) Chlorophenoxys. Equipped with a glass-lined injection port and either an electron capture detector or electrolytic conductivity detector.

(3) TTHM by purge and trap. Temperature programmable from 45° to 220°C at about $8^\circ\text{C}/\text{minute}$ and equipped with either a microcoulometric detector or an electrolytic conductivity detector.

(4) TTHM by liquid/liquid extraction. Equipped with a linearized (frequency modulated) electron capture detector.

(5) TTHM/Volatiles by gas chromatography/mass spectrometry. The gas chromatograph, which shall

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be temperature programmable, shall be interfaced to the mass spectrometer with an all-glass enrichment device and an all-glass transfer line. Mass spectral data are to be obtained with electron-impact ionization at a nominal electron energy of 70 eV.

The mass spectrometer shall be capable of producing a spectrum that meets all criteria in Table A when 50 ng of p-bromofluorobenzene(BFB) is introduced into the gas chromatograph. An interfaced data system is necessary to acquire, store, reduce and output mass spectral data. The data system needs to be equipped with software to acquire and manipulate data for only a few ions that were selected as characteristic of trihalomethanes and the internal standard (and surrogate compounds).

Table A

p-Bromofluorobenzene Key Ions and Ion Abundance Criteria.

Mass	Ion Abundance Criteria
50	15 to 40% of mass 95
75	30 to 80% of mass 95
95	base peak, 100% relative abundance
96	5 to 9% of mass 95
173	less than 2% of mass 174
174	greater than 50% of mass 95
175	5 to 9% of mass 174
176	96 to 100% of mass 174
177	5 to 9% of mass 176

(6) GC/MS interface. It is recommended that the interface between the end of the chromatographic column and the ion source of the mass spectrometer be constructed with deactivated glass or glass-lined materials. The GC/MS interface can use any separator, transfer line or other interface part, provided it is demonstrated that the system meets BFB performance specifications.

(7) GC/MS data system. It is desirable that the data system shall have the ability to perform automatic quantitative analysis using integrated specific ion abundances and either a single internal or external standard. The data system shall also have the ability to perform automatic quantitative analysis using integrated specific ion abundances and regression analysis with multiple internal or external standards.

b. Recorder for gas chromatograph. Strip chart recorder with a full scale response time of 1 second or less, 1 mV (-0.05 to 1.05) signal to match the instrument, and a chart speed of 0.25 to 0.5 in/min or appropriate data system.

c. High Performance Liquid Chromatograph.

(1) With Post Column Reactor (PCR) equipped with a fluorescence detector.

(2) Equipped with a photodiode array detector.

d. Purge and trap system. A commercial or custom-designed system containing three separate elements. When used with a compatible gas chromatograph, the assembly shall be able to detect 0.5 ug/L of each of the individual trihalomethanes and measure them with a reproducibility not to exceed 8% relative standard deviation at 20 ug/L.

(1) Purging device. Designed for a 5 ml or 25 ml sample volume dependent on methodology. Gas inlet disperses finely divided gas bubbles through the sample.

(2) Trapping device. Capable of retaining purged trihalomethanes at room temperatures.

(3) Desorber assembly. Capable of heating the trapping device to 180°C in one minute with less than 40°C overshoot.

e. Kuderna-Danish glassware. Sets of tapered glassware, each consisting of a three ball Snyder Column, evaporative flask, and calibrated tube.

f. Separatory funnels. For extraction with organic solvents, 250 ml or larger.

§ 3.4. General laboratory practices.

A. General.

1. Chemicals/reagents. "Analytical reagent grade" (AR) chemicals shall be used for most analyses required of water; however, certain analytical procedures may require special reagents.

2. Laboratory safety. While safety criteria are not aspects of laboratory certification, each laboratory is encouraged to have a safety plan. Where safety practices are included in an approved method, they shall be strictly followed.

B. Inorganic contaminants.

1. Glassware preparation. All glassware shall be washed in warm detergent solution and thoroughly rinsed first in tap water and then distilled water. Individual procedures shall be referred to for more elaborate precautions to be taken against contamination of glassware.

2. Reagent water. The laboratory water source shall at least have a resistivity value of 0.5 megohms (less than 2.0 micromhos/cm) at 25°C. Quality water meeting such specifications can be purchased from commercial suppliers. Quality of reagent water is best

maintained by sealing from the atmosphere. Quality checks to meet specifications above shall be made and documented at planned intervals not to exceed one month.

C. Organic contaminants.

1. Glassware preparation. Glassware and sample bottles shall be washed in a warm detergent solution and thoroughly rinsed first in tap water and then in distilled water. Glassware shall have a final organic solvent rinse or baked at 400°C for 30 minutes and then air dried or cooled in an area free of organic contamination. Glassware shall be covered with organic-free aluminum foil during storage. Bottles and cap liners used for collection of samples for the determination of VOCs shall be dried at 105°C for one hour, sealed, and stored in an area free of volatile organics.

2. Reagent water. Reagent water for organic analysis shall be free of interferences that coelute from the gas chromatograph with the compound being measured. It may be necessary to treat distilled water with activated carbon to eliminate all interferences.

§ 3.5. Analytical methodology.

All procedural steps in the approved methods are considered requirements. All other methods are considered alternate procedures. Individual alternate methods are not acceptable.

1. Inorganic contaminants. Table III-1 shows the approved methodology for inorganic contaminants.

2. Organic contaminants. Table III-2 shows the approved methodology for organic contaminants.

3. Secondary inorganic contaminants. Recommended methods for secondary inorganic contaminants are listed in Table III-3.

4. Prepackaged kits. DPD Colorimetric Test Kit and FACTS Colorimetric Test Kit are the only acceptable kits for free chlorine residual.

5. Measurement for residual disinfectant, turbidity, pH and temperature need not be made in certified laboratories but may be performed by any persons acceptable by the VDH-DWSE. The following are the critical elements of these tests:

a. Sealed liquid turbidity standards purchased from the instrument manufacturer shall be calibrated against properly prepared and diluted formazin or styrene divinylbenzene polymer standards at least every four months in order to monitor for any eventual deterioration. This calibration shall be documented. The standards shall be replaced when they do not fall within 15% of the assigned value of

the standard. Solid turbidity standards composed of plastic, glass, or other materials shall not be used.

b. Calibration interval for color wheels, sealed ampules, and other visual standards for free chlorine residual at least every six months. These calibrations shall be documented. By comparing standards and plotting such a comparison on graph paper, a correction factor can be derived and applied to all future results obtained on the now calibrated apparatus.

c. Additional criteria. The following criteria shall be used by persons for performing free chlorine residual, turbidity, pH and temperature measurements.

(1) Free chlorine residual. Samples shall be collected in plastic or glass. Samples are not preserved; analyses are made within 15 minutes. A DPD or FACTS Colorimetric Test Kit, spectrophotometer or photometer is required.

(2) Turbidity. Samples shall be collected in plastic or glass. Samples are not preserved; analyses are to be made within 15 minutes. Nephelometer is needed with light source for illuminating the sample and one or more photoelectric detectors with a readout device to indicate the intensity of light scattered at right angles to the path of the incident light. Unit may be line/bench or battery/portable operated.

(3) pH. Samples shall be collected in plastic or glass. Samples are not preserved. Analyses are to be made within 15 minutes. A pH meter is necessary.

(4) Temperature. Samples shall be analyzed immediately. Good grade mercury-filled or dial-type centigrade thermometer, or thermistor are required.

§ 3.6. Sample collection, handling, and preservation.

A. A written sampling procedure with specified sampling instructions shall be made available to sample collectors. The laboratory shall require strict adherence to correct sampling procedures, complete identification of a sample and prompt transfer of the sample to the laboratory.

B. The collector shall be trained in sampling procedures.

The sample needs to be representative of the potable water system. The water tap shall be sampled after maintaining a steady water flow for two or three minutes to clean service line unless otherwise specified by the method, as an example, lead and copper. The tap shall be free of any attachments or water purification devices.

The sample report form shall be completed immediately after collection with location, date and time of collection,

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collector's name, preservative added and any remarks concerning the sample. Indelible ink shall be used.

C. The sample container, required preservative and maximum holding time for inorganic contaminants are listed in Table III-4.

D. The sample container, required preservative and maximum holding time for organic contaminants are listed in Table III-5.

E. The laboratory shall reject any sample not meeting the above criteria and notify the system or individual requesting the analyses.

§ 3.7. Quality assurance.

A. All quality control (QC) information shall be made available for inspection by the certifying team.

B. General.

1. The laboratory shall adhere to the written Quality Assurance (QA) Plan.

2. A manual of analytical methods and the laboratory's QA Plan shall be available to the analysts.

3. The laboratory shall analyze an unknown water supply performance evaluation sample once per year for all contaminants for which that laboratory is certified. Results shall be within the control limits established by USEPA.

4. At least once each quarter, the laboratory shall analyze a known QC sample. If errors exceed limits specified, corrective action is to be taken and documented and a follow-up quality control standard analyzed as soon as possible to demonstrate the problem has been corrected.

5. The laboratory shall perform an initial demonstration of capability to generate acceptable precision and accuracy data.

6. The laboratory shall develop and maintain QC charts for each analyte. Since percent recovery may not be a constant, the percent recovery data may have to be separated into concentration intervals before control limits are calculated for each interval.

7. The laboratory shall determine initially and at least annually their method detection limit (except when the method specifies a different frequency).

8. The laboratory shall calibrate pH meters for each use period with fresh standard buffers at pH 7.0 and at the pH appropriate for the test being performed.

9. The laboratory shall have a current service

contract and a written maintenance calibration procedure on all balances. The laboratory shall calibrate balance(s) monthly using Class S or S-1 reference weights. This calibration(s) shall be documented.

10. The laboratory shall calibrate the conductivity meter monthly with a 0.01 M KCl solution (See Methods for Chemical Analyses of Water and Wastes, Method 120.1, USEPA 600/4-79-020, 1979, Revised March 1983), or Standard Methods for the Examination of Water and Wastewater, Section 2510, Conductivity, pp. 2-43 through 2-46, 18th ed., 1992.

11. The wavelength setting on the spectrophotometer shall be verified with color standards covering 200-800 nanometers every quarter.

12. The laboratory shall check calibration of in-use glass/mercury thermometers annually at the temperature used, against a reference National Institute of Standards Technology, (NIST) thermometer.

13. Refrigerator shall maintain a temperature of 1° to 5°C. Thermometer shall be graduated in at least 1°C increments with the thermometer bulb immersed in liquid. The laboratory shall record temperatures for days in use at least once per day.

14. The laboratory shall record oven temperatures for days in use at least once per day.

15. The laboratory shall test new pipets before use. A pipet shall be checked for accuracy after any maintenance or troubleshooting. All pipets shall be checked for accuracy every six months. Pipets with capacity of less than 500 uL shall be checked for accuracy every quarter. Tips shall be metal free.

16. Chemicals shall be dated upon receipt. Chemicals whose shelf life has been exceeded shall be discarded in a safe manner. Reagents shall be dated when prepared.

17. The laboratory shall perform instrument maintenance according to maintenance procedures and schedules. The laboratory instrument maintenance shall be documented.

C. Inorganic contaminants.

In addition to specific quality controls inherent to a method, the following are necessary for each analyte for which the laboratory is certified:

1. A standard reagent curve composed of a minimum of a reagent blank and three standards covering the sample concentration range shall be prepared. The reagent blank shall be carried through the entire analytical procedure. The reagent blank shall not

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exceed the method detection limit (MDL).

2. Calibration for some methods is time-consuming so that subdivision 1 of this subsection is impractical. For these methods, the standard curve shall be initially developed as in subdivision 1 of this subsection. Thereafter, each day on which analyses are performed, the standard curve shall be verified by use of at least a reagent blank and one standard near or at the MCL. Daily checks shall be within $\pm 10\%$ of the original curve.

3. If 20 or more samples are analyzed per day, the working standard curve shall be verified by running an additional standard near or at the MCL every 20 samples. Each check shall be within $\pm 10\%$ of the original curve.

4. The laboratory shall add a known spike to a minimum of 10% of the routine samples (except when the method specifies a different percentage, i.e., furnace methods) to determine if the entire analytical system is in control. The spike concentration shall not be substantially less than the background concentration of the sample selected for spiking. These checks shall be evenly spaced and one check shall be at the end of the day's analyses. Over time, samples from all routine sample sources shall be spiked. If any of these checks are not within the control limits, a standard shall be analyzed to determine if the "out of control" condition was due to sample matrix or system operation. This standard is to be analyzed through the complete analytical system. Corrective action is to be taken in accordance with the laboratory's QA Plan.

D. Organic contaminants.

In addition to specific quality controls inherent to a method, the following are necessary for each analyte for which the laboratory is certified:

1. Documentation of acceptable calibration is required before any samples are analyzed. Any of the following calibration procedures shall be employed.

a. *Internal Standard Calibration.* Prepare calibration standards at a minimum of three concentration levels for each analyte of interest. To each calibration standard, add a known constant amount of one or more of the internal standards and surrogate compounds. The lowest standard shall represent analyte concentrations near, but above, their respective MDLs.

The remaining standards shall correspond to the range of concentrations expected in the sample concentrates, or shall define the working range of the detector. The calibration standards shall bracket the analyte concentrations found in the sample extracts.

b. *External Standard Calibration.* Prepare calibration standards at a minimum of three concentration levels for each analyte of interest. To each calibration standard add a known constant amount of one or more surrogate compounds. The lowest standard shall represent analyte concentrations near, but above, their respective MDLs. The other concentrations shall correspond to the range of concentrations expected in the sample concentrates, or shall define the working range of the detector. The calibration standards shall bracket analyte concentrations found in the sample extracts.

c. Single point calibration is a viable alternative to the internal and external standard or calibration. Add to the standard a known constant amount of one or more surrogate compounds. The single point standard shall be prepared at a concentration that produces a response that deviates from the sample extract response by no more than 20%.

d. The working calibration curve or calibration factor shall be verified on each working day by the measurement of a minimum of two calibration check standards, one at the beginning and one at the end of the analysis day. These check standards shall be at two different concentration levels to verify the calibration curve. For extended periods of analysis (greater than eight hours), it is strongly recommended that check standards be interspersed with samples at regular intervals during the course of the analyses. If the response for any analyte varies from the predicted response by more than $\pm 20\%$, the test shall be repeated using a fresh calibration standard. If the results still do not agree, generate a new calibration curve.

2. *Laboratory Reagent Blanks (LRB).* Before processing any samples, the analyst shall demonstrate that all glassware and reagent interferences are under control. Each time a set of samples is extracted or reagents are changed, a laboratory reagent blank shall be analyzed.

3. *Laboratory Fortified Blank (LFB).* The laboratory shall analyze at least one laboratory fortified blank (LFB) sample with every 20 samples or one per sample set (all samples extracted within a 24-hour period) whichever is greater. The fortified concentration of each analyte in the LFB shall be 10 times MDL or at the MCL, whichever is less.

4. *Laboratory Fortified Sample Matrix (LFSM).* The laboratory shall add a known concentration to a minimum of 10% of the routine samples or one sample concentration per set, whichever is greater. The added concentration shall not be less than the background concentration of the sample selected for fortification. Ideally, the fortified analyte concentrations shall be the same as that used for the LFB. Over time, samples from all routine sample

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sources shall be fortified.

5. *Laboratory Performance Check Sample (LPCS): Instrument performance shall be monitored on a daily basis by analysis of the LPC sample. The LPC sample contains compounds designed to indicate appropriate instrument sensitivity, column performance (primary column) and chromatographic performance. Inability to demonstrate acceptable instrument performance indicates the need for reevaluation of the instrument system.*

6. *It is essential that the laboratory analyze a field blank for TTHM or VOC or both with each sample set. If reportable levels of TTHM or VOC or both are demonstrated to have contaminated the field blank, resampling is essential.*

7. *The laboratory is to analyze 10% of all samples for TTHM or VOC's or both in duplicate. A continuing record of results and subsequent action taken shall be retained.*

8. *Each time the TTHM or VOC's or both analytical system undergoes a major modification or prolonged period of inactivity, the precision of the system shall be demonstrated by the analysis of replicate laboratory performance check samples.*

9. *On a weekly basis, the laboratory shall demonstrate the ability to analyze low level samples for THMM and VOC's. Prepare a low level laboratory performance check sample. For each analyte, the recovery shall be between 60% and 140% of the expected value.*

10. *It is essential that laboratories that analyze for TTHM by liquid-liquid extraction and VOC's by Purge and Trap can demonstrate that raw source waters do not contain interferences under the chromatographic conditions selected.*

11. *If a mass spectrometer detector is used for TTHM or VOC analyses, it is essential that the mass spectrometer performance tests described under equipment specifications using BFB be conducted once during each eight-hour work shift. Records of satisfactory performance and corrective action shall be maintained.*

§ 3.8. Records and data reporting.

A. *Records of chemical analyses shall be kept by the laboratory for three years. This includes all raw data, calculations, and quality control data.*

B. *The data shall contain the following information:*

1. *Date, place and time of sampling and name of person who collected the sample.*

2. *Identification of sample as to what type:*

a. *Routine distribution system sample.*

b. *Check sample.*

c. *Raw or process water sample.*

d. *Private well sample.*

e. *Special purpose sample.*

3. *Date of receipt of sample and date of analysis.*

4. *Laboratory and persons responsible for performing analysis.*

5. *Analytical technique and method used.*

6. *Result of analysis.*

§ 3.9. Action response to laboratory results.

When the action response is a designated laboratory responsibility, the laboratory shall notify the proper authority of noncompliance sample results and request resampling from the same sampling point immediately.

PART IV. MICROBIOLOGY.

§ 4.1. Personnel.

Each laboratory shall provide a resume from each employee involved in analyzing drinking water with sufficient information to show that personnel are adequately trained and experienced to perform the specific analyses for the categories being considered for certification. Whenever there is a change of personnel, DGS-DCLS shall be notified and provided with the new personnel data within 60 days of the change.

§ 4.2. Laboratory facilities.

The laboratory facilities shall include sufficient space to process and examine samples proportionate with the total work load. Laboratory facilities shall be clean and have controlled temperature and humidity and have adequate lighting at bench tops. Laboratory facilities shall include sufficient bench top area for processing samples; storage space for media, glassware, and portable equipment; floorspace for stationary equipment; and areas for cleaning glassware and sterilizing materials. The laboratory shall have provisions for decontamination and disposal of microbiological waste. Office areas for clerical work and record keeping shall be segregated from laboratory work areas.

§ 4.3. Laboratory equipment and supplies.

The laboratory must have available or have access to

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the items required for membrane filter, multiple tube fermentation, MMO-MUG or P-A test procedures as listed below. All quality control procedures (marked "QC") must be documented.

Equipment shall be in good working order. Maintenance or service on any equipment shall be documented.

1. pH Meter shall be clean and accurate to ± 0.1 pH units. Scale graduated in at least 0.1 pH units. Store electrodes according to manufacturer's recommendations. Use pH buffer aliquot only once.

QC - Standardize pH meter each use period with pH 7.0 and pH 4.0 buffers. Standardize at least quarterly with pH 10.0 buffer.

QC - Date commercial buffer solution container upon receipt and when opened. Discard buffers before manufacturer's expiration date or one year from date of opening, whichever comes first.

2. Balance (top loader or pan) shall be clean, not corroded and able to detect 100 mg at a 150 g load.

QC - Calibrate balance monthly using Class S or S-1 reference weights. Use a minimum of three traceable weights which bracket the low, middle and high ranges of laboratory weighing needs.

QC - Maintain a service contract or internal maintenance protocol and maintenance records. Conduct maintenance at least annually.

3. Temperature monitoring devices. Use glass thermometers, dial thermometers or continuous recording devices for incubators, water baths, ovens and refrigerators. Thermometers for total coliform incubators shall be graduated in at least 0.5°C increments. Thermometers for fecal coliform water baths shall be graduated in at least 0.2°C increments. Liquid column in glass thermometers shall not be separated.

QC - Check calibration of glass mercury thermometers and continuous recording devices annually and check calibration of dial thermometers quarterly, at the temperature used. Use an NIST (formerly NBS) reference thermometer or one that meets the requirements of NBS monograph 150 for these calibrations. NIST reference thermometer must be graduated in 0.2°C increments or less.

4. Total coliform incubator must maintain an internal temperature of $35^{\circ} \pm 0.5^{\circ}\text{C}$. Place thermometers on the top and bottom shelves of the use area with the thermometer bulb immersed in liquid. If aluminum block incubator is used, culture dishes and tubes shall be snug-fitting in block.

QC - Record temperature for days in use at least

twice per day with readings at least four hours apart.

5. Fecal coliform water bath/incubator shall maintain a temperature of $44.5^{\circ} \pm 0.2^{\circ}\text{C}$. If aluminum block incubator is used, culture dishes and tubes shall be snug-fitting in block.

An incubation temperature of $44.5^{\circ} \pm 0.2^{\circ}\text{C}$ can best be maintained with a water bath equipped with a gable cover.

QC - Record temperature for days in use at least twice per day with readings at least four hours apart.

6. Autoclave shall be in good operating condition and have a temperature gauge with a sensor on the exhaust, a pressure gauge and an operational safety valve. Vertical autoclaves and pressure cookers are not acceptable. For most efficient operation, a double-walled autoclave constructed of stainless steel is recommended. Autoclave maintains sterilization temperature (121°C) during the sterilization period and completes an entire cycle within 45 minutes when a 12-15 minute sterilization period is used. Autoclave depressurizes slowly to ensure media do not boil over and bubbles do not form in inverted tubes.

QC - Record date, contents, sterilization time and temperature for each cycle.

QC - Record the time media is placed in the autoclave and the time it is removed.

QC - Use maximum registering thermometer, heat sensitive tape, spore strips or ampoules during each autoclave cycle and record temperature. Avoid overcrowding.

QC - Check automatic timing mechanism with a stopwatch quarterly. Establish a service contract or internal maintenance protocol and maintain records.

7. Hot air oven shall maintain a stable sterilization temperature of $170\text{-}180^{\circ}\text{C}$. Its use is optional for sterilization of glass pipets, bottles, flasks, culture dishes and other dry items. Items shall be sterilized for at least two hours. Oven thermometer is graduated in 10°C increments or less with the bulb placed in sand during use. Oven thermometer can be read from outside of oven.

QC - Record date, time, temperature and contents of each sterilization cycle.

8. Colony counter. Use a dark field model colony counter to count Heterotrophic Plate Count (HPC) colonies.

Fully automatic colony counters are not suitable because of the size and small number of colonies

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observed when lab pure water or potable water are analyzed for HPC.

9. Conductivity or resistivity meter. Suitable for checking laboratory pure water. Readable in ohms or mhos, with a range from at least 2 ohms to 2 megohms \pm 2% or equivalent micromhos. Unit may be in-line/bench or portable/battery operated.

QC - Conductivity meter shall be calibrated monthly with a 0.01 N or lower KCl solution as described in Standard Methods for the Examination of Water and Wastewater, 16th Ed., 1985, pp 76-80, Section 205. Preferably, calibrate meter in the range that it will be used. A commercial conductivity or resistivity standard may be used.

10. Refrigerator maintains a temperature of 1-5°C (34-40°F). Refrigerator thermometer must be graduated in at least 1° increments and have the bulb immersed in water.

QC - Record temperature for days in use at least once per day.

11. Inoculating equipment. Inoculating loops shall have a diameter of at least 3 mm. Metal loops or needles shall be made of 22 to 24 gauge Nichrome, chromel or platinum-iridium wire. Single-service metal loops or presterilized plastic loops may be used. Hardwood applicator sticks shall be dry heat sterilized. Swabs used for swabbing membrane filters shall be made of sterile cotton.

12. Membrane filtration equipment. MF funnels shall be stainless steel, glass or autoclavable plastic, not leak and not be scratched or corroded. Funnels shall be calibrated with a 100 mL Class A graduated cylinder and etched or otherwise marked at the calibrated 100 mL level. Field equipment is acceptable for coliform detection only when standard laboratory MF procedures are followed.

13. Membrane filters and pads. Membrane filters shall be those recommended by the manufacturer for water analysis. The recommendation shall be based on data relating to ink toxicity, recovery, retention, and absence of growth-promoting substances. Membrane filters shall be manufactured from cellulose ester materials, white, grid marked, 47 mm diameter with 0.45 μ m pore size or alternate pore size if manufacturer provides performance data equal to or better than the 0.45 μ m pore size. Membrane filters may be purchased presterilized or autoclaved before use.

QC - Record the lot number and date received for membrane filters.

QC - Check the sterility of each lot number of membrane filters by placing one membrane in 50 mL

of single strength TSB and check for growth after 24 hours incubation at 35°C \pm 0.5°C.

14. Optical/counting/lighting equipment for MF. Low power (10X - 15X) magnification device (preferably binocular microscope) with fluorescent light source shall be used for observing sheen colonies on membrane filters.

15. Culture dishes (loose or tight fitting lid). Use presterilized plastic or sterilizable glass culture dishes. To maintain sterility of glass culture dishes, use stainless steel or aluminum canisters, or wrap dishes in heavy aluminum foil or char-resistant paper. Incubate loose-lid dishes in a tight-fitting container, e.g., plastic vegetable crisper, to prevent dehydration of membrane filter and medium. Reseal opened packs of disposable culture dishes between major use periods.

16. Culture tubes/bottles and closures. Culture tubes/bottles shall be made of borosilicate glass or other corrosion resistant glass and shall be large enough to contain the culture medium as well as the sample portions without being more than 3/4 full. After sterilization, the fermentation vial shall be completely filled with medium and at least 1/3 to 1/2 submerged in medium. Closures shall be snug-fitting stainless steel or plastic caps, loose fitting aluminum caps, or screw caps with nontoxic liners.

17. Pipets/measuring equipment. Sterile glass or plastic pipets shall be used for measuring 10 mL or less. Pipets shall deliver the required volume quickly and accurately within a 2.5% tolerance. Pipets shall not be etched, mouthpiece or delivery tips shall not be chipped and graduation marks shall be legible. Pipet containers shall be aluminum or stainless steel, or wrap individual pipets in char-resistant paper or aluminum foil. Opened packs of disposable sterile pipets shall be resealed between use periods. Graduated cylinders are recommended for samples larger than 10 mL.

18. Sample containers. Sample bottles shall be wide mouth plastic or noncorrosive glass with a nonleaking ground glass stopper or a cap with a nontoxic liner which will withstand repeated sterilization, or other approved disposable, presterilized sample containers (e.g., Whirl-pak bags). Glass-stoppered bottle closures shall be covered with aluminum foil or char-resistant paper for sterilization. Capacity of sample containers shall be at least 120 mL.

Add sodium thiosulfate (Na₂S₂O₃; anhydrous, 100 mg/L) to sample container before sterilization (0.1 mL of 10% Na₂S₂O₃ solution per 120 mL capacity). Disposable, presterilized sample containers shall contain sodium thiosulfate.

QC - Check sterility of at least one bottle per batch

of laboratory-sterilized sample bottles by adding 25 mL of sterile single strength TSB to each bottle. Incubate at 35° ± 0.5°C for 24 hours and check for growth.

QC Check sterility of one Whirl-pak bag or other presterilized sample container from lot number in use every month. Use same procedure as for sterile bottles.

19. Glassware, plasticware and metal utensils. Except for disposable plasticware, items shall be resistant to effects of corrosion, high temperature and vigorous cleaning operations. Metal utensils shall be made of stainless steel. Flasks, beakers, pipets, dilution bottles, culture dishes, culture tubes/bottles, and other glassware shall be made of borosilicate glass and free of chips, cracks, or excessive etching. Volumetric glassware shall be Class A, denoting that it meets federal specifications and need not be calibrated before use. Graduated cylinders for measurement of sample volumes have a tolerance of 2.5% or less. Markings on graduated cylinders and pipets are legible. Plastic items shall be clear, inert and nontoxic and retain accurate, readable calibration marks after repeated autoclaving.

20. Ultraviolet lamp. Disconnect unit monthly and clean lamps by wiping with a soft cloth moistened with ethanol.

QC - If UV lamp is used for sanitization, test lamp quarterly with UV light meter and replace if it emits less than 70% of initial output or if agar spread plates containing 200 to 250 microorganisms, exposed to the UV light for two minutes, do not show a count reduction of 99%.

§ 4.4. General laboratory practices.

A. Sterilization procedures.

Table IV-1

The following times and temperatures shall be used for autoclaving materials:

Material.....	Temperature/Time
Membrane filters and pads	121°C/10 min.
Carbohydrate-containing	121°C/12-15 min. media (except P/A Broth)
P/A Broth	121°C/12 min.
Contaminated materials	121°C/30 min. and discarded tests
Membrane filter funnel	121°C/15 min.

assemblies (wrapped), sample collection bottles (empty), individual glassware items

Dilution water blank 121°C/15 min.
(99 mL)

Rinse water volumes of 121°C/30 min.
500 mL to 1000 mL

Rinse water in excess of 121°C/time
1000 mL adjusted for
..... volume

Media, membrane filters and pads shall be removed immediately after completion of sterilization cycle.

Membrane filter assemblies shall be sterilized between sample filtration series. A filtration series ends when 30 minutes or longer elapse between individual sample filtrations.

B. Laboratory pure water.

Use only satisfactorily tested reagent water from stills or deionization units to prepare media, reagents and dilution/rinse water for microbiological analyses.

QC - Test the quality of the lab pure water or have it tested by a SDWP certified lab to assure it meets these criteria:

Table IV-2

Parameter	Limits	Frequency
Conductivity	Less than 2 Micromho/cm at 25°C	Monthly
or		
Resistivity	Greater than 0.5 megohms at 25°C	Monthly
Heterotrophic Plate Count* (Pour Plate)	Less than 500 CFU/ml	Monthly
Total Chlorine Residual	Nondetectable	Monthly
Trace Metals (Pb, Cd, Cr, Cu, Ni, Zn)	Not greater than 0.05 mg/L per contaminant. Collectively, no greater than 0.1 mg/L	Annually
Test for bactericidal properties of lab pure water (*Standard Methods'', 16th Ed. pg. 835)	Ratio 0.8 - 3.0	Annually

Proposed Regulations

C. Dilution/rinse water.

Prepare stock buffer solution according to *Standard Methods*, 16th Ed., 1985, Sec. 905C.1.a. Autoclave or filter sterilize stock buffer, label and date container and store in refrigerator. Ensure stored stock buffer solution is free of turbidity.

Prepare rinse/dilution water by adding 1.25 mL of stock buffer solution and 5 mL of magnesium chloride (MgCl₂) solution to one liter of lab pure water. Make magnesium chloride solution by adding 81.1 g MgCl₂·6H₂O or 38g of anhydrous MgCl₂ to one liter of lab pure water. Autoclave rinse/dilution water according to Table IV-1.

QC - Check each batch of dilution/rinse water for sterility by adding 50 mL of dilution/rinse water to 50 mL of double strength TSB. Incubate at 35° ± 0.5°C for 24 hours and check for growth.

D. Glassware washing.

Washing processes shall provide clean glassware with no stains or spotting. Glassware shall be washed in a warm detergent solution and thoroughly rinsed initially in tap water. Use distilled or deionized water for final rinse.

QC - Perform the Inhibitory Residue Test (*Standard Methods*, 16th Ed., 1985, p. 834) on the initial use of a washing compound and whenever a different formulation of washing compound, or washing procedure, is used to ensure glassware is free of toxic residue.

E. Media; general requirements.

Use dehydrated or ready to use media manufactured commercially. Store dehydrated media in a cool, dry location away from direct sunlight and discard caked or discolored dehydrated media.

Date bottles of dehydrated media when received and when opened. Discard dehydrated media six months after opening; if stored in a desiccator from the time of opening, storage is extended to 12 months. Discard dehydrated media that has passed the manufacturer's expiration date. Unopened dehydrated media should be used within two years of date of receipt.

QC - Record the date of preparation, type of medium, manufacturer's lot number, sterilization time and temperature, final pH and technician's initials for media prepared in the laboratory. Store prepared media as described in Table IV-3.

QC - Check each batch of laboratory-prepared media and each lot number of commercially prepared (ready to use) media before use with a known positive and a known negative culture control. These control organisms can be stock cultures (periodically checked for purity) or commercially available disks

impregnated with the organism.

Table IV-3 Storage times for prepared media.

Media Type	Maximum Storage Time/Temperature
m-Endo Broth in screw-cap flasks or bottles	96 hours/4°C
Poured plates of m-Endo LES Agar and Nutrient Agar + MUG in sealed plastic bags	2 weeks/4°C
LTB, LSB, BGLB, EC Medium, EC + MUG, and TSB in loose-cap tubes	1 week/4°C
LTB, LSB, BGLB, P/A Broth, EC Broth, EC Medium + MUG and TSB in screw-cap tubes	3 months/4°C
HPC agar in screw-cap flasks or bottles	2 weeks/4°C

Incubate refrigerated broth in culture tubes with fermentation vials overnight at 35°C before use. Discard tubes showing growth or bubbles.

Check tubes of broth before use and discard if evaporation exceeds 10% of original volume.

QC - For commercially prepared (ready to use) liquid media and agars, record the date received, lot number and pH verification. Discard media by manufacturer's expiration date.

Table IV-4 pH of Media

Medium	pH Range
Single-Strength LTB or LSB	6.6 - 7.0
Double-Strength LTB or LSB	6.5 - 6.9
Triple-Strength LTB or LSB	6.4 - 6.8
BGLB Broth	7.0 - 7.4
m-Endo Broth and m-Endo LES Agar	7.0 - 7.4
P-A Broth	6.6 - 7.0
EC Medium and EC Medium + MUG	6.7 - 7.1
Nutrient Agar + MUG	6.6 - 7.0

Proposed Regulations

HPC Agar 6.8 - 7.2

Trypticase Soy Broth and Agar, Tryptic Soy Broth and Agar, and Tryptose Broth 7.1 - 7.5

F. Multiple tube fermentation (MTF) media.

Use lauryl tryptose broth or lauryl sulfate broth in the Presumptive Test. The appropriate Presumptive Test medium concentration will vary according to sample volume (10, 20 or 100 mL) in each culture tube/bottle.

Table IV-5 Preparation of Lauryl Tryptose or Lauryl Sulfate Broth for Presumptive Test (Total Sample Size is 100 mL)

Number of Tubes or Single Bottle	Sample per Tube/ Bottle	Medium per Tube/ Bottle	Total Volume of Medium + Sample	Dehydrated LTB or LSB	Medium Concentration	Minimum Tube or Bottle Size
	mL	mL	mL	g/L		mm
10	10	10	20	71.2	2x	20 x 150
10	10	20	30	53.4	1.5x	25 x 150
5	20	10	30	106.8	3 x	25 x 150
5	20	20	40	71.2	2x	25 x 200
1	100	50	150	106.8	3x	50 x 50 x 160

Use single strength brilliant green lactose bile (BGLB) broth in the confirmed test.

Use m-Endo LES agar for the completed test. Prepare m-Endo LES agar as described in § 4.6.

G. Membrane filter (MF) media.

Use m-Endo broth or m-Endo LES Agar for the Membrane Filter Test. Ensure that alcohol used in medium rehydration procedure is not denatured. Prepare medium in a sterile flask and use a boiling water bath or a constantly attended hot plate with a stir bar to bring medium just to the boiling point. Do not boil medium. Do not autoclave medium.

H. Presence-Absence (P-A) Medium.

Use triple-strength Presence-Absence Broth for the Presence-Absence Test. Autoclave media for 12 minutes at 121°C, leave space between bottles. Do not leave media in the autoclave for more than 30 minutes.

I. MMO-MUG Test Medium.

Use MMO-MUG Test Medium for the MMO-MUG Test for total coliform and E. coli. Do not prepare this medium from basic ingredients. Protect medium from light. Do not autoclave medium.

Each lot of MMO-MUG Test Medium shall be checked before use with stock cultures or commercially available disks impregnated with Escherichia coli, Klebsiella pneumoniae and Pseudomonas aeruginosa. Use sterile distilled water as the test sample and inoculate three tests from each lot of the MMO-MUG medium with these cultures and incubate at 35° ± 0.5°C for 24-28 hours. The results should be yellow color with fluorescence with E. coli, yellow color without fluorescence with K. pneumoniae and no color with no fluorescence with P. Aeruginosa.

J. EC Medium.

Use EC Medium to check for fecal coliforms in total coliform positive MF, MTF and P-A Tests.

K. EC Medium + MUG.

Use EC Medium + MUG to check for E. coli in total coliform positive MF, MTF and P-A Tests. The medium is made up of EC Broth supplemented with 50 ug/ml of 4-methylumbelliferyl-beta-D-glucuronide (MUG). MUG may be added to EC Broth before autoclaving or EC Medium + MUG may be purchased commercially. Use 10 mL of medium in each culture tube.

Do not use a fermentation vial. Gas production is not relevant to the test and the use of a fermentation vial may cause confusion on test interpretation.

QC - Check uninoculated culture tubes and medium before use with a 365 or 366 nm ultraviolet light to insure they do not fluoresce.

L. Nutrient Agar + MUG.

Use Nutrient Agar + MUG to check for E. coli in total coliform positive MF Tests. The medium is nutrient agar supplemented with 100 ug/ml of 4-methylumbelliferyl-beta-D-glucuronide (MUG). Sertilize agar in 100 ml volumes at 121°C for 15 minutes.

M. Heterotrophic Plate Count Agar.

Temper melted agar to 44-46°C before pouring plates. Hold melted agar no longer than three hours. Do not melt sterile agar more than once.

N. Trypticase Soy Broth, Tryptic Soy Broth or Tryptose Broth.

Use these broths for sterility checks of sample containers, membrane filters and rinse/dilution water. Also use these broths to rehydrate lyophilized disks of control organisms.

O. Trypticase Soy Agar or Tryptic Soy Agar.

Use this agar to prepare slants for growth and storage of control organisms.

Proposed Regulations

§ 4.5. Analytical methodology.

A. Table IV-6 describes the EPA-approved methods which are mandatory for microbiological analyses of drinking water.

B. General.

Use only the analytical methodology specified in the National Primary Drinking Water Regulations (40 CFR Part 141.21(f)).

A laboratory shall be certified for all analytical methods indicated below that it uses. At minimum, the laboratory shall be certified for one total coliform method, one fecal coliform or *E. coli* method, and the Pour Plate Method for heterotrophic bacteria.

Laboratories shall perform a minimum of 20 coliform analyses monthly by each coliform method for which it is certified in order to maintain certification status or qualify for initial certification. The minimum number of coliform analyses (20) may be performed on a variety of water sample types collected from different stages of the water treatment process, raw source water, surface or ground water, as well as drinking water samples collected from a distribution system or private wells.

If any drinking water sample is total coliform-positive, the lab shall analyze that total coliform-positive culture to determine if fecal coliforms are present, except that the lab may test for *E. coli* in lieu of fecal coliforms. These tests are described in subsections G, H, and I of this section.

Invalidate any sample results that show interference from noncoliform organisms and request another sample from the same sampling point. This interference is generally caused by heterotrophic bacteria and is exhibited by a turbid culture with no gas formation in the presumptive phase of the MTF Test, confluent growth without coliforms or TNTC without coliforms in the Membrane Filter Test, a turbid culture bottle without color change in the Presence-Absence Test, or an indeterminate color change in the MMO-MUG Test.

Public water systems need only determine the presence or absence of total and fecal coliforms; coliform density determination is not required. 100 mL of sample must be used for each total coliform test.

Incubate cultures within 30 minutes of inoculation.

For purposes of simplicity, LSB will not be mentioned in these methods. When the methods refer to LTB, LSB may be substituted.

C. Membrane filter technique.

Shake sample vigorously before analyzing. Sample volume used shall be 100 ± 2.5 mL.

QC - Conduct MF sterility check by filtering 100 mL of sterile rinse water and plating on m-Endo medium at the beginning and the end of each sample filtration series. If sterile controls indicate contamination, reject all data from that series and request immediate resampling of those waters involved in the laboratory error.

QC - Run a 100 mL sterile rinse water blank between every 10 samples if the number of samples in a series exceeds 10.

Invalidate all samples resulting in confluent growth or TNTC (too numerous to count) without evidence of total coliforms. Record as "confluent growth" or "TNTC" and request an additional sample from the same sampling point. Confluent growth is defined as a continuous bacterial growth, without evidence of total coliforms, covering the entire membrane filter. TNTC is defined as greater than 200 colonies on the membrane filter in the absence of detectable coliforms. Do not invalidate the sample when the membrane filter contains at least one total coliform colony.

Typical coliform colonies have a pink to dark-red color with a metallic golden green sheen. Subject all sheen colonies to verification when there are 10 or fewer sheen colonies. When the number of coliform colonies exceeds 10, randomly pick 10 colonies for verification. Alternatively, swab the entire membrane surface and transfer to the verification media.

Verify sheen colonies using single strength LTB and then single strength BGLB broth, or an EPA-approved cytochrome oxidase and beta-galactosidase rapid test procedure.

To verify colonies in LTB and BGLB broth, use a sterile needle, loop, applicator stick or cotton swab. To verify colonies using the rapid test (cytochrome oxidase/beta-galactosidase test), pick isolated colonies using a sterile needle or applicator stick.

QC - If no coliform positive tests result from potable water samples, perform the MF procedure on a known-positive sample each month. Include the verification test for total and fecal coliform (or *E. Coli*).

D. Multiple tube fermentation technique.

100 mL of sample shall be used for each presumptive test. Laboratories may use 10 tubes, 5 tubes or a single culture bottle containing lauryl tryptose broth formulated as described in Table IV-5.

Confirm all gas-positive presumptive tubes and bottles in BGLB Broth. The formation of gas in any amount in the fermentation vial of the BGLB broth tube within a 48 ± 3 hour incubation time indicates a positive confirmed test.

Proposed Regulations

QC - All presumptive tubes or bottles with turbidity or heavy growth without gas production must be submitted to the confirmed test to check for the suppression of coliforms. Invalidate all samples which produce a turbid presumptive culture without gas and request an additional sample from the same sampling point, unless total coliforms are detected in the confirmed test.

QC - On a quarterly basis, conduct the Completed Test on at least 10% of all coliform-positive samples.

QC - If no coliform-positive tests result from potable water samples, perform the MTF procedure monthly on a known-positive sample. Perform the Confirmed Test and the Completed Test on all coliform-positive tubes or bottles. Include the fecal coliform or *E. coli* test.

E. Presence-Absence (P-A) Coliform Test.

Inoculate 100 mL of sample into P-A culture bottle.

Observe for turbidity and yellow color or turbidity alone after 24 and 48 hours. Confirm yellow cultures in BGLB broth. The presence of gas in the fermentation vial of the BGLB broth tube within a 48 ± 3 hour incubation time indicates a positive confirmation test for total coliforms.

QC - Confirm turbid and yellow cultures or turbid cultures with no color change in BGLB broth. Invalidate all samples which produce a turbid culture with no color change and request an additional sample from the same sampling point, unless coliforms are detected in the confirmed test.

QC - If no coliform positive tests result from potable water samples, perform the P/A Test on a known positive sample at least once a month. Include the confirmed test and the fecal coliform or *E. coli* test.

F. MMO-MUG Test.

Use 10 tubes, each containing 10 mL of sample, or a single sterile, transparent, nonfluorescent borosilicate glass culture bottle or equivalent bottle containing 100 mL of water sample.

Incubate for 24 hours at $35 \pm 0.5^\circ\text{C}$. A yellow color indicates the presence of total coliforms.

If yellow color is detected, check for fluorescence in the dark with a 365 or 366 nm UV lamp. Fluorescence indicates the presence of *E. coli*.

If no color change can be determined in 24 hours, reincubate for up to four more hours. Do not incubate for more than a total of 28 hours.

QC - If yellow color cannot be determined with a reference comparator after 28 hours, invalidate the

sample and request an additional sample from the same sample site.

Avoid prolonged exposure of inoculated tests to direct sunlight. Sunlight may hydrolyze indicator compounds and cause false positive results.

Laboratories are encouraged to perform parallel testing between the MMO-MUG test and another EPA-approved method for total coliforms for at least several months or several seasons to determine the effectiveness of the MMO-MUG Test on a variety of water submitted for analysis.

Laboratories that are certified for the MMO-MUG Test shall also be certified for the Membrane Filter Test, the Multiple Tube Fermentation Test or the Presence/Absence Test.

G. Fecal Coliform Test.

Use EC Medium for determining whether a total coliform-positive culture contains fecal coliforms.

Laboratories must conduct fecal coliform analysis in accordance with the following procedures. When the MTF Test or the Presence-Absence (P-A) Test is used to test for total coliforms, gently agitate the positive presumptive MTF tube or bottle or the positive P-A bottle and transfer the growth with a sterile 3 mm loop or sterile applicator stick into brilliant green lactose bile broth and EC medium to determine the presence of total and fecal coliforms, respectively. Incubate the BGLB broth at $35^\circ \pm 0.5^\circ\text{C}$ for 24-48 hours and check for gas. Incubate the EC medium at $44.5^\circ \pm 0.2^\circ\text{C}$ for 24 ± 2 hours and check for gas.

When the Membrane Filter Test is used, verify the sheen colonies by one of the following two methods: Swab the entire membrane filter surface with a sterile cotton swab and inoculate the contents of the swab into LTB. Do not leave the swab in the LTB. Alternatively, pick up to ten individual sheen colonies and inoculate into LTB. Gently agitate the inoculated tubes of LTB to insure adequate mixing. Incubate the LTB at $35^\circ \pm 0.5^\circ\text{C}$ for 24-48 hours. If the LTB tube shows gas within 24-48 hours, transfer by inoculating loop to a tube of BGLB broth and a tube of EC medium. Incubate the BGLB broth at $35^\circ \pm 0.5^\circ\text{C}$ for 24-48 hours and check for gas. Incubate the EC medium at $44.5^\circ \pm 0.2^\circ\text{C}$ for 24 ± 2 hours and check for gas. Insure water level of water bath reaches up per level of medium. Gas production of any amount in the inner fermentation tube of the EC medium indicates a positive fecal coliform test. The preparation of EC medium is described in Standard Methods, 16th Ed., 1985, Method 908C, p. 879, paragraph 1a. Public water systems need only determine the presence or absence of fecal coliforms; a determination of fecal coliform density is not required.

H. EC Medium + MUG Test (for *E. coli*).

Proposed Regulations

Use EC Medium supplemented with 50 ug/mL of 4-methylumbelliferyl-beta-D-glucuronide (MUG). The procedure for transferring and incubating a total coliform-positive culture to EC Medium + MUG is the same as that specified in subsection G of this section for transferring and incubating a total coliform-positive culture to EC Medium. After incubation, observe for fluorescence with a 365 or 366 nm ultraviolet light in the dark. A test is positive for *E. coli* if the medium fluoresces.

I. Nutrient Agar + MUG Test (for *E. coli*).

This test is used to determine if a total coliform-positive sample, as determined by the Membrane Filter Technique, contains *E. coli*.

Use Nutrient Agar supplemented with 100 ug/mL of 4-methylumbelliferyl-beta-D-glucuronide (MUG). Pour agar into 50 mm petri dishes.

Pick up to 10 coliform colonies for verification in LTB and BGLB as described in subsection C of this section.

Using sterile forceps, transfer the membrane filter containing one or more suspected coliform colonies from the *m*-Endo medium to the surface of the Nutrient Agar + MUG medium. Incubate plate at $35^{\circ} \pm 0.5^{\circ}\text{C}$ for four hours and observe for fluorescence using a 365 or 366 nm ultraviolet lamp in the dark. Any amount of fluorescence on a sheen colony is positive for *E. coli*.

J. MMO-MUG Test (for *E. coli*).

See subsection F of this section.

K. Heterotrophic Plate Count (HPC).

Use the pour plate method to determine the HPC for potable water and lab pure water samples. The pour plate method shall be performed as described in Standard Methods, 16th Ed., 1985, pp. 860-866.

QC - Check each flask of HPC agar for sterility by pouring a final control plate. Reject data if controls are contaminated.

§ 4.6. Sample collection, handling and preservation

A. If a laboratory does not collect samples and has no control over sample collection, handling, preservation and identification, the laboratory director must reject any samples not meeting sampling criteria and notify the authority requesting the analyses.

QC - The laboratory shall have a written sample rejection policy covering those samples that do not meet sampling requirements.

B. Sample collector shall be trained in sampling procedures and, if required, approved by the VDH-DWSE.

C. Samples shall be representative of the potable water distribution system. Samples collected from Public Water Supplies shall be collected in accordance with a Sample Siting Report approved by the VDH-DWSE. Water taps used for sampling are free of aerators, strainers, hose attachments, mixing type faucets and purification devices. Maintain a steady water flow for at least two minutes to clear the service line before sampling. Collect at least a 100 mL sample volume and allow at least 1/2 inch of space in the sample container to facilitate mixing of sample by shaking.

D. Laboratories that collect as well as analyze samples shall ice samples immediately after collection and deliver the samples directly to the laboratory.

E. Holding/travel time between sampling and analysis shall not exceed 30 hours. If the sample is analyzed after 30 hours, the laboratory shall indicate that the data may be invalid because of excessive delay before sample processing. No samples received after 48 hours shall be analyzed.

All samples received in the laboratory are to be analyzed on the day of receipt. In all cases, samples should be analyzed as soon after collection as possible.

F. Immediately after collection, enter on the sample report form the sample site location, sample type (e.g. regular, repeat, etc.), date and time of collection, free chlorine residual, collector's name and any remarks.

Record the date and time of sample arrival at the laboratory and the date and time analysis begins.

§ 4.7. Records and data reporting.

Records of microbiological analyses shall be kept by the laboratory or be accessible to the laboratory for at least five years. If reports are entered into a computer storage system, a printout of the data should be returned to the laboratory for verification from the bench worksheets. Summary reports shall contain all of the information required on individual sample records. Where applicable, standard Virginia State Health Department forms shall be used; where not applicable, sample report forms shall include the following:

1. Date, place, and time of sampling and sample collector's name.
2. Identification of sample as to whether it is a chlorinated or nonchlorinated sample, regular distribution system sample, repeat sample, raw or plant tap sample, well-water sample, or other special purpose sample.
3. Date and time of receipt of sample into the laboratory and date of analysis.
4. Laboratory and persons responsible for performing

analysis.

5. Analytical procedure/method used.

6. Analysis results.

§ 4.8. Action response to laboratory results.

A. Immediately notify the appropriate field office of the VDH-DWSE of any coliform-positive samples from Public Water Supplies.

B. All analytical results for compliance shall be reported directly to the VDH-DWSE as described in § 1.4, Compliance Data Report.

C. Although repeat sampling is to be initiated on the basis of coliform presence in either the MTF Confirmed Test, unverified MF Test, P/A Confirmed Test, or MMO-MUG Test, data used to determine monthly compliance may be adjusted by using the MTF Completed Test and/or verified MF Test results.

D. Notify the appropriate field office of the VDH-DWSE when samples from Public Water Supplies are invalidated due to interference from noncoliforms.

PART V. RADIOCHEMISTRY.

§ 5.1. Radiochemistry.

For radiochemistry certification of laboratories, DGS-DCLS shall require conformance to USEPA "Manual for the Certification of Laboratories Analyzing Drinking Water," EPA/570/9-90/008, Chapter VI, Radiochemistry, April 1990. Appropriate revisions of the manual shall become effective upon issuance.

V.A.R. Doc. No. R93-728; Filed July 21, 1993, 9:25 a.m.

STATE WATER CONTROL BOARD

Withdrawal of Proposed Regulations

The State Water Control Board has **WITHDRAWN** the following proposed regulations:

1. VR 680-13-03, Petroleum Underground Storage Tank Financial Responsibility Requirements, published 9:8 V.A.R. 1169-1196 January 11, 1993.
2. VR 680-13-06, Virginia Petroleum Storage Tank Fund, published 9:8 V.A.R. 1196-1206 January 11, 1993.
3. VR 680-14-14, Facility Financial Responsibility Requirements, published 9:8 V.A.R. 1239-1261 January 11, 1993.
4. VR 680-21-00, Water Quality Standards (VR

680-21-07.2, Special Designations in Surface Waters; VR 680-21-07.3, Nutrient Enriched Waters; and VR 680-21-08, River Basin Section Tables), published 9:8 V.A.R. 1263 January 11, 1993.

5. VR 680-14-01, Permit Regulation (REPEAL), published 9:17 V.A.R. 2774 May 17, 1993.

6. VR 680-14-01:1, VPDES Permit Program Regulation, published 9:17 V.A.R. 2774 May 17, 1993.

7. VR 680-14-03, Toxics Management Regulation (REPEAL), published 9:17 V.A.R. 2775 May 17, 1993.

8. VR 680-14-16, General Permit for Storm Water Discharges Associated with Heavy Manufacturing Facilities, published 9:17 V.A.R. 2775-2803 May 17, 1993.

9. VR 680-14-17, General Permit for Storm Water Discharges from Light Manufacturing Facilities, published 9:17 V.A.R. 2803-2823 May 17, 1993.

10. VR 680-14-18, General Permit for Storm Water Discharges from Transportation Facilities; Landfills, Land Application Sites and Open Dumps; Materials Recycling Facilities; and Steam Electric Power Generating Facilities, published 9:17 V.A.R. 2823-2844 May 17, 1993.

11. VR 680-14-19, General Permit for Storm Water Discharges from Construction Sites, published 9:17 V.A.R. 2844-2860 May 17, 1993.

12. VR 680-14-20, General Virginia Pollutant Discharge Elimination System (VPDES) Permit for Nonmetallic Mineral Mining, published 9:17 V.A.R. 2860-2879 May 17, 1993.

13. VR 680-14-21, Virginia Pollution Abatement (VPA) Permit Regulation, published 9:17 V.A.R. 2879-2894 May 17, 1993.

V.A.R. Doc. No. R93-738; Filed July 21, 1993, 11:14 a.m.

DEPARTMENT OF YOUTH AND FAMILY SERVICES (BOARD OF)

Title of Regulation: VR 690-30-001. Standards for Secure Detention Homes.

The Board of Youth and Family Services, on July 9, 1993, voted to **withdraw** proposed Standards for Secure Detention Homes, published in the Virginia Register as VR 690-30-001 on November 18, 1992 (8:4 V.A.R. 523-540 November 18, 1992). The Board intends to issue new standards for the Secure Juvenile Detention Facilities.

V.A.R. Doc. No. R93-737; Filed July 21, 1993, 9:48 a.m.

FINAL REGULATIONS

For information concerning Final Regulations, see information page.

Symbol Key

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

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES (BOARD OF)

REGISTRAR'S NOTICE: Due to its length, the following regulation filed by the Department of Agriculture and Consumer Services is not being published. However, in accordance with § 9-6.14:22 of the Code of Virginia, the summary is being published in lieu of the full text. The full text of the regulation is available for public inspection at the office of the Registrar of Regulations, General Assembly Building, 2nd Floor, 910 Capitol Street, Richmond, Virginia 23219 and at the Department of Agriculture and Consumer Services, Washington Building, 1100 Bank Street, Richmond, Virginia 23219.

Title of Regulation: VR 115-05-01. Rules and Regulations Governing The Production, Processing and Sale of Grade "A" Pasteurized Market Milk and Grade "A" Pasteurized Market Milk Products and Certain Milk Products .

Statutory Authority: § 3.1-530.1 of the Code of Virginia.

Effective Date: September 8, 1993.

Summary:

The regulation will continue certain authority contained in the existing regulation governing the production, processing, and sale of Grade "A" pasteurized milk and Grade "A" pasteurized milk products and certain milk products. The intent of the existing and final regulation is to ensure a safe and wholesome milk supply to the citizens of the Commonwealth of Virginia. The regulation has been drafted to include provisions of the existing regulation and to enhance its effectiveness. In addition, certain new provisions have been established which affect milk plants, receiving stations, transfer stations, producers and industry laboratories specifying: drug screening requirements of Grade "A" raw milk for pasteurization prior to processing; minimum penalties for violation of the drug residue requirements; new standards for temperature, somatic cell counts and cryoscope test; requirements to receive and retain a permit; sanitation requirements for Grade "A" raw milk for pasteurization; and sanitation requirements for Grade "A" pasteurized milk.

On May 19, 1993, the Board of Agriculture and Consumer Services adopted VR 115-05-01, Regulations Governing Grade "A" Milk. Before adopting the regulation, the board made the following changes:

1. The board amended the definition of "aseptically

processed milk" to include milk aseptically processed before packaging.

2. The board amended the definition of "aseptically processed milk product" to include milk product aseptically processed before packaging.

3. The board amended the definition of "condensed milk" to allow for processing methods other than the vacuum removal of a portion of water from milk.

4. The board amended the definition of "condensed whey" to allow for processing methods other than the vacuum removal of a portion of water from whey.

5. The board made a technical correction to the definition of "frozen milk concentrate" to accurately reflect the percentage of milkfat and the percentage of milk solids not fat of milk standards referenced in the definition.

6. The board included definitions for "vitamin A milk" and "vitamin A milk product" in the regulation.

7. The board included definitions for "cancel," "deny," "revoke," and "suspend" in the regulation.

8. The board struck from the regulation the giving of false or misleading cow numbers by a grade A dairy farm permit holder as a reason the state regulatory authority could suspend a permit.

9. The board struck from the regulation reference to coliform determinations on raw milk samples.

10. The board amended the requirement to suspend a grade A dairy farm permit on the first violation of the cryoscope standard to make the suspension effective on the second violation of the cryoscope standard.

11. The board amended the chemical residue or pesticide residue standards for raw milk, pasteurized milk, and aseptically processed milk to establish a tolerance of zero for any chemical residue or pesticide residue for which no actionable level, tolerance level, or safe level has been established.

12. The board amended language specifying when a grade A dairy farm permit could be suspended for violation of the temperature standards to more clearly state the intent.

13. The board struck the requirement for grade A

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dairy permit holders, grade A milk plant permit holders, grade A milk condensing and/or drying plant permit holders, and persons operating retail establishments to assist the state regulatory authority in the collection of samples.

14. The board amended the proposed regulation, before adopting it, to make clear that samples from individual grade A dairy farms were not required to be routinely screened for animal drug residues by milk plants, receiving stations, or transfer stations.

15. The board amended the proposed regulation by deleting reference to specific first and final action test methods for animal drug residues used by milk plants, receiving stations, or transfer stations and referenced instead Association of Official Analytical Chemists first and final action test methods.

16. The board amended the proposed regulation to more clearly define the milk which must be screened for animal drug residues by milk plants, receiving stations, or transfer stations.

17. The board amended the proposed regulation by including a provision that the state regulatory authority shall supply the remainder of any grade A dairy farm permit holder's original raw milk sample which has been screened as positive for animal drug residues to the dairy farm's milk marketing organization upon request.

18. The board amended the proposed regulation by striking the prohibition on the use of antibiotic-contaminated milk in any animal food.

19. The board amended the proposed regulation by eliminating the prohibition on the use of previously frozen milk or milk products in the processing of grade A milk and milk products.

20. The board amended the proposed regulation to include definitions for "sewage" and "septage."

21. The board amended the proposed regulation concerning the prohibition on the receipt of human waste on a grade A dairy farm to include only raw or untreated sewage or septage.

22. The board amended the proposed regulation by eliminating the requirement for shipping-statements to accompany milk received into Virginia from sources not under inspection of the state regulatory authority.

23. The board amended the temperature standard for raw milk to specify clearly that the raw milk shall be cooled to 40°F.

24. The board amended the proposed regulation by deleting the term "the person" or "the person's" in numerous places in the regulation to improve its

readability.

25. The board amended the requirement for both natural and artificial light in milkrooms and milking parlors to specify natural or artificial light.

26. The board changed the term "cowyard" to "cow yard" in the proposed regulation prior to adopting.

27. The board amended the distance requirement between a well casing and a pit privy from 50 feet to 100 feet.

28. The board amended the clipping requirements for the removal of hair from milking cows, goats, and sheep to allow for removal of hair by other means than clipping and limited the area required to be clipped to the udder and tail.

29. The board eliminated any requirement to brush milking cows, goats, or sheep prior to milking.

30. The board amended the proposed regulation to require that only the teats of all milking animals be sanitized prior to milking.

31. The board eliminated the requirement for a mix valve to be included with handwash facilities on grade A dairy farms.

32. The board amended the requirement for milk to completely cover the agitator paddle after the first milking to require that the milk cover the agitator paddle sufficiently to facilitate proper cooling and sampling.

33. The board amended the proposed regulation to include the requirement for annual whole goat herd testing for Brucellosis and Tuberculosis.

34. The board eliminated the requirement that each load of milk imported into Virginia be individually permitted by the state regulatory authority.

35. The board amended the proposed regulation to include provisions by which the state regulatory authority may summarily suspend a grade A permit.

36. The board amended the proposed regulation to include sheep milk in the grade A regulations.

37. The board eliminated from the proposed regulation any requirement for milk plants, receiving stations, or transfer stations to perform confirmatory animal drug residue testing for use by the state regulatory authority.

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

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Regulations.

Agency Contact: Copies of the regulation may be obtained from Lawrence H. Redford, Department of Agriculture and Consumer Services, 1100 Bank Street, Washington Building, Richmond, Virginia 23219, telephone (804) 786-3539. There may be a charge for copies.

VA.R. Doc. No. R93-725; Filed July 20, 1993, 11:08 a.m.

CHILD DAY-CARE COUNCIL

Title of Regulation: VR 175-02-01. Minimum Standards for Licensed Child Care Centers (Repealed).

Statutory Authority: § 63.1-202 of the Code of Virginia.

Effective Date: November 1, 1993.

Summary:

Before § 63.1-202 of the Code of Virginia was revised effective July 1, 1993, this section of the Code of Virginia provided the statutory basis for the Child Day-Care Council to promulgate regulations for child care centers. On June 27, 1991, the Child Day-Care Council approved the proposed repeal of the regulation entitled Minimum Standards for Licensed Child Care Centers for a 60-day public comment period. On July 8, 1993, the Child Day-Care Council approved the final repeal of this regulation.

The purpose of repealing this regulation is to allow two new regulations based on the ages of children in care to replace this regulation. These two new regulations are entitled Minimum Standards for Licensed Child Day Centers Serving Children of Preschool Age or Younger (VR 175-08-01) and Minimum Standards for Licensed Child Day Centers Serving School Age Children (VR 175-09-01).

As of June 30, 1993, there were 1,336 child care centers licensed by the Department of Social Services. They have a licensed capacity for 111,048 children ranging from birth to 18 years of age. Effective November 1, 1993, when the repeal of this regulation becomes effective, these centers will need to meet the requirements of the two new regulations mentioned above so the impact of the repeal is not significant in terms of cost.

* * * * *

Title of Regulation: VR 175-08-01. Minimum Standards for Licensed Child Day Centers Serving Children of Preschool Age or Younger.

Statutory Authority: §§ 63.1-202 and 63.1-202.1 of the Code of Virginia.

Effective Date: November 1, 1993.

Summary:

This regulation lists the standards that child day centers serving children of preschool age or younger must meet to be licensed by the Department of Social Services. The following areas are addressed in the regulation: (i) administration, (ii) personnel, (iii) physical plant, (iv) staffing and supervision, (v) program, (vi) special care provisions and emergencies, and (vii) special services.

The council revised the regulation taking into consideration the public comments received. Many suggestions for clarifying the standards were incorporated into the regulation. Substantial changes made to the standards in response to public comments are described below:

§ 2.13 - Instead of reducing the center's capacity by one for each child 13 years or older who receive supervision in the licensed program, these children shall be counted in the number of children receiving care.

§ 2.17 9 - Added back the previous exception so health records of children would not need to be duplicated when the center is located in the same building where the child attends school, the center has a statement verifying the school's possession of the health record, and the school's records are accessible during the center's hours of operation.

§ 2.18 2 - Deleted the requirement for parents who are volunteer personnel at a cooperative preschool to obtain two reference checks if the parent was referred to the school by another parent or if the board of the preschool documents in writing each year that it agrees not to obtain reference checks on families not referred by other members.

§ 2.26 - Deleted the requirement that programs, where children attend two weeks or fewer, are required to have the child involved in the personnel communication between staff and parent before the child's admission.

§ 4.9 2 - Deleted this standard about poisonous plants.

§ 4.17 - Revised so smoking is prohibited inside the center unless the center meets a specific exception.

§ 4.29 A - Revised to require a changing table or counter for changing diapers of children below the age of three (which is similar to a current requirement for infants).

§ 4.38 - The limitation on the height of outdoor slides and climbing equipment for children of preschool age or younger was revised to also apply to indoor slides

and climbing equipment.

§ 6.2 - Revised the amount of time for outdoor activity.

§ 6.8 - Revised to require daily activities to promote curiosity and exploration for infants and toddlers (already required for preschool children).

§ 6.27 - Added a new requirement that for awake infants playing on the floor or ground, staff shall change the position of the infants and the toys available to the infants every 30 minutes and more often as needed.

§ 6.36 - Added a new standard so indoor slides and climbing equipment shall not be over bare concrete, hardwood floors, masonry, vinyl, tile surface or similar surface.

§ 7.7 - Revised standard so staff wash their hands after using the toilet.

§ 7.14 - Revised so that all medication, not just prescription medication, shall be kept in the original container.

§ 8.6 - Revised to require centers to provide meals for children of preschool age or younger unless the children attend four or fewer hours per day. Also programs in operation before the effective date of the regulations and newly subject to licensure may have until July 1, 1996, to provide meals.

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

Agency Contact: Copies of the regulation may be obtained from Margaret J. Friedenber, Department of Social Services, 730 East Broad Street, Richmond, VA 23219, telephone (804) 692-1820. There may be a charge for copies.

VR 175-08-01. Minimum Standards for Licensed Child Day Centers Serving Children of Preschool Age or Younger.

PART I. INTRODUCTION.

Article 1. Definitions.

§ 1.1. Definitions.

Position titles used in these standards are descriptive only and do not preclude the use of other titles by centers.

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

["Administrator" means a manager or coordinator designated to be in charge of the total operation and management of one or more centers. The administrator may be responsible for supervising the program director or, if appropriately qualified, may concurrently serve as the program director.]

"Admission" means a written or oral agreement for a child's provisional inclusion in the program.

"Adult" means any individual 18 years of age or older.

"Age groups"

"Infant" means children from birth to 16 months.

"Toddler" means children from 16 months up to two years.

"Preschool" means children from two years up to the age of eligibility to attend public school, five years by September 30.

"School age" means children from the age of eligibility to attend public school and older, age five or older by September 30.

["Aide" means the individual designated to be responsible for helping the program leader or child care supervisor in supervising children and in implementing the activities and services for children.]

"Center" means a child day center.

"Character and reputation" means findings have established, and knowledgeable and objective people agree, that the individual (i) maintains business, professional, family, and community relationships which are characterized by honesty, fairness, and truthfulness, and (ii) demonstrates a concern for the well-being of others to the extent that the individual is considered suitable to be entrusted with the care, guidance, and protection of children. Relatives by blood or marriage, and people who are not knowledgeable of the individual, such as recent acquaintances, shall not be considered objective references.

"Child" means any individual under 18 years of age.

"Child day center" means a child day program offered to (i) two or more children under the age of 13 in a facility that is not the residence of the provider or of any of the children in care or (ii) 13 or more children at any location.

Exemptions: (§ 63.1-196.001 of the Code of Virginia)

1. A child day center that has obtained an exemption

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pursuant to § 63.1-196.3;

2. A program where, by written policy given to and signed by a parent or guardian, children are free to enter and leave the premises without permission or supervision. A program that would qualify for this exemption except that it assumes responsibility for the supervision, protection and well-being of several children with disabilities who are mainstreamed shall not be subject to licensure;

3. A program of instructional experience in a single focus, such as, but not limited to, computer science, archaeology, sport clinics, or music, if children under the age of six do not attend at all and if no child is allowed to attend for more than 25 days in any three-month period commencing with enrollment. This exemption does not apply if children merely change their enrollment to a different focus area at a site offering a variety of activities and such children's attendance exceeds 25 days in a three-month period;

4. Programs of instructional or recreational activities wherein no child under age six attends for more than six hours weekly with no class or activity period to exceed 1 1/2 hours, and no child six years of age or above attends for more than six hours weekly when school is in session or 12 hours weekly when school is not in session. Competition, performances and exhibitions related to the instructional or recreational activity shall be excluded when determining the hours of program operation;

5. A program that operates no more than a total of 20 program days in the course of a calendar year provided that programs serving children under age six operate no more than two consecutive weeks without a break of at least a week;

6. Instructional programs offered by public and private schools that satisfy compulsory attendance laws or the Individuals with Disabilities Education Act and programs of school-sponsored extracurricular activities that are focused on single interests such as, but not limited to, music, sports, drama, civic service, or foreign language;

7. Education and care programs provided by public schools which are not exempt pursuant to subdivision A 6 of this section shall be regulated by the State Board of Education using regulations that incorporate, but may exceed, the regulations for child day centers licensed by the commissioner;

8. Early intervention programs for children eligible under Part H of the Individuals with Disabilities Education Act wherein no child attends for more than a total of six hours per week;

9. Practice or competition in organized sports leagues;

10. Programs of religious instruction, such as Sunday schools, vacation Bible schools, and Bar Mitzvah classes, and child-minding services provided to allow parents or guardians who are on site to attend religious worship or instructional services;

11. Child-minding services which are not available for more than three hours per day for any individual child offered on site in commercial or recreational establishments if the parent or guardian (i) is not an on-duty employee, (ii) can be contacted and can resume responsibility for the child's supervision within 30 minutes, and (iii) is receiving services or participating in activities offered by the establishment;

12. A certified preschool or nursery school program operated by a private school which is accredited by a statewide accreditation organization recognized by the State Board of Education which complies with the provisions of § 63.1-196.3:1. The provisions of this subdivision shall expire on July 1, 1994.

13. Prescribed therapeutic recreation programs provided for children with disabilities in programs that meet the child day center definition shall not be subject to licensure under this chapter until the appropriate regulations are promulgated; or

14. By policy, a child day center that is required to be programmatically licensed by another state agency for that service.

"Child day program" means a regularly operating service arrangement for children where, during the absence of a parent or guardian, a person or organization has agreed to assume responsibility for the supervision, protection, and well-being of a child under the age of 13 for less than a 24-hour period.

"Commissioner" means the commissioner of Social Services, also known as the director of the Virginia Department of Social Services.

"Contract employee" mean an individual who enters into an agreement to provide specialized services for a specified period of time.

"Department" means the Virginia Department of Social Services.

"Department's representative" means an employee or designee of the Virginia Department of Social Services, acting as the authorized agent of the commissioner.

"Developmentally appropriate" means a philosophy which applies a knowledge of child development to the curriculum, the environment, adult-child interactions, and staff-parent interactions, and which recognizes the age span of the children within the group, as well as the needs of the individual child.

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"Enrollment" means the actual attendance of a child as a member of the center.

"Evening care" means care provided in a center between the hours of 7 p.m. and 1 a.m., inclusively.

"Fall zone" means the area underneath and surrounding equipment that requires a resilient surface. It shall encompass sufficient area to include the child's trajectory in the event of a fall while the equipment is in use.

["Field trips" means excursions away from the facility including walks away from the facility.]

"Licensee" means any individual, partnership, association, public agency, or corporation to whom the license is issued.

"Montessori Module" means a group of alternative, specific standards in the regulations allowed for all programs meeting the eligibility criteria of a Montessori preschool, as specified in the module.

"Montessori preschools" means educational programs wherein the teacher training and subsequent pedagogy are approved by either American Montessori Society, American Montessori Internationale, National Council of Montessori Education, or Saint Nicholas Montessori, thus verifying that the preschool meets the Montessori standards as outlined in the Montessori Module. Only Montessori schools which meet the Montessori criteria as outlined in the Montessori Module are eligible to comply with the modified licensing standards contained in that module.

"Overnight care" means care provided in a center between the hours of 1 a.m. and 5 a.m., inclusively.

"Parent" means the biological or adoptive parent or parents or legal guardian or guardians of a child enrolled in or in the process of being admitted to a center.

"Physician" means an individual licensed to practice medicine in any of the 50 states or the District of Columbia.

["Program director" means the primary, on-site director or coordinator designated to be responsible for developing and implementing the activities and services offered to children, including the supervision, orientation, training, and scheduling of staff who work directly with children, whether or not the program director personally performs these functions.

Exception: The administrator may perform staff orientation, training or program development functions if the administrator meets the qualifications in § 3.6 of these regulations and a written delegation of responsibility specifies the duties of the program director.

"Program leader" or "child care supervisor" means the individual designated to be responsible for the direct

supervision of children and for implementation of the activities and services for a group of children.]

"Programmatic experience in the group care of children" means time spent working directly with children in a group, in a child care situation which is located away from the child's home (e.g., Sunday school, vacation Bible school, scouts, etc.).

"Sponsor" means an individual, partnership, association, public agency, corporation or other legal entity in whom the ultimate authority and legal responsibility is vested for the administration and operation of a center subject to licensure.

"Staff" means administrative, activity, service, and volunteer personnel including the licensee when the licensee is an individual who works in the facility.

["Staff positions" are defined as follows:

"Aide" means the individual designed to be responsible for helping the program leader/child care supervisor in supervising children and in implementing the activities and services for children.

"Program leader" or "child care supervisor" means the individual designated to be responsible for the direct supervision of children and for implementation of the activities and services for a group of children.

"Program director" means the primary, on-site director/coordinator designated to be responsible for developing and implementing the activities and services offered to children, including the supervision, orientation, training, and scheduling of staff who work directly with children, whether or not the program director personally performs these functions.

Exception: The administrator may perform staff orientation/training or program development functions if the administrator meets the qualifications of § 3.6 of these regulations and a written delegation of responsibility specifies the duties of the program director.

"Administrator" means a manager or coordinator designated to be in charge of the total operation and management of one or more centers. The administrator may be responsible for supervising the program director or, if appropriately qualified, may concurrently serve as the program director.]

"Volunteers" means persons who come to the center less than once a week and are not counted toward the required number of staff.

"Volunteer personnel" means persons who work at the center once a week or more often or who are counted in the required ratio of staff to children. [Parent volunteers, such as parents helping in the classroom of a parent

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cooperative preschool, are considered volunteer personnel if they are counted in the staff-to-children ratio or if they volunteer once a week or more often.]

Article 2. Legal Base.

§ 1.2. Chapter 10 (§ 63.1-195 et seq.) of Title 63.1 of the Code of Virginia describes the responsibility of the Department of Social Services for the regulation of residential and day programs for children, including child day centers.

§ 1.3. Section 63.1-202 of the Code of Virginia requires the Child Day-Care Council to prescribe standards for certain activities, services, and facilities for child day centers.

Article 3. Purpose.

§ 1.4. The purpose of these minimum standards is to protect children of preschool age or younger who are separated from their parents during a part of the day by:

1. Ensuring that the activities, services, and facilities of centers are conducive to the well-being of children, and
2. Reducing risks in the [~~child care~~] environment.

Article 4. Applicability.

§ 1.5. The minimum standards in Part I through VIII [~~or the alternative standards in the Montessori Module in Part IX of these regulations and the Montessori Module in Part IX of these regulations for Montessori preschools wanting to meet alternative standards,~~] apply to child day centers serving children of preschool age or younger as defined in § 1.1 of these standards.

PART II. ADMINISTRATION.

Article 1. Sponsorship.

§ 2.1. Each center shall have a clearly identified sponsor which shall be identified by its legal name in accordance with state requirements.

§ 2.2. The names and addresses of individuals who hold primary financial control and officers of the sponsor or governing body shall be disclosed fully to the Department of Social Services.

§ 2.3. The sponsor, represented by the individual proprietor, partners, officers, and managers delegated authority to act for a sponsor shall be of good character and reputation and shall not have been convicted of a felony or a misdemeanor related to abuse, neglect, or

exploitation of children or adults.

Article 2. Operational Responsibilities.

§ 2.4. As required in § 63.1-198 of the Code of Virginia, the sponsor shall afford the commissioner or his agents the right at all reasonable times to inspect facilities, all of his financial books and records, and to interview his agents, employees, and any child or other person within his custody or control.

§ 2.5. The license shall be posted in a place conspicuous to the public, near the main entrance of the building or the main office.

§ 2.6. The operational responsibilities of the licensee shall include, but not be limited to, the following:

1. To develop a written statement of the purpose, scope, and philosophy of the services to be provided by the center and written policies under which the center will operate;
2. To ensure that the center's activities, services, and facilities are maintained in compliance with: these minimum standards; the terms of the current license issued by the department; other relevant federal, state, and local laws and regulations including the Americans with Disabilities Act and state law regarding disabilities; and the center's own policies and procedures; and
3. To identify in writing the individuals responsible for the day-to-day operations and implementation of both these regulations and the facility's policies.

§ 2.7. No center "shall make, publish, disseminate, circulate, or place before the public, or cause, directly or indirectly, to be made...an advertisement of any sort regarding services or anything so offered to the public, which... contains any promise, assertion, representation, or statement of fact which is untrue, deceptive, or misleading" (§ 63.1-196 of the Code of Virginia).

§ 2.8. The center shall maintain public liability insurance for bodily injury with a minimum limit of at least \$500,000 each occurrence and [with a minimum limit of] \$500,000 aggregate or have equivalent self-insurance which is in compliance with local codes. Evidence of insurance coverage shall be made available to the department's representative upon request unless the center is self-insured.

§ 2.9. A plan of accident or school insurance shall be available to the parent. The center may designate whether the parent's participation in the plan is optional or mandatory.

§ 2.10. The center shall develop an annual plan for injury prevention. This plan shall be based on documentation of

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njuries and a review of the activities and services.

§ 2.11. The center shall develop a playground safety plan which shall include:

1. Provision for active supervision by staff;
2. Positioning of staff on the playground to help meet the safety needs of children; and
3. Method of maintaining resilient surface.

§ 2.12. Hospital operated centers may temporarily exceed their licensed capacity during a natural disaster or other catastrophe if:

1. The center has developed a plan with defined limits for its emergency operation, and
2. The center has received prior approval of the plan by the department. The department may monitor the center during this time and impose additional requirements for the safety of children or withdraw the approval to exceed the capacity.

§ 2.13. If children 13 years or older receive supervision in the licensed program, [the center's licensed capacity shall be reduced by one for each child 13 years of age or older they shall be counted in the number of children receiving care] .

Article 3. Policies and Procedures.

§ 2.14. Before a child's enrollment, parents shall be provided in writing the following:

1. Operating information:
 - a. The center's purpose, scope, philosophy, and any religious affiliations;
 - b. The hours and days of operation and holidays or other times closed;
 - c. The procedures for admission and registration of children;
 - d. Fees and tuition including whether participation in the accident or school insurance is mandatory;
- [e. The phone number of the center;]
- [e. f.] The program and services provided and the ages of children accepted;
- [f. g.] Organizational chart or other description of established lines of authority for persons responsible for center management within the organization;
- [g. h.] Reasons and procedures for removal of

children from rolls including the amount of notice required for the parent and center before removal from the program; and

[h. i.] Licensing information found in Appendix I.

2. Arrival and departure for children.
 - a. Policy governing a parent picking up a child after closing hours and procedures if the child is not picked up;
 - b. Policy for release of children from the center only to responsible persons for whom the center has written authorization; and
 - c. Procedures for protecting children from traffic and other hazards during arrival and departure and when crossing streets.
3. Program and activities:
 - a. Procedures and policies about accepting and storing children's personal belongings;
 - b. Discipline policies including acceptable and unacceptable discipline measures;
 - c. Food policies; and
 - d. Transportation safety policies and procedures when provided.
4. Health and emergencies:
 - a. Procedures for storing and giving children's medications; and
 - b. Policy for reporting suspected child abuse.

§ 2.15. Before staff are allowed to supervise children, staff shall be provided with the information listed in § 2.14 and the following:

1. Procedures for caring for a child who may arrive after any scheduled start time of the center;
2. Procedures to confirm absence of a child from the center when the child attends more than one care or educational arrangement a day;
3. Procedures for identifying where attending children are at all times including field trips; and
4. Procedures for action in case of lost or missing children, ill or injured children, medical emergencies, and natural disasters, including but not limited to fire, flood, or other severe weather.

Article 4. Records, Logs, and Reports.

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§ 2.16. General record keeping.

A. All children's records and personnel records shall be treated confidentially [with access restricted to staff and officials under the authority of the Code of Virginia. Children's records shall also be available to the custodial parent unless otherwise provided in the law] . [Exception: Children's records shall be made available to the custodial parent upon request.]

B. Records, logs, and reports shall be kept. Records may be kept at a central location except as indicated otherwise in these standards.

C. All records, logs, and reports on children and staff required by these standards shall be maintained and made accessible for two years after termination of enrollment or employment unless specified otherwise.

§ 2.17. Children's records.

Each center shall maintain and keep at the center a separate record for each child enrolled which shall contain the following information:

1. Name, nickname (if any), sex, and birth date of the child;
2. Name, home address, and home phone number of each parent who has custody;
3. When applicable, work phone number and place of employment of each parent who has custody;
4. Name and phone number of child's physician;
5. Name, address, and phone number of two designated people to call in an emergency if a parent cannot be reached;
6. Names of persons authorized to pick up the child. Appropriate legal paperwork shall be on file when the custodial parent requests the center not to release the child to the other parent;
7. Allergies and intolerance to food, medication, or any other substances, and actions to take in an emergency situation;
8. Chronic physical problems and pertinent developmental information;
9. Health information as required by [§§ 2.27 through 2.29 §§ 2.26 through 2.28] of these regulations;

[Exception: When a center is located in the same building where a child attends school and the child's record has a statement verifying the school's possession of the health record, the center is not required to maintain duplicates of the school's health record for that child provided the school's records are

accessible during the center's hours of operation.]

10. Written agreements between the parent and the center as required by §§ 2.21 and 2.22;

11. Name of any additional programs or schools that the child is concurrently attending and the grade or class level; and

12. Enrollment and termination date.

§ 2.18. Staff records.

Staff records shall be kept for paid staff and volunteer personnel which shall include the following:

1. Name, address, verification of age requirement, job title, and date of employment or volunteering;
2. Documentation that two or more references as to character and reputation as well as competency were checked before employment or volunteering. If a reference check is taken over the phone, documentation shall include dates of contact, names of persons contacted, the firms contacted, results, and signature of person making call.

[Exception Exceptions] : Reference checks are not required for:

- a. Staff hired before April 1, 1986, in center initially licensed before July 1, 1993 [; and .]
- b. Staff who began work before July 1, 1993, in previously excepted centers that were initially required to be licensed after July 1, 1993.

[c. Parents who are volunteer personnel at a cooperative preschool if the parent was referred to the school by another parent or if the board of the preschool documents in writing each year that it agrees not to obtain reference checks on families not referred by other members.]

3. A criminal record check as required by the Regulation for Criminal Record Checks for Child Welfare Agencies;

[Note: Criminal record checks are required for volunteers, except for parent volunteers as defined in the Regulation for Criminal Record Checks, who at any time would be alone with, in control of, or supervising one or more children outside the physical presence of a paid facility staff member.

Note: Staff records on parents who are volunteer personnel at a cooperative preschool may be combined with the children's records if the parent agrees to this arrangement.]

4. Name, address, and telephone number of a person

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to be notified in an emergency which shall be kept at the center;

5. Written information to demonstrate that the individual possesses the education, orientation training, staff development, certification, and experience required by the job position;

6. First aid and other certification as required by the responsibilities held by the staff member;

7. Health information as required by [~~§§ 2.30 through 2.32~~ §§ 2.29 through 2.31] of these regulations;

8. Information, to be kept at the center, about any health problems which may interfere with fulfilling the job responsibilities; and

9. Date of termination when applicable.

§ 2.19. The center shall keep a written log of the following:

1. Children in attendance each day;
2. Medication given to children as required by subdivisions 1 through 4 of § 7.17;
3. Children's accidents or injuries as required in subdivisions 1 through 7 of § 7.35;
4. Quarterly asbestos inspections as required in subdivision C 2 of § 4.2; and
5. Emergency evacuation practice drills as required in § 7.29.

§ 2.20. Reports shall be filed and maintained as follows:

1. The center shall inform the commissioner's representative within two working days of the circumstances surrounding the following incidences:
 - a. Death of a child, and
 - b. Missing child when local authorities have been contacted for help.
2. Any suspected incidence of child abuse shall be reported in accordance with § 63.1-248.3 of the Code of Virginia.

Article 5. Enrollment and Termination Procedures.

§ 2.21. A written agreement between the parent and the center shall be in each child's record at the time of the child's enrollment. The agreement shall be signed by the parent and include:

1. An authorization for emergency medical care should

an emergency occur when the parent cannot be located immediately, and

2. A statement that the center will notify the parent when the child becomes ill and that the parent will arrange to have the child picked up as soon as possible.

§ 2.22. When applicable, written permission from the parent authorizing the child's participation in the center's transportation and field trips shall be in the child's record.

§ 2.23. Reserved.

[~~§ 2.24. The phone number of the center shall be given to the parent upon the child's enrollment.~~]

[~~§ 2.25. § 2.24.~~] When a center decides to terminate the enrollment of a child, the center shall provide the parent in writing the reasons for termination.

[~~§ 2.26. § 2.25.~~] Before the admission of a preschool or younger child, there shall be personal communication among a staff person, the parent, and the child unless there are unusual circumstances which do not allow the child to be present for the communication. The purpose of the communication shall be to provide the opportunity for the parent and staff to share information and agree about the admission of the child.

[Exception: Programs, where children attend two or fewer weeks, are not required to involve the child during this communication.]

Article 6. Health for Children and Staff.

[~~§ 2.27. § 2.26.~~] Immunizations for children.

A. Regulations by the State Board of Health for the immunization of school children require documentation of all age appropriate immunizations prescribed in the regulations before each child's enrollment to a center licensed by this Commonwealth.

Exemptions (subsection C of § 22.1-271.2 of the Code of Virginia and § 3.03 of the Regulations for the Immunizations of School Children.): Documentation of immunizations is not required for any child whose (i) parent submits an affidavit to the center, on the form entitled "Certification of Religious Exemption," stating that the administration of immunizing agents conflicts with the parent's or child's religious tenets or practices, or (ii) physician or a local health department states on a MCH 213B or MCH 213C Form that one or more of the required immunizations may be detrimental to the child's health.

B. Updated information on immunizations received shall be obtained once every six months for children under the age of two years.

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C. Updated information on immunizations received shall be obtained once between each child's fourth and sixth birthdays.

[~~§ 2-28.~~ § 2.27.] Physical examinations for children.

Each child shall have a physical examination by or under the direction of a physician before enrollment or within one month after enrollment. The schedules for examinations prior to enrollment for children are listed below:

1. Within two months prior to enrollment for children six months of age and younger;
2. Within three months prior to enrollment for children aged seven months through 18 months;
3. Within six months prior to enrollment for children aged 19 months through 24 months; and
4. Within 12 months prior to enrollment for children two years of age through five years of age.

Exceptions:

1. Children transferring from a facility licensed by the Virginia Department of Social Services, certified by a local department of public welfare or social services, registered as a small family day home by the Virginia Department of Social Services or by a contract agency of the Virginia Department of Social Services, or approved by a licensed family day system:

- a. If the initial report or a copy of the initial report of immunizations is available to the admitting facility, no additional examination is required.
- b. If the initial report or a copy of the initial report is not available, a report of physical examination and immunization is required in accordance with [~~§§ 2-27 and 2-28~~ §§ 2.26 and 2.27] .

2. (Subsection D of § 22.1-270 of the Code of Virginia): Physical examinations are not required for any child whose parent objects on religious grounds. The parent must submit a signed statement noting that the parent objects on religious grounds and certifying that to the best of the parent's knowledge the child is in good health and free from communicable or contagious disease.

[~~§ 2-29.~~ § 2.28.] Form and content of immunizations and physical examination reports for children.

A. The current form required by the Virginia Department of Health shall be used to report immunizations received and the results of the required physical examination. See Appendix II for a copy of this form. Exception: When the current Health Department form has not been used such as, but not limited to, when

a child transfers from another state, other documentary proof of the child having received the required examination and immunization shall be accepted. Documentary proof may include, but not be limited to, an International Certificate of Immunization, another state's immunization form, or a physician's letterhead.

B. Each report shall include the date of the physical examination and dates immunizations were received.

C. Each report shall be signed by a physician, his designee, or an official of a local health department.

[~~§ 2-30.~~ § 2.29.] Tuberculosis examination for staff.

A. Each staff member, including the licensee, administrator, and volunteer personnel, shall obtain and submit a statement that he is free of tuberculosis in a communicable form. The statement shall be submitted no later than five working days after employment [or volunteering] and shall:

1. Be dated within 30 days before or five working days after employment of the individual;
2. Include the types of tests used and the results; and
3. Include the signature of the physician, the physician's designee, or an official of a local health department.

Exceptions: When a staff member terminates work at one licensed facility or public or private school and begins work at a licensed center with a gap in service of six months or less, the previous statement of tuberculosis screening may be transferred to the licensed center. Centers newly subject to licensure do not need to require staff hired before [the effective date of these regulations November 1, 1993] to submit a statement of tuberculosis screening.

B. The tuberculosis examination shall be repeated as required by a licensed physician or the local health department.

C. Any staff member who comes in contact with a known case of tuberculosis or who develops chronic respiratory symptoms shall within one month after exposure or development receive an evaluation in accordance with subsections A and B of this section.

[~~§ 2-31.~~ § 2.30.] When there is evidence that the safety of children may be jeopardized by the physical health or mental health of a staff member or volunteer, a report of examination of this person by a physician or, if appropriate, a clinical psychologist skilled in the diagnosis and treatment of mental illness shall be obtained. The request for obtaining an examination may come from the licensee, administrator, or department.

[~~§ 2-32.~~ § 2.31.] If a staff member's or volunteer's

examination or test results indicate that his physical or mental condition may jeopardize the safety of children or prevent his performance of duties, the staff member shall not be allowed contact with children or food served to children. The staff member may return when his condition is cleared to the satisfaction of the physician or clinical psychologist as evidenced by a signed, dated statement from the physician or clinical psychologist.

PART III. PERSONNEL.

Article 1. General Qualifications.

§ 3.1. No staff shall have been convicted of a felony or a misdemeanor related to abuse, neglect, or exploitation of children or adults.

§ 3.2. All staff shall understand and be sensitive to the varying capabilities, interests, needs, and problems of children in care.

§ 3.3. All staff shall be:

1. Of good character and reputation;
2. Capable of carrying out assigned responsibilities;
3. Willing and able to accept training and supervision;
4. Able to communicate effectively both orally and in writing as applicable to the job responsibility; and
5. Able to understand and apply the minimum standards in this booklet which relate to their respective responsibilities.

§ 3.4. All staff who work directly with children shall have the ability to:

1. Communicate with emergency personnel and understand instructions on a prescription bottle;
2. Communicate effectively and appropriately with the age group to which the staff person is assigned;
3. Communicate effectively with parents;
4. Provide a stimulating and safe environment for the age group to which the staff person is assigned; and
5. Use materials, activities, and experiences to encourage children's growth and development.

Article 2. Qualifications by Job Responsibility.

§ 3.5. All staff who work in multiple positions within the center shall meet the qualifications for each position. Note: Personnel titles used in the standards are descriptive only.

Centers are not required to use the same titles. The administrator or program director may have responsibilities for several centers at one site.

§ 3.6. Administrators.

There shall be an administrator designated to be in charge of the total operation of the center. Administrators hired after the effective date of these regulations who perform responsibilities of the program director shall be at least 21 years of age and shall possess an endorsement, bachelor's degree or associate degree in a child related field from an accredited college or university and one year of programmatic experience in the group care of children.

Exception: Montessori preschools may meet the alternative requirements in the Montessori Module.

§ 3.7. There shall be a program director designated to be responsible for developing and implementing the activities and services offered to children. There may be one program director for [~~several types of centers~~ a center offering care to both school age and preschool children] at one site or there may be [~~one program director for each type of center at one site~~ two directors, according to the age of the children, for a center serving school age and preschool children] . If a program director is responsible for a center with school age children and a center with children of preschool age or younger, the qualifications applicable to both school age and preschool age and younger shall apply.

§ 3.8. Program directors for centers with children of preschool age or younger.

A. Program directors hired or promoted before the effective date of these regulations shall have until July 1, 1996, to meet the qualifications of subsection B of this section. Program directors hired or promoted after [~~the effective date of these regulations~~ November 1, 1993,] shall meet the qualifications of subsection B of this section immediately.

B. Program directors for centers with children of preschool age or younger shall be at least 21 years of age and possess one of the following:

1. A graduate degree in a child related field from an accredited college or university and six months of age appropriate, programmatic experience in the group care of children; or
2. An endorsement or bachelor's degree in a child related field from an accredited college or university and one year of age appropriate, programmatic experience in the group care of children; or
3. Forty-eight semester hours or 72 quarter hours of college credit from an accredited college or university of which 12 semester hours or 18 quarter hours are in

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subjects relating to group care of children and one year of age appropriate, programmatic experience in the group care of children; or

4. Two years of age appropriate, programmatic experience in the group care of children, of which one year of this experience shall be in a staff supervisory capacity, and at least one of the following educational backgrounds:

- a. Forty-eight semester hours or 72 quarter hours of college credit from an accredited college or university;
- b. One year early childhood certificate; or
- c. A Child Development Associate credential or equivalent as determined by the department based on documentation supplied by those claiming equivalency.

Note: For the programmatic experience to be considered age appropriate at least some of the experience shall be with children of preschool age or younger.

Exception: Montessori preschools may meet the alternative requirements in the Montessori Module.

§ 3.9. Back-up for program directors.

A. For centers operating eight hours or more per day, if the program director is regularly present in the facility fewer than four hours per day, there shall be an officially designated person who shall assume the responsibility in the absence of the program director and meet the qualifications of § 3.8. In addition, if the program operates multiple shifts for working parents, a program director shall be regularly present for at least four hours of each shift or have a back-up program director who shall assume responsibility in the absence of the director and meet the qualifications of § 3.8. The grandfather clause as stated in subsection A of § 3.8 shall also apply to back-up program directors.

B. For centers operating eight hours or less per day, if the program director is regularly present in the facility less than 50% of the hours of operation, there shall be an officially designated person who shall assume responsibility in the absence of the program director and meet the qualifications of § 3.8. The grandfather clause stated in subsection A of § 3.8 shall also apply to back-up program directors.

Exception: Montessori preschools may meet the alternative requirements in the Montessori Module.

§ 3.10. Program leaders and child care supervisors.

Program leaders and child care supervisors shall be at least 18 years of age and have a high school diploma or G.E.D. In addition, program leaders and child care

supervisors who are hired or promoted after the effective date of these regulations and who work with children of preschool age or younger shall meet the program director qualifications in § 3.8 or possess one of the following :

1. An endorsement or bachelor's degree in a child related field from an accredited college or university; or
2. Forty-eight semester hours or 72 quarter hours of college credit from an accredited college or university of which 12 semester hours or 18 quarter hours are in subjects relating to group care of children and six months of age appropriate, programmatic experience in the group care of children; or
3. A one year early childhood certificate from an accredited college or university and six months of age appropriate, programmatic experience in the group care of children; or
4. A Child Development Associate credential; or
5. One year of age appropriate, programmatic experience in the group care of children and participation in a staff training plan of at least 10 hours. The training plan shall reflect developmentally appropriate practices and be conducted within six months of employment or promotion to a program leader at the center.

Note: For the programmatic experience to be considered age appropriate, at least some of the experience shall be with children of preschool age or younger.

Exception: Montessori preschools may meet the alternative requirements in the Montessori Module.

§ 3.11. Aides.

Aides shall be at least 16 years of age and shall meet the general qualifications, health, orientation training, and staff development requirements for the applicable position.

§ 3.12. Volunteer personnel.

Volunteer personnel shall meet the qualifications for the applicable position.

§ 3.13. Volunteers.

A. The duties of volunteers shall be clearly defined.

B. Volunteers who work with children of preschool age or younger shall be at least 14 years of age.

Article 3.

Staff Orientation Training and Development.

§ 3.14. Orientation training.

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Before assuming job responsibilities, all staff shall receive the following training [and shall certify in writing that all the required training was received] :

1. Job responsibilities and to whom they report;
2. The policies and procedures listed in §§ 2.14 and 2.15 that relate to the staff member's responsibilities;
3. The center's playground safety plan unless the staff member will have no responsibility for playground activities or equipment;
4. Confidential treatment of personal information about children in care and their families; and
5. The minimum standards in this booklet which relate to the staff member's responsibilities.

§ 3.15. Staff development.

A. The center shall have a plan for staff development.

B. Staff development activities to meet subsection C of this section shall:

1. Be related to children and the function of the center;
2. Consist of some sources outside the center which may include but not be limited to audio and visual tapes, conferences, and workshops;
3. Be from someone with verifiable expertise or experience when conducted as in-service training; and
4. Include annually the topics of safety for children, child development and discipline, and playground supervision for staff.

C. In addition to first aid and orientation training required elsewhere in these regulations, employed staff who work directly with children shall annually attend eight hours of staff development activities.

Exception: Montessori preschools may meet the alternative requirements in the Montessori Module.

§ 3.16. There shall be at least one staff member on duty at all times who has obtained instruction in performing the daily health observation of children. This instruction shall be obtained from a physician, registered nurse, or health department medical personnel at a three-year interval.

PART IV. PHYSICAL PLANT.

Article 1.

Approval from Other Agencies.

§ 4.1. Requirements prior to initial licensure.

A. Before issuance of initial license and before use of newly constructed, renovated, remodeled, or altered buildings or sections of buildings, written documentation of the following shall be provided by the applicant or licensee to the licensing representative:

1. Inspection and approval [of buildings] from the appropriate authority [that the buildings meet building codes or that the center has an approved plan of correction] ; and
2. Inspection and approval from the local health department, or approval of a plan of correction, for meeting requirements for:
 - a. Water supply;
 - b. Sewerage disposal system; and
 - c. Food service, if applicable.

Exception: Any building which is currently approved for school occupancy and which houses a public or private school during the school year shall be considered to have met the requirements of subdivision A 1 of [§ 4-1 this section] when housing a center only serving children two and a half years of age or older.

B. If a building was under construction before 1978, a written statement from a Virginia licensed asbestos inspector and management planner shall be submitted before initial licensure in order to comply with § 63.1-198.01 of the Code of Virginia. The statement shall include:

1. Verification that the building in which the child day center is located was inspected for asbestos according to the requirements of the Asbestos Hazard Emergency Response Act - 40 CFR Part 763 - Asbestos Containing Materials in Schools;
2. The dates of the inspection;
3. Whether asbestos was found in the building;
4. Signature of the licensed asbestos inspector and management planner, including the Virginia license numbers; and
5. If asbestos is found or assumed, the statement shall include:
 - a. The location of any significant asbestos hazard areas;
 - b. Verification of completion of the management plan;
 - c. Response actions recommended by the inspector; and

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d. Verification that response actions have been completed.

Exception: Private, nonprofit schools providing educational instruction to children five years of age or older are also subject to the federal requirements of the Asbestos Hazard Emergency Response Act (AHERA). Private, nonprofit schools which are also subject to licensure and have had an asbestos inspection completed prior to the implementation of these regulations may submit the letter of completion they have received from the Department of Education, in lieu of the requirements of this subsection.

Private, nonprofit schools subject to the federal AHERA requirements, but which have not already received an asbestos inspection must comply with subsections B and C of this section.

C. If asbestos was found in the building, before a license will be issued the prospective licensee shall:

1. Submit to the department a signed, written statement that:

a. Response actions to remove all asbestos containing materials have been completed or

b. The recommendations of the operations and maintenance plan will be followed, appropriate staff will receive the necessary training and documentation of required inspections will be completed.

2. Maintain documentation of removal at the center for review by the department's representative.

3. Send written notification to the parents, department, and other adult occupants of the building about the presence and location of the asbestos containing material as well as the advisement that the asbestos inspection report and operation and maintenance plan are available for review. A copy of this notification shall be submitted to the department.

Note: The department may request that the complete asbestos inspection report and operations and maintenance plan be submitted for review.

Exception: The asbestos requirements of subsections B and C of this section do not apply to child day centers located in a currently operating public school building or a state owned building since the asbestos requirements of these buildings are regulated by other agencies.

§ 4.2. Requirements subsequent to initial licensure.

A. Every 12 months, written documentation shall be obtained and provided to the licensing representative of inspection and approval from the appropriate fire prevention official that the center's facility complies with

the Statewide Fire Prevention Code.

[*Exception:* If a center is located in a building currently housing a public or private school during the school year, the school's fire inspection report may be accepted in lieu of the requirements of [standard 4-2 A subsection A of this section] if the inspection was completed within the past 12 months.]

B. Subsequent to initial licensure, and as required by the local health department, written documentation shall be provided of any additional inspections and approvals, or approvals of a plan of correction, for meeting:

1. Water supply;
2. Sewerage disposal system; and
3. Food service, if applicable.

C. For those buildings where asbestos containing materials are found or assumed and not removed:

1. The administrator or a designated staff member shall take the required asbestos training as specified in the operations and maintenance plan for the facility;

2. The administrator or a designated staff member who has received the required asbestos training shall conduct visual inspections of all asbestos containing materials according to the schedule recommended in the management plan and document the date and the findings of these inspections; and

3. New parents and new adult occupants of the building shall be provided written notification of the presence and location of asbestos in the building and be advised that the asbestos inspection report and operations and maintenance plan are available for their review. A copy of this written notification shall be maintained at the center for review by the department's representative.

D. For those buildings where asbestos containing materials have been found or assumed and asbestos has been removed, the center shall maintain at the center documentation of that removal for review by the department's representative. Unless all asbestos containing materials have been removed, the operations and maintenance plan shall be followed for any remaining asbestos material.

Exception: Subsections C and D do not apply to child day centers located in a currently operating public school building or a state owned building since the asbestos requirements of these buildings are regulated by other agencies.

Article 2.
General Requirements.

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§ 4.3. The facility's areas and equipment, inside and outside, shall be:

1. Maintained in clean and sanitary condition;
2. Maintained in conditions that are safe and free of hazards such as but not limited to sharp points or corners, splinters, protruding nails, loose rusty parts, and objects small enough to be swallowed; and

Exception: Montessori preschools may meet the alternative requirements in the Montessori Module.

3. Maintained in operable condition.

§ 4.4. Heating provisions.

A. A heating system shall be provided. The heating system shall meet the following specifications:

1. It shall be approved by the appropriate building official;
2. Heating shall not be provided by stoves;
3. It shall be installed to prevent accessibility of children to the system; and
4. It shall have appropriate barriers to prevent children from being burned, shocked, or injured from heating equipment. In addition, proper supervision shall be available to prevent injury.

Exception: In case of emergency, portable electric or kerosene heaters may be used if they have been previously inspected and approved by the appropriate building official.

B. In areas used by children, the temperature shall be maintained no lower than 68°F.

§ 4.5. Fans or other cooling systems shall be used when the temperature of areas used by children exceeds 80° F.

§ 4.6. Drinking water fountains or individual disposable cups, or both, shall be provided. Drinking water shall be available and accessible at all times. READY FOR TASK

D. If hazardous substances are not kept in original containers, the substitute containers shall clearly indicate their contents and shall not resemble food or beverage containers.

E. Cosmetics, medications, or other harmful agents of staff members shall not be stored in areas, purses or pockets that are accessible to children.

F. Hazardous art and craft materials, such as those listed in Appendix III, shall not be used with children.

§ 4.9. In areas used by children of preschool age and

younger, the following shall apply:

1. Steps with three or more risers shall have:

- a. Handrails within the normal handgrasp of the children or
- b. A banister with vertical posts, between the handrail and each step, which can be safely grasped by the children. The distance between the posts shall be no greater than three and one half inches.

[2. Poisonous plants shall not be allowed in the facility or the outdoor activity area. When children are away from the center site, staff shall take precautions to prevent children from being poisoned by ingestion of or contact with plants.]

[3. 2.] Fans, when used, shall be secured and out of reach of children.

[4. 3.] All electrical outlets shall have protective caps or other equivalent, approved, protective devices and be of a size that cannot be swallowed by children.

§ 4.10. Reserved

§ 4.11. Reserved

§ 4.12. Reserved

§ 4.13. Reserved

Article 3. Indoor Areas.

§ 4.14. There shall be 25 square feet of indoor space available to [children each child] where activities are conducted.

Exception: Centers in operation before [the effective date of these regulations November 1, 1993,] and newly subject to licensure may have until July 1, 1996, to meet this requirement.

§ 4.15. Areas not routinely used for children's activities shall not be calculated as available activity space. Space not calculated shall include, but not be limited to, offices, hallways, restrooms, kitchens, storage rooms or closets, and space occupied by equipment which is not used in or does not contribute to the children's activities.

§ 4.16. A place away from the children's activity area shall be designated for children who are ill, injured, tired, or emotionally upset.

§ 4.17. [Smoking shall not be allowed in areas used by children or in the presence of children Smoking shall be prohibited inside the center and outside the center in the presence of children] .

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[Exception: Smoking may be allowed inside the building if it occurs in a room with a separate air circulation system from the one used for children's areas and the circulation system is vented directly to the outdoors.]

§ 4.18. Activity space shall be arranged so that when playing on the floor, children at each developmental stage shall be protected from children at more advanced developmental stages.

§ 4.19. Space in areas used by infants shall be calculated separately from space for older children. One of the following methods to calculate available activity space for infants shall be used:

1. Centers shall have a minimum of 25 square feet of available activity space per infant when space occupied by cribs and changing tables is deducted from the calculation of available activity space; or
2. Centers shall have a minimum of 35 square feet of available activity space per infant when space occupied by cribs and changing tables is included in the calculation of available activity space.

Article 4. Restroom Areas and Furnishings.

§ 4.20. Centers shall have at least two toilets and two sinks.

§ 4.21. Each restroom provided for children shall:

1. Be within a confined area;
2. Be accessible and within the building used by the children;
3. Have toilets that are all flushable;
4. Have sinks that are all equipped with running water which does not exceed 120° F; and
5. Be equipped with soap, toilet paper, and disposable towels.

§ 4.22. For restrooms available to boys, urinals may be substituted for not more than one-half the required number of toilets, provided the center has at least two toilets.

§ 4.23. An adult size toilet with privacy shall be provided for staff use. Staff toilets may be counted in the number of required toilets for children only if children are allowed unrestricted access to them on a routine basis.

§ 4.24. Restroom areas shall have at least one toilet and one sink for every 15 preschool children. When sharing restroom areas with other programs, the children in the other programs shall be included in the toilet and sink ratio calculations. The toilet and sink ratio appropriate to

the younger age group shall apply.

Exceptions: Centers in operation before [the effective date of these regulations November 1, 1993,] and newly subject to licensure may have until July 1, 1996, to meet this requirement and Montessori preschools may meet the alternative requirements in the Montessori Module.

§ 4.25. When child size toilets, urinals, and low sinks are not available in restrooms used by children of preschool age and younger, one or more platform or set of steps shall be available so that children may use adult size toilets and sinks without help or undue delay.

§ 4.26. Reserved.

§ 4.27. Reserved.

§ 4.28. Reserved.

§ 4.29. Requirements for centers with children who are not toilet trained.

A. Centers that serve children who are not toilet trained shall provide a diapering area which allows for sight and sound supervision of children in the classroom or is accessible and within the building used by children if the staff-to-children ratios required by subdivisions 1 through 4 of § 5.17 are maintained in the classroom. The diapering area shall have at least the following:

1. A sink with running warm water not to exceed 120°F;

2. A [changing table or counter equipped with a] nonabsorbent surface for changing diapers [of children below the age of three] ;

[3. A nonabsorbent surface for changing diapers of children three years of age or older;]

[4.] A leakproof storage system for diapers that is not hand generated;

[5.] A covered receptacle for soiled bed linens; and

[6.] Soap and disposable towels.

B. For every 10 children in the process of being toilet trained there shall be at least one toilet chair, or one child-sized toilet, or at least one adult sized toilet with a platform or steps and an available adapter seat. The location of these items shall allow for sight and sound supervision of children in the classroom or be accessible and within the building used by children if the staff to children ratios required by subdivisions 1 through 4 of § 5.17 are maintained in the classroom while other children are being escorted to toileting locations.

C. When only toilet chairs are used, there shall be a

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toilet located in an area or room in which the door is not more than 10 feet from the area used for the majority of the day by the children being toilet trained.

Article 5. Outdoor Areas.

§ 4.30. Centers in operation before the effective date of these regulations and newly subject to licensure may have until July 1, 1996, to meet the requirements of §§ 4.30 through [~~4.38~~ 4.39] .

§ 4.31. The outdoor play area shall provide a minimum of 75 square feet of space per child in the area at any one time.

§ 4.32. Playgrounds shall be located and designed in a way to protect children from hazardous situations.

§ 4.33. While [~~§ 6.36~~ § 6.35.] addresses the variety and amount of materials and equipment available for children, the specific playground equipment the center shall have is not designated. If playground equipment is provided, resilient surfacing [that helps absorb the shock if a child falls off the equipment] shall be placed under all fixed playground equipment with moving parts or climbing apparatus to create a fall zone free of hazardous obstacles. Fall zones are defined as the area underneath and surrounding equipment that requires a resilient surface. It shall encompass sufficient area to include the child's trajectory in the event of a fall while the equipment is in use. For recommendations concerning resilient surfacing, see Appendix IV.

Exception: Montessori preschools may meet the alternative requirements in the Montessori Module.

§ 4.34. [~~Ground footings or supports shall be in-ground below ground level.~~ Ground supports shall be covered with materials which would protect children from injury.]

§ 4.35. Equipment used by children shall:

1. Have no accessible openings between 3 1/2 inches and nine inches;
2. Have closed S-hooks when provided; and
3. Have no protrusions, sharp points, shearing points, or pinch points.

§ 4.36. All outdoor swing seats shall be made of flexible material except for infant swings if they are specifically designed to provide the necessary support required for infants and if the swings are located in a separate area where no other children can enter or walk around in the protected swing area.

§ 4.37. Sandboxes with bottoms which prevent drainage shall be covered when not in use.

§ 4.38. For [~~outdoor~~] activity areas [, both inside and outside, that are] used by toddlers and preschool children, the climbing portion of slides and climbing equipment shall not be more than seven feet high.

§ 4.39. Centers licensed for the care of infants and toddlers shall provide a separate playground area for these children which has at least 25 square feet of unpaved surface per infant/toddler on the outdoor area at any one time. This unpaved surface shall be suitable for crawling infants and for toddlers learning to walk. This space may be counted as part of the 75 square feet required in [~~§ 4.30~~ § 4.31] .

PART V. STAFFING AND SUPERVISION.

Article 1. Supervision of Staff and Volunteers.

§ 5.1. All aides, volunteer personnel, and volunteers shall be under the individual supervision of a staff member on site who meets the qualifications of a program leader, child care supervisor, or program director.

§ 5.2. Each person serving in the positions of a program director, back-up program director, program leader or child care supervisor shall not be responsible for the individual supervision of more than two aides at any one time.

Exception: In a training environment, aides used beyond the required staff-to-children ratio of subdivisions 1 through 4 of § 5.17 shall not be included in the above requirement.

§ 5.3. When with children, contract employees shall be sight supervised by a staff member unless the contract employee meets the personnel, health, and orientation training requirements for the applicable position.

Article 2. Supervision of Children.

§ 5.4. All staff assigned responsibility for supervision of children shall ensure their care, protection, and guidance at all times.

§ 5.5. During the center's hours of operation, one adult on the premises shall be in charge of the administration of the center. This person shall be either the administrator or an adult appointed by the licensee or designated by the administrator.

§ 5.6. There shall be in each building of the center and on field trips at all times when one or more children are present:

1. At least two staff, one of whom meets the qualifications of a program leader, child care supervisor or program director; or

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2. One staff member who meets the qualifications of a program leader, child care supervisor or program director and a readily available designated support person with direct means for communication between the two of them.

§ 5.7. In each grouping of children at least one staff member who meets the qualifications of a program leader, child care supervisor or program director shall be regularly present.

§ 5.8. Children under 10 years of age shall be within actual sight and sound supervision of staff at all times, except that staff need only be able to hear a child who is using the restroom provided that:

1. There is a system to assure that individuals who are not staff members or persons allowed to pick up a child in care do not enter the restroom area while in use by children and

2. Staff check on a child who has not returned from the restroom after five minutes.

§ 5.9. Reserved

§ 5.10. When the outdoor activity area is not adjacent to the center, there shall be at least two staff on the outdoor activity area whenever one or more children are present.

§ 5.11. Staff shall greet each child upon arrival at the center and oversee each child's departure from the center.

§ 5.12. [No toddler or infant shall be left unattended Staff shall ensure the immediate safety of a child during diapering] .

Article 3. Staff-to-Children Ratio Requirements.

§ 5.13. Staff shall be counted in the required staff-to-children ratios only when they are directly supervising children.

§ 5.14. A child volunteer not enrolled in the program shall not be counted as a child in the staff-to-children ratio requirements.

§ 5.15. When children are regularly in ongoing mixed age groups, the staff-to-children ratio applicable to the youngest child in the group shall apply to the entire group.

Exception: Montessori preschools may meet the alternative requirements in the Montessori Module.

§ 5.16. During the designated rest period, the ratio of staff to children may be double the number of children to each staff required by subdivisions 2 through 4 of § 5.17 if:

1. A staff person is within sight and sound of the resting/sleeping children;

2. All staff counted in the overall rest period ratio are within the facility and available to assure safe evacuation in an emergency; and

3. An additional person is present at the center to help, if necessary.

§ 5.17. In each grouping of children, the following ratios of staff-to-children are required wherever children are in care:

1. For children from birth to the age of 16 months: one staff member for every four children;

2. For children 16 months old to two years: one staff member for every five children;

3. For children from two years to four years: one staff member for every 10 children; and

Exception: Montessori preschools may meet the alternative requirements in the Montessori Module.

4. For children from four years to the age of eligibility to attend public school, five years by September 30 : one staff member for every 12 children.

Exception: Montessori preschools may meet the alternative requirements in the Montessori Module.

PART VI. PROGRAMS.

Article 1. Daily Schedule.

§ 6.1. There shall be a predictable sequence to the day [for children 16 months or older] but the schedule shall be flexible, based on children's needs.

§ 6.2. For centers operating more than two hours per day or more than two hours per session per day, outdoor activity shall be provided daily, weather allowing, according to the following:

1. If the center operates between two and five [and one half] hours per day or per session, there shall be at least [± 30] minutes of outdoor activity per day or per session.

2. If the center operates [more than] five [and one half] hours [or more] per day or per session, there shall be at least one hour of outdoor activity per day or per session.

Exceptions: Outdoor activity is not required on days when an all day field trip occurs and Montessori preschools may meet the alternative requirements in the Montessori Module for subdivision 2 of this section.

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§ 6.3. Staff shall provide opportunities for children to engage in self-chosen tasks and activities and allow children to learn from self-directed problem-solving and experimentation.

§ 6.4. The daily schedule which describes the typical sequence of daily activities for toddlers and preschoolers shall be posted in a place conspicuous to parents and staff.

§ 6.5. There shall be a flexible schedule for infants based on their individual needs.

§ 6.6. Centers operating five or more hours per day or per session shall have a designated rest period for preschool children and toddlers in attendance at the time of the rest period.

§ 6.7. For centers operating five or more hours per day or per session, the following requirements for preschool children and toddlers during the designated rest period shall apply:

1. The rest period shall be at least one hour but no more than two hours unless children are actually sleeping;
2. Cots, beds, or rest mats shall be used during the rest period; and
3. After the first 30 minutes of a rest period, nonsleeping children shall be allowed to participate in quiet activities, which may include, but not be limited to, books, records, puzzles, coloring, or manipulatives.

Article 2. Activities.

§ 6.8. The daily activities shall be developmentally appropriate and promote the individual child's physical, intellectual, emotional, and social well-being and growth [as well as promoting curiosity and exploration] .

§ 6.9. To promote emotional development, the center shall provide for:

1. Opportunities for individual self-expression;
2. Recognition that each child is an individual;
3. Respect for personal privacy; and
4. Respect for each child's cultural, ethnic, and family background as well as the child's primary language or dialect.

§ 6.10. To promote social development, the center shall provide:

1. Guidance to children in developing and working out ways of getting along with one another;

2. Staff interaction with children in ways which emphasize and foster attitudes of mutual respect between adults and children; and

3. Staff behavior which demonstrates respect for all other persons as individuals and appreciation of cultural and ethnic diversity.

§ 6.11. The center shall provide for the self-direction of the children by:

1. Allowing children opportunities to choose activities according to personal desires and interests and to move freely from one activity to another;
2. Encouraging children to do things independently and to help with daily routines as appropriate to the child's developmental level but to be available to comfort and help when needed; and
3. Supporting children's friendships and providing children opportunities to be involved in decision making about group and individual activities.

§ 6.12. A variety of children's activities shall be provided that allow for group and individual involvement and child and staff initiation.

§ 6.13. For children who cannot move without help, staff shall offer to change the places and position of the child and the selection of toys or objects available to the child at least every 30 minutes or more frequently depending on the individual needs of the child.

§ 6.14. The center shall provide a balance of active and quiet activities.

§ 6.15. Children of all ages shall be allowed to rest or sleep as needed on cribs, cots, mats, or beds, as appropriate.

[§ 6.16. In addition to the requirements of § 6.8, the program for preschool children shall promote curiosity and exploration.]

[§ 6.17. § 6.16. Activities Daily activities] and experiences for preschool children, which are explained in Appendix V, shall include, but not be limited to:

1. Art activities;
2. Rhythm, movement, and music;
3. Language and communication experiences;
4. Sensory experiences and exploration of the environment;
5. Construction;
6. Social living;

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7. Water and sand play;
8. Small motor activities; and
9. Large motor activities.

Exception: Montessori preschools may meet the alternative requirements in the Montessori Module.

[~~§ 6.18.~~ § 6.17.] For toddlers, the center shall provide daily equipment and opportunities for sensory and perceptual experiences, large and small motor development, and language development.

[~~§ 6.19.~~ § 6.18. Daily] activities and experiences for toddlers, which are explained in Appendix VI, shall include, but not be limited to:

1. Art activities;
2. Rhythm, movement, and music;
3. Language and communication experiences;
4. Sensory experiences and exploration of the environment;
5. Construction;
6. Social living;
7. Water and sand play;
8. Small motor activities; and
9. Large motor activities.

[~~§ 6.20.~~ § 6.19.] Staff shall encourage language development by one-to-one face-to-face conversations giving toddlers time to initiate and respond; labeling and describing objects and events; helping children put feelings into words; and expanding on toddler language.

[~~§ 6.21.~~ § 6.20.] Staff shall express affection, support toddler's growing independence such as dressing and eating, and making choices in activities and routines.

[~~§ 6.22.~~ § 6.21.] Staff shall support toddler's developing self-control by expressing feelings with words, giving positively worded directions, and modeling and redirecting behavior.

[~~§ 6.23.~~ § 6.22.] Parents of toddlers shall receive daily verbal feedback about:

1. Daily activities;
2. Physical well-being; and
3. Developmental milestones.

§ 6.24. ~~§ 6.23.~~] For infants, the center shall provide daily equipment and opportunities for sensory and perceptual experiences, large and small motor development, and language development.

[~~§ 6.25.~~ § 6.24.] Staff shall promptly respond to infants' needs for food and comfort.

[~~§ 6.26.~~ § 6.25. Infant] play spaces shall:

1. Offer opportunities for least restrictive environment;
2. Offer a diversity of experiences for the infant; and
3. Provide frequent opportunities to creep, crawl, toddle, and walk.

Note: Play spaces may include but not be limited to cribs, infant seats, infant swings, high chairs, and floor area.

[~~§ 6.27.~~ § 6.26.] An awake infant not playing on the floor or ground shall be provided a change in play space at least every 30 minutes, and more often as determined by the needs and demands of the individual infant. [For awake infants playing on the floor or ground, staff shall change the position of the infant and selection of toys available to the infant every 30 minutes or more often as determined by the needs and demands of the individual infant.]

[~~§ 6.28.~~ § 6.27.] An infant or toddler who falls asleep in a play space other than his own crib, cot, mat, or bed shall be moved [promptly] to his own crib, cot, mat, or bed.

[~~§ 6.29.~~ § 6.28.] Stimulation shall be regularly provided for infants in a variety of ways including being held, cuddled, talked to, and played with by staff.

[~~§ 6.30.~~ § 6.29.] For each infant, the center shall post a daily record which can be easily seen by both the parent and by the staff working with the children. The record shall include the following information:

1. The amount of time the infant slept;
2. The amount of food consumed and the time;
3. A description and the time of bowel movements; and
4. Developmental milestones.

[~~§ 6.31.~~ § 6.30.] Resting or sleeping infants and toddlers shall be individually checked at least every 30 minutes.

Article 3. Parental Involvement.

[~~§ 6.32.~~ § 6.31.] The center shall be open for parents to visit and observe their children at any time [as stated in

§ 63.1-210.1 of the Code of Virginia] .

[~~§ 6.32.~~ § 6.32.] The center shall encourage parental involvement on a volunteer basis in appropriate center activities.

[~~§ 6.34.~~ § 6.33.] Staff shall frequently and in person share information with parents about their child's health, development, behavior, adjustment, and needs.

Article 4. Equipment and Materials.

[~~§ 6.35.~~ § 6.34.] All furnishings, equipment, and materials shall be of a developmentally appropriate size for the child using it.

[~~§ 6.36.~~ § 6.35.] The amount and variety of materials and equipment available and the arrangement and use of the materials and equipment shall be developmentally appropriate for the children and shall include equipment and materials which:

1. Are in sufficient supply to avoid excessive competition among the children and to avoid long waits for use of the materials and equipment;
2. Provide for a variety of experiences and appeal to the individual interests and abilities of children;
3. Are accessible to children for the activities required by these standards;
4. Allow children to use small and large muscles for imaginative play and creative activities; and
5. Include multicultural materials.

[§ 6.36. Indoor slides and climbing equipment shall not be over bare concrete, hardwood floors, masonry, vinyl, tile surface or similar surface.]

§ 6.37. Storage space for play materials and equipment used by the children shall be accessible to children either independently or with help.

§ 6.38. If combs, toothbrushes, or other personal articles are used, they shall be individually assigned.

§ 6.39. All disposable products shall be used once and discarded.

§ 6.40. Disposable dishes and utensils shall be sturdy enough to contain food without leakage and to prevent harm and injury to children.

§ 6.41. Individualized space such as, but not limited to, lockers or cubbies for each preschool and younger child's clothing and personal items shall be provided.

§ 6.42. In each classroom grouping of children of preschool age or younger, at least one area, shelf, or cupboard space where materials can be readily and freely chosen by children during active play periods shall be available.

§ 6.43. Equipment and play materials for infants shall include, but not be limited to balls, busy boards, books, rattles, dolls, play mats, soft blocks, nesting and stacking toys, squeeze toys, music boxes, and mirrors placed where infants can see themselves.

§ 6.44. Playpens and walkers shall not be used.

§ 6.45. [Cribs, cots, rest mats or beds shall be provided to children present during the designated rest period and] no more than one child at a time shall occupy a crib, cot, rest mat, or bed.

§ 6.46. Cribs, cots, rest mats, and beds shall be marked or identified in some way for use by a specific child.

§ 6.47. Double decker cribs, cots, or beds, or other sleeping equipment which is stacked shall not be used.

§ 6.48. Occupied cribs, cots, rest mats, and beds shall be at least 2-1/2 feet from any heat source in use.

§ 6.49. There shall be at least 15 inches of space between sides and ends of occupied cots, beds, and rest mats.

Exception: Fifteen inches of space are not required where cots, beds, or rest mats touch the wall or where screens are placed between cots or beds as long as one side is open at all times to allow for passage.

§ 6.50. If rest mats are used, they shall have comfortable cushioning and be sanitized between each use.

§ 6.51. Cribs shall be used for children under 12 months of age and for children over 12 months of age who are not developmentally ready to sleep on a cot [or mat] .

§ 6.52. Cribs shall meet the following requirements:

1. They shall meet the Consumer Product Safety Commission Standards at the time they were made;
2. There shall be no more than six centimeters or 2-3/8 inches of space between slats;
3. Mattresses shall fit snugly next to the crib; and
4. [Cribs with] End panel cut-outs [in cribs] shall be of a size not to cause head entrapment.

§ 6.53. No cribs shall be placed where objects outside the crib such as cords from blinds or curtains are in reach of infants or toddlers.

§ 6.54. There shall be at least:

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1. Twelve inches of space between the sides and ends of occupied cribs except where they touch the wall, and

2. Thirty inches of space between service sides of occupied cribs and other furniture when that space is the walkway for staff to gain access to any child in any crib.

§ 6.55. Crib sides shall always be up and the fastenings secured when a child is in the crib, except when staff is giving the child immediate attention.

§ 6.56. Pillows shall not be used by children under two years of age.

§ 6.57. No toys shall be hung over or attached to cribs.

§ 6.58. Linens.

A. Linens for cribs, cots, rest mats, or beds shall consist of a top cover and a bottom cover or a one-piece covering which is open on three edges.

B. Linens shall be assigned for individual use.

C. Linens shall be maintained in clean and sanitary condition and shall be washed at least weekly except for crib sheets which shall be cleaned daily.

D. When pillows are used, they shall be assigned for individual use and covered with pillow cases.

E. Mattresses when used shall be covered with a waterproof material which can be easily sanitized.

Article 5.

[Discipline Behavior Guidance] .

§ 6.59. Discipline shall be constructive in nature and include techniques such as:

1. Using limits that are fair, consistently applied, and appropriate and understandable for the child's level;

2. Providing children with reasons for limits;

3. Giving positively worded directions;

4. Modeling and redirecting children to acceptable behavior;

5. Helping children to constructively express their feelings and frustrations to resolve conflict; and

6. Arranging equipment, materials, activities, and schedules in a way that promotes desirable behavior.

§ 6.60. There shall be no physical punishment or disciplinary action administered to the body such as, but not limited to, spanking; roughly handling a child; forcing

a child to assume an uncomfortable position (e.g., standing on one foot, keeping arms raised above or horizontal to the body); restraining to restrict movement through binding or tying; enclosing in a confined space, box, or similar cubicle; or using exercise as punishment.

§ 6.61. A child shall not be shaken at any time.

§ 6.62. Staff shall not be verbally abusive which would include, but not be limited to, threats, belittling remarks about any child, his family, his race, his religion, or his cultural background, or other statements that are frightening or humiliating to the child.

§ 6.63. When disciplining a child, staff shall not:

1. Force, withhold, or substitute food;

2. Force or withhold naps; or

3. Punish a child for toileting accidents.

§ 6.64. When separation is used as a discipline technique, it shall be brief and appropriate to the child's developmental level and circumstances. The [isolated] child [who is separated from the group] shall be in a safe, lighted, well-ventilated place and shall be within hearing and vision of a staff member.

§ 6.65. No child, for punishment or any other reason, shall ever be confined in any space that the child cannot open, such as but not limited to closets, locked rooms, latched pantries, or containers.

§ 6.66. Staff shall not give a child authority to punish another child nor shall staff consent to a child punishing another child.

§ 6.67. Staff shall follow the center's policy on acceptable and unacceptable discipline methods.

§ 6.68. Behavior problems of children of preschool age and younger shall be dealt with promptly.

Article 6.

Swimming and Wading Activities.

§ 6.69. Staff and supervision.

A. The staff-child ratios required by subdivisions 1 through 4 of § 5.17 shall be maintained while children are participating in swimming or wading activities. The designated water safety instructor or senior lifesaver shall not be counted in the staff to children ratios.

B. If a pool, lake, or other swimming area has a water depth of more than two feet, a water safety instructor or senior life saver holding a current certificate shall be on duty supervising the children participating in swimming or wading activities at all times when one or more children are in the water. The certification shall be obtained from

an organization such as, but not limited to, the American Red Cross, the YMCA, or the Boy Scouts.

C. A minimum of two staff members of the center shall be on duty supervising the children during swimming or wading activities when one or more children are in the water.

§ 6.70. Pools and equipment.

A. When permanent swimming or wading pools are located on the premises of the center, the following shall apply:

1. The manufacturer's specifications for operating the pool shall be followed as well as any local ordinance and any Department of Health requirements for swimming pools ;

2. All pools constructed, renovated, or remodeled after April 1, 1986, shall have a statement in writing of their inspection and approval from the local building official when such appraisal is required;

3. Outdoor swimming pools shall be enclosed by safety fences and gates which shall be kept locked when the pool is not in use;

4. Entrances to swimming pools shall be locked when the pool is not in use; and

5. A whistle or other audible signaling device, a buoy or a lemon line, a reach pole, and a backboard shall be available at the swimming or wading site.

B. If children are allowed to swim in a lake or other place other than a pool, safe swimming areas shall be clearly marked.

C. All piers, floats, and platforms shall be in good repair and where used for diving, the minimum water depth shall be indicated on the deck or planking.

D. If children are allowed to swim at a lake or other body of water larger than a pool, there shall be a rescue boat available at all times which is equipped with a reach pole and a lemon line or buoy.

E. If portable wading pools are used, they shall be emptied of dirty water and filled with clean water for each day's use and more frequently as necessary.

§ 6.71. General.

A. The center shall have emergency procedures and written safety rules for swimming or wading that are:

1. Posted in the swimming area when the pool is located on the premises of the center;

2. Given to staff involved in swimming or wading

activities;

3. Given to parents of children participating in swimming or wading activities; and

4. Explained to children participating in swimming or wading activities.

B. Staff shall have a system for accounting for all children in the water.

C. Each child's swimming skills shall be determined before the child is allowed in water above the child's shoulder height.

D. Outdoor swimming activities shall occur only during daylight hours unless underwater and deck lighting is provided.

E. Children who are not toilet trained shall not use portable wading pools.

PART VII. SPECIAL CARE PROVISIONS AND EMERGENCIES.

Article 1. Preventing the Spread of Disease.

§ 7.1. If a child arrives at the center with the signs or symptoms listed in § 7.3, the child shall not be allowed to attend for that day.

§ 7.2. Staff with training as required in § 3.16 shall observe daily each child for signs and symptoms of illness.

§ 7.3. Unless otherwise instructed by the child's health care provider, that child shall be excluded if:

1. He has a temperature over 100°F or

2. He has a communicable disease as delineated in the current Communicable Disease Chart recommendations for the exclusion of sick children. (Refer to Appendix VII).

§ 7.4. If a child needs to be excluded according to § 7.3, the following shall apply:

1. Arrangements shall be made for the child to leave the center as soon as possible after the signs or symptoms are noticed, and

2. The child shall remain in the designated quiet area until leaving the center.

§ 7.5. When a child at the center has been exposed to a reportable communicable disease, the parent shall be informed.

§ 7.6. Children's hands shall be washed with soap and water before eating meals or snacks, after toileting, and

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after any contact with body fluids.

§ 7.7. Staff [shall was their] hands [shall be washed] with soap or germicidal cleansing agent and water after helping a child with toileting, [after the staff member uses the toilet,] after any contact with body fluids, and before feeding or helping children with feeding.

§ 7.8. When a child's clothing or diaper becomes wet or soiled, it shall be changed immediately.

§ 7.9. Children not toilet trained.

A. The child's soiled area shall be thoroughly cleaned with a disposable wipe during each diapering.

B. Staff shall wash their hands with soap or germicidal cleansing agent and water after each diaper change.

C. Disposable diapers shall be used for children in diapers unless the child's skin reacts adversely to disposable diapers. If cloth diapers are used, there shall be separate step-on diaper pails for the cloth and disposable diapers.

D. Toilet chairs shall be emptied promptly and sanitized after each use.

E. [Changing tables Surfaces for changing diapers] shall be used only for changing diapers or cleaning children.

F. Diapers shall be changed on a nonabsorbent surface which shall be washed with soap and warm water or a germicidal cleansing agent after each use.

G. Tables used for children's activities or meals shall not be used for changing diapers.

Article 2. Medication.

§ 7.10. Prescription and nonprescription medication shall be given to a child according to the center's written medication policies and only with written authorization from the parent.

§ 7.11. The center's medication policies shall address methods for administering medication and shall include:

1. Any general restrictions of the center;
2. Duration of the parent's authorization for medication, provided that it shall expire or be renewed after 10 work days. Long-term prescription drug use may be excepted if a form such as the one in Appendix VIII is completed and on file ; and
3. Methods to prevent use of outdated medication.

§ 7.12. The medication authorization shall be available to

staff during the entire time it is effective.

§ 7.13. All medication shall be labeled with the child's name, the name of the medication, the dosage amount, and the time or times to be given.

§ 7.14. [~~Prescription~~ All] medication shall be in the original container with the prescription label [or direction label] attached.

§ 7.15. When needed, medication shall be refrigerated. When medication is stored in a refrigerator used for food, the medications shall be stored together in a container or in a clearly defined area away from food.

§ 7.16. All medication, including refrigerated medication and staff's personal medication, shall be kept in a locked place using a safe locking method that prevents access by children. If a key is used, the key shall not be accessible to the children.

§ 7.17. Centers shall keep a log of medication given children which shall include the following:

1. Child to whom medication was administered;
2. Amount and type of medication administered to the child;
3. The day and time the medication was administered to the child; and
4. Staff member administering the medication.

§ 7.18. Medication shall be returned to the parent as soon as the medication is no longer being administered.

Article 3. Specialized Staff Training.

§ 7.19. First aid training.

There shall be at least one staff member on the premises during the [centers center's] hours of operation and also one person on all field trips who is trained in first aid. This person shall be available to children and meet one of the following qualifications for first aid training:

1. Has a current first aid certificate by the American Red Cross;
2. Has a current first aid certificate by the National Safety Council;
3. Has successfully completed, within the past three years, a first aid course equivalent to the curriculum which has been approved by the State Board of Health; or
4. Be a R.N. or L.P.N. with a current license from the

Board of Nursing.

§ 7.20. Reserved

§ 7.21. Reserved

§ 7.22. Reserved

Article 4. First Aid and Emergency Supplies.

§ 7.23. A first aid kit shall be on each floor of each building used by children and on all field trips.

§ 7.24. The required first aid kits shall include at a minimum:

1. Scissors;
2. Tweezers;
3. Gauze pads;
4. Adhesive tape;
5. Band-aids, assorted types;
6. An antiseptic cleansing solution;
7. An antibacterial ointment;
8. Thermometer;
9. [~~Triangular~~ Two or more triangular] bandages;
10. Disposable gloves; and
11. The first aid instructional manual.

§ 7.25. Each first aid kit shall be stored so that it is not available to children but is easily available to staff.

§ 7.26. The following emergency supplies shall be required:

1. Syrup of ipecac or activated charcoal preparation (to be used only upon the advice of the physician or the Poison Control Center);
2. Chemical cooling agents, zip-lock bags, and sponges readily available for icing down contusions, sprains, and breaks;
3. A working, battery-operated flashlight on each floor of each building of the facility that is used by children; and
4. One working, battery-operated radio in each building of the facility used by children and any camp location without a building.

Article 5.

Procedures for Emergencies.

§ 7.27. The center shall have an emergency evacuation plan that addresses staff responsibility with respect to:

1. Sounding of fire alarms and notification of local authorities;
2. Evacuation procedures including assembly points, head counts, primary and secondary means of egress, and checking to ensure complete evacuation of the buildings;
3. Fire containment procedures, e.g., closing of fire doors or other barriers; and
4. Other special procedures developed with local authorities.

§ 7.28. Emergency evacuation procedures shall be posted in a location conspicuous to staff and children on each floor of each building of the center.

§ 7.29. The center shall implement these emergency evacuation procedures through monthly practice drills and shall maintain a log of the dates of the monthly drills for one year. For centers offering multiple shifts, the evacuation procedures shall be divided evenly among the various shifts.

§ 7.30. A generic emergency number such as 911 shall be posted in a conspicuous place near each telephone. If a generic number is not available, the following numbers shall be posted near each phone:

1. A physician or hospital;
2. An ambulance or rescue squad service;
3. The local fire department; and
4. The local police department.

§ 7.31. The number of a regional poison control center shall be posted in a conspicuous place near each phone.

§ 7.32. The center shall develop a plan for action in case of a missing or injured child which shall address:

1. Immediate notification of emergency services;
2. Stabilization of injured child; and
3. Transportation of injured child if necessary.

§ 7.33. If an ambulance service is not readily available within 10-15 minutes, [other] transportation shall be available at all times in case of emergency.

§ 7.34. The center or other appropriate official shall notify the parent immediately if a child is lost, experiences a

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serious accident, needs emergency medical care, or dies. The center shall notify the parent at the end of the day of any known minor accidents or injuries.

NOTE: Examples of a serious accident might include unconsciousness; broken bones; deep cut requiring stitches; concussion; foreign object lodged in eye, nose, ear, or other body orifice. Examples of a minor accident might include a small scratch, cut or scrape; minor bruise or discoloration of the skin.

§ 7.35. The center shall maintain a written log of children's injuries in which entries are made the day of occurrence. The log shall include the following:

1. Date and time of injury;
2. Name of injured child;
3. Type of injury;
4. Circumstances of the injury;
5. Names of staff present during the injury;
6. Treatment; and
7. Method of notifying parents.

§ 7.36. Reserved

PART VIII. Special Services.

Article 1. Nutrition and Food Services.

§ 8.1. Centers shall serve appropriate snacks or meals, or both, based on the hours of operation and time of the day.

§ 8.2. The center shall ensure that children arriving from a half-day, morning kindergarten program who have not yet eaten lunch receive a lunch.

§ 8.3. There shall be at least 1-1/2 hours between each meal and snack but no more than three hours between meals and snacks.

§ 8.4. Drinking water or other beverage not containing caffeine shall be offered at regular intervals to nonverbal children.

§ 8.5. In environments of 80° F or above, constant attention shall be given to the fluid needs of all children. Children in such environments shall be encouraged to drink fluids.

§ 8.6. [Centers serving children of preschool age or younger shall provide appropriate meals for these children as provided in these standards.] When food is provided by the center, the following shall apply:

1. Centers providing care to the same children more than four hours a day shall comply with the nutritional requirements of a recognized authority such as the Child and Adult Care Food Program of the United States Department of Agriculture (USDA) or the meal patterns in Appendix IX.

2. Centers offering both meals and snacks shall serve a variety of nutritious foods and shall serve at least three sources of vitamin A and at least three sources of vitamin C on various days each week. Appendix X lists sources of vitamin A and vitamin C.

3. A menu listing all foods to be served for all meals and snacks during the current one-week period shall be:

- a. Dated;
- b. Posted in a location conspicuous to parents or given to parents;
- c. Indicate any substituted food; and
- d. Kept on file for six weeks at the center.

4. Powdered milk shall be not be used except for cooking.

[Exceptions: Programs are not required to provide meals for children of preschool age or younger if the children attend four or fewer hours per day. Programs in operation before November 1, 1993, and newly subject to licensure may have until July 1, 1996, to provide meals.]

§ 8.7. When food is brought from home, the following shall apply:

1. The food shall not be subject to rapid deterioration or spoilage;
2. The center shall give parents the USDA requirements and a list of suggested nonperishable food. Appendix IX has the requirements of USDA.
3. The food shall be clearly labeled in a way that identifies the owner;
4. The center shall have extra food or shall have a plan available to obtain food to serve to children so they can have an appropriate snack or meal if they forget to bring food from home, bring an inadequate meal or snack, or bring perishable food; and
5. All unused portions of food shall be discarded and not served again.

§ 8.8. If a catering service is used, it shall be approved by the local health department.

§ 8.9 Food during cookouts.

A. All food shall be prepared in a clean and sanitary manner.

B. Unused, perishable food shall be discarded and not served again.

§ 8.10. Children of preschool age and younger shall be encouraged to feed themselves.

§ 8.11. [Staff shall sit with preschool children and toddlers during meal and snack times. During meal and snack times with preschoolers and toddlers, staff shall sit with these children when not serving food to them] .

§ 8.12. Foods easily causing choking, such as but not limited to hard candy, popcorn, raisins, seeds, nuts, [~~uncut hot dogs~~, whole hot dogs, hot dogs sliced in rounds] , and uncut grapes, shall not be served to children three years of age or younger.

§ 8.13. High chairs, infant carrier seats, or feeding tables shall be used for children under 12 months who are not held while being fed.

§ 8.14. The record of each child on formula shall contain:

1. The brand of formula, and
2. The child's feeding schedule.

§ 8.15. Infants shall be fed on demand or in accordance with parental instructions.

§ 8.16. Prepared infant formula shall be refrigerated and clearly labeled in a way that identifies the child. See Appendix XI for recommendations about the safe use of microwaves to heat infant formula.

§ 8.17. Bottle fed infants who cannot hold their own bottles shall be picked up and held when fed. Bottles shall not be propped.

§ 8.18. No child shall be allowed to drink or eat while walking around.

§ 8.19. Formula, bottled breast milk, and prepared baby food not consumed by an infant may be used by that same infant later in the same day, if dated and stored in the refrigerator; otherwise, it shall be discarded or returned to the parent at the end of the day.

§ 8.20. A one-day's emergency supply of disposable bottles, nipples, and commercial formulas appropriate for the children in care shall be maintained at the facility.

§ 8.21. Mothers shall be allowed to breast-feed their infants at the facility.

§ 8.22. Unless written instructions from a physician indicate differently, staff shall feed semisolid food with a spoon.

§ 8.23. Children using infant seats or high chairs shall be carefully supervised during snacks or meals. When a child is placed in an infant seat or high chair the protective belt shall be fastened securely.

Article 2.

Transportation and Field Trips.

§ 8.24. If the center transports children to the site of the center, the center shall assume responsibility for the child between the place where the child boards the vehicle and the center site, while at the center and on any center field trips, and from the time the child leaves the center site until the child is delivered to a designated location or to a responsible person designated by his parent.

§ 8.25. Any vehicle used by the center for the transportation of children shall meet the following requirements:

1. The vehicle shall be enclosed and provided with door locks;
2. The vehicle's seats shall be attached to the floor;
3. The vehicle shall be insured with at least the minimum limits set by the Virginia state statutes; and
4. The vehicle shall meet the safety standards set by the Department of Motor Vehicles and shall be kept in satisfactory condition to assure the safety of children.

§ 8.26. The center shall ensure that during transportation of children:

1. Virginia state statutes about safety belts and child restraints are followed;
2. The children remain seated and each child's arms, legs, and head remain inside the vehicle;
3. Doors are closed properly and locked;
4. At least one staff member or the driver always remain in the vehicle when children are present;
5. The telephone numbers for obtaining emergency help as stated in [§ 7-20 + through 4 and § 7-30 §§ 7.30 and 7.31] are in the vehicle and available to staff;
6. The name, address, and phone number of the center and an additional emergency contact number is in the vehicle and available to staff; and
7. A list of the names of the children being transported is kept in the vehicle.

§ 8.27. When entering and leaving vehicles, children shall enter and leave the vehicle from the curb side of the

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vehicle or in a protected parking area or driveway.

§ 8.28. When necessary to cross streets, children shall cross streets at corners or crosswalks or other designated safe crossing point if no corner or crosswalk is available.

§ 8.29. The staff-to-children ratios of subdivisions 1 through 4 of § 5.17 shall be followed on all field trips but not necessarily in each vehicle. The staff-to-children ratios may not be followed during transportation of children to and from the center.

Exception: Montessori preschools may meet the alternative requirements in the Montessori Module.

§ 8.30. At least one staff member on field trips shall be trained in first aid according to subdivisions 1 through 4 of § 7.19 and shall be instructed on procedures to follow if there is a vehicle break down.

§ 8.31. A first aid kit with the supplies mentioned in [§ 7-22 subdivisions] 1 through 11 [of § 7.24], syrup of ipecac or activated charcoal preparation, and chemical cooling agents, for icing down contusions, sprains, and breaks shall be available to staff on field trips.

§ 8.32. The center shall make provisions for providing children on field trips with adequate food and water.

§ 8.33. If perishable food is taken on field trips, the food shall be stored in insulated containers with ice packs to keep the food cold.

§ 8.34. Before leaving on a field trip, a schedule of the trip's events and locations shall be left at the center site.

§ 8.35. There shall be an established plan of communication between staff at the center site and staff who are away from the center site transporting children or on a field trip.

§ 8.36. The center shall develop and implement procedures to assure that all children return to the facility after a field trip.

§ 8.37. Staff shall follow the center's transportation safety policy.

§ 8.38. Parental permission for transportation and field trips shall be secured at least 24 hours before the scheduled activity. If a blanket permission is used instead of a separate written permission, the following shall apply:

[1. The schedule of activities away from the facility shall be posted;]

[2. 1.] Parents shall be notified of the field trip; and

[2. 2.] Parents shall be given the opportunity to withdraw their children from the field trip.

Article 3. Animals and Pets.

§ 8.39. Animals that are kept on the premises of the center shall be vaccinated against diseases which present a hazard to the health of children.

§ 8.40. Animals which are, or are suspected of being, ill or infested with external lice, fleas and ticks or internal worms shall be removed from contact with children.

§ 8.41. If a child is bitten by an animal, an attempt shall be made to confine the animal for observation or laboratory analysis for evidence of rabies. The site of the bite shall be washed with soap and water immediately, and the child's physician or local health department shall be contacted as soon as possible for medical advice. The center shall report the animal bite incident to the local health department.

§ 8.42. Reserved

Article 4. Evening and Overnight Care.

§ 8.43. Resting.

A. For evening care, beds with mattresses or cots with at least one inch of dense padding shall be used by children who sleep longer than two hours and are not required to sleep in cribs.

B. For overnight care, beds with mattresses or cots with at least two inches of dense padding shall be used by children who are not required to sleep in cribs.

C. For overnight care which occurs for a child on a weekly or more frequent basis, beds with mattresses shall be used.

D. In addition to § 6.58 about linens, bedding appropriate to the temperature and other conditions of the rest area shall be provided.

§ 8.44. In centers providing overnight care, an operational tub or shower with heated and cold water shall be provided.

§ 8.45. When bath towels are used, they shall be assigned for individual use.

§ 8.46. Activities.

A. Activities for children in evening or overnight care shall include, as time allows, age-appropriate activities as described in [§§ 6-17 through 6-22 and 6-24 through 6-29 §§ 6.16 through 6.21 and 6.23 through 6.28] .

B. Quiet activities and experiences shall be available immediately before bedtime.

§ 8.47. For children receiving evening and overnight care, the provider shall offer a regularly scheduled evening meal and snack.

PART IX. MONTESSORI MODULE.

Article 1. Qualifications of a Montessori Preschool.

§ 9.1. Montessori preschools are educational programs wherein the teacher training and subsequent pedagogy are approved by either American Montessori Society, American Montessori Internationale, National Council of Montessori Education, or Saint Nicholas Montessori, thus verifying that the school meets the Montessori standards as outlined in the Montessori Module.

§ 9.2. Meeting these Montessori standards shall afford the Montessori preschool a waiver from specific minimum standards that conflict with the Montessori educational philosophy as referenced in the regulations. Only preschools which meet the Montessori criteria as outlined in the module are eligible to comply with the modified licensing standards contained in the Montessori Module.

§ 9.3. Programs operated by a Montessori preschool which go outside the scope of the regular Montessori preschool classes shall comply with the minimum standards for licensed child day centers [without the benefit of the Montessori module] for the extended care portion of the day. Programs going beyond four hours per day for children ages [~~two~~ 2 1/2] through four and beyond 6 1/2 hours per day for children five [through six] years of age, exclusive of the allowable two hour additional enrichment program once a week, shall comply with the minimum standards for licensed child day centers [without the benefit of the Montessori module] for the extended care portion of the day. [Regular Montessori preschool classes within an all day program shall meet the minimum standards for licensed child day centers with the option of meeting the Montessori module to obtain waivers from specified standards that conflict with the Montessori philosophy for the regular day portion of their program only.]

Article 2. Specific Alternatives for Qualifying Montessori Preschools.

§ 9.4. Administrators.

The administrator of a Montessori preschool shall be at least 21 years of age and shall have or meet one of the following:

1. An endorsement or bachelor's degree in a child related field from an accredited college or university and one year of programmatic experience in the group care of children;

2. An associate degree in a child related field from an accredited college or university and one year of programmatic experience in the group care of children;

3. The teacher qualification standards of American Montessori Society, American Montessori Internationale, National Council of Montessori Education, or Saint Nicholas Montessori; or

4. Five years of Montessori programmatic experience if the program director meets one of the qualifications of subdivisions 1 through 3 of this section.

§ 9.5. Program directors and back-up program directors.

The program director and back-up program director at a Montessori preschool shall be at least 21 years of age and shall have or meet one of the following:

1. An endorsement or bachelor's degree in a child related field from an accredited college or university and one year of programmatic experience in the group care of children;

2. An associate degree in a child related field from an accredited college or university and one year of programmatic experience in the group care of children;

3. The Montessori teacher qualification standards of American Montessori Society, American Montessori Internationale, National Council of Montessori Education, or Saint Nicholas Montessori; or

4. Five years of Montessori programmatic experience.

§ 9.6. Teachers.

Montessori teachers at a Montessori preschool shall:

1. Be at least 21 years of age; and

2. Hold a teaching diploma recognized by American Montessori Society, American Montessori Internationale, National Council of Montessori Education, or Saint Nicholas Montessori for the level the teacher is teaching.

§ 9.7. Staff development.

A. In addition to first aid and orientation training required elsewhere in these regulations, employed staff who work directly with a single group of children for more than three hours daily at a Montessori preschool shall:

1. Take advantage of formal and informal opportunities for personal and professional growth, including methodology and specific subject matter, as recognized by Montessori standards for a minimum of

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eight hours annually; or

2. In the event of a staff member's participation in a credit course or a seminar longer than eight hours, these hours may be prorated over a period of no more than five years at the rate of 12 hours annually.

B. Specialty staff at a Montessori preschool providing enrichment activities to a single group of children less than three hours a week shall take advantage of opportunities for professional growth to remain current in their field of expertise.

§ 9.8. The facilities of a Montessori preschool, inside and outside, shall be maintained in conditions that are safe and free of hazards, protruding points or sharp corners, splinters, protruding nails, and loose rusty parts.

§ 9.9. The Montessori materials at a Montessori preschool shall be maintained in an attractive, accessible, and safe manner, so as to afford the children complete and appropriate opportunity to develop individual and group skills according the Montessori curriculum standard.

§ 9.10. A Montessori preschool shall have restrooms that are easily accessible with a ratio of one toilet and one sink for every 20 children.

§ 9.11. A Montessori preschool shall have a safe outdoor play area which allows for exploration of nature and provides a resilient surface in fall zones.

§ 9.12. A Montessori preschool shall maintain a balanced multi-age grouping, with a ratio of one staff member for every 15 children.

§ 9.13. Teachers at a Montessori preschool shall be, at all times during the Montessori program, responsible for the development and activities of the children in his Montessori class. In the event of the teacher's extended absence, there shall be sufficient substitute staff to comply with a ratio of one staff member for every 12 children.

§ 9.14. A Montessori preschool shall have readily accessible, and in close classroom proximity, auxiliary persons sufficient to maintain a 1:10 adult-to-child ratio for 2 1/2 to four year olds or 1:15 for balanced mixed age groupings of 2 1/2 to six year olds, to be available in the event of emergency evacuation.

§ 9.15. A Montessori preschool shall offer outdoor and indoor space affording the children complete opportunity to develop individual and group skills, including large and small motor development.

§ 9.16. In a Montessori preschool program operating between five and 6 1/2 hours per day there shall be at least one-half hour of outdoor activity per day.

§ 9.17. A Montessori preschool shall abide by the pedagogy and curriculum guidelines in the Montessori Module.

§ 9.18. During transportation of children and on all field trips, the staff-to-children ratio for a multi-age grouping of students in a Montessori preschool shall be no more than one to 20.

Article 3.

Montessori Preschool Standards.

§ 9.19. Hours and scope of operation.

A. A Montessori preschool shall operate at a minimum, nine months a year, five days a week, allowing for holidays, teacher in-service days, and parent-teacher conferences, as deemed necessary by the preschool in accordance with Montessori standards.

B. The hours of operation for a Montessori preschool program for children, ages 2 1/2 through four years, shall be at least three hours a day, but not more than four hours a day.

C. The hours of operation for a Montessori preschool program for children five [through six] years of age shall be at least six hours a day but no more than 6 1/2 hours a day.

D. Enrichment programs, compatible with Montessori standards shall be acceptable when operated, in keeping with the Montessori curriculum; physical, emotional, and developmental welfare of the child; and available to the individual child not more than an additional two hours once a week.

E. Any program operated beyond these specified school hours [and ages of children] shall comply with the minimum standards for licensed child day centers [without the benefit of the Montessori module for the extended care portion of the day. Regular Montessori preschool classes within an all day program shall meet the minimum standards for licensed child day centers with the option of meeting the Montessori module to obtain waivers from specified standards that conflict with the Montessori philosophy for the regular day portion of their program only] .

§ 9.20. Montessori class structure and supervision.

A. A class shall be deemed a group of children under the direct and continuous supervision of a fully qualified Montessori teacher.

B. Teachers at a Montessori preschool shall maintain a safe Montessori environment for the class.

C. Teachers at a Montessori preschool shall give the appropriate, individual or group lessons and supervise the ongoing work of the children in accordance with all Montessori pedagogical standards, included herein.

D. Teachers at a Montessori preschool shall be observant of the needs of the children in the class at all

times and, accordingly, shall provide developmentally appropriate materials and class designation regardless of age.

E. Teachers at a Montessori preschool shall be aware of the family backgrounds and individual needs and development of the children within the Montessori program.

F. Teachers at a Montessori preschool shall maintain appropriate and confidential communication and records with other school personnel and parents as necessary for the development of the child.

G. Children enrolled in a Montessori class at a Montessori preschool shall demonstrate to the teacher an adequate level of development indicating a readiness for formal Montessori education.

H. Children enrolled in the Montessori class at a Montessori preschool shall be toilet trained and demonstrate a level of large and small motor development acceptable to working in a positive manner within the Montessori classroom environment.

I. Children enrolled in the Montessori class at a Montessori preschool shall demonstrate adequate communication skills and the ability to function with appropriate independence outside the home or away from a day-care provider.

J. Children are initially accepted into a Montessori program at a Montessori preschool on an observational basis, and shall be given adequate, but limited, time to demonstrate individual readiness for the Montessori program.

K. A newly established Montessori class at a Montessori preschool shall be comprised of no more than 12 to 15 children between the ages of 2 1/2 and six years and shall not increase enrollment to more than 25 children during its first year.

L. As the children and the class [~~development~~ develop] at a Montessori preschool, the class structure may gradually build to the recommended Montessori size of 25 to 30 children between the ages of 2 1/2 and six years of age.

M. The class and the children at a Montessori preschool shall function at all times during the Montessori program according to the Montessori standards as outlined herein.

§ 9.21 Classroom materials.

A. Classrooms at a Montessori preschool shall contain the necessary and appropriately approved Montessori materials for each age level in the class. These Montessori materials may be complemented by appropriate, teacher-approved materials, but shall not displace or detract from the implementation of the Montessori

materials.

B. The children at a Montessori preschool shall have continuous access to these materials as deemed appropriate by the Montessori teacher.

C. These materials at a Montessori preschool shall be organized in the classroom and used by the children in work areas that afford safe and ample working space under the direction of the Montessori teacher.

D. Use of Montessori materials in a Montessori preschool shall be presented by the Montessori teacher in accordance with the Montessori curriculum standards as included herein.

§ 9.22. Curriculum guidelines, including appropriate materials for children from two years to six years, as stated below shall be followed in a Montessori preschool.

These requirements are based on guidelines used by American Montessori Society, American Montessori Internationale, National Council of Montessori Education, and Saint Nicholas Montessori teacher training.

VR 175-08-01 MINIMUM STANDARDS FOR LICENSED CHILD DAY CENTERS SERVING CHILDREN OF PRESCHOOL AGE OR YOUNGER

PRACTICAL LIFE

Preliminary Exercises

Spooing
Pouring rice
Pouring water

Purpose: To teach the child muscular control, care, exactness, how to pour.

Age: 2 1/2 - 3 1/2

Indirect preparation for writing.

Napkin folding

Purpose: To teach muscular control, exactness.

Age: 2 1/2 - 4

Indirect preparation for geometry.

Care of the Environment

Table washing
Dusting
Polishing wood
Polishing metal
Arranging flowers
Sweeping

Purpose: To teach the child how to care for his environment so that he might adapt to his environment and gain independence.

Age: 2 1/2 - 4

To teach control of action, acquisition of movement, order and sequence, conscious awareness, development of large and small muscles, left to right movement, increased concentration through repetition.

Preparation for life and future learning.

Age: 2 1/2 - 4 and up

Care of the Person

Dressing frames
Polishing shoes
Washing hands

Purpose: To teach the child to care for himself, to take pride in his person, to gain independence and self-worth.

Age: 2 1/2 - 4 and up

Grace and Courtesy

How to interrupt,
listen
make way
pass

Purpose: To help the child develop understanding of rules of grace and courtesy, to adapt and be accepted into a social group.

Age: 2 1/2 and up

How to greet
introduce oneself
offer a chair
take a cookie
serve others
carry scissors
etc.

Movement

How to walk
move around the room
move furniture
stop when hear bell
walk on line
carry a chair
sit properly
carry mats & materials
roll a mat
where to place mat
open & close a door
play silence game
respect silence
etc.

Purpose: To learn control of movement, self awareness of ones self, purposeful activity order, respect for persons and property, attention to details and environment.

Age: 2 1/2 and up

SENSORIAL

Visual Discrimination

Pink Tower
Broad Stair
Long Stair
Solid Cylinders
Color tablets
Geometric cabinet
Biology Cabinet
Binomial & trinomial cube
Constructive triangles
Super imposed geometric figures

Purpose: Aid the child's processes of classification.

Purpose: To teach visual discrimination of dimension (length, width, height), indirect preparation for number work, algebra and proof of formulas, geometry, art, biology.

Indirect preparation for writing.

Development of vocabulary.

Age: Progressive from 2 1/2 to 4 1/4 +

VR 175-08-01 MINIMUM STANDARDS FOR LICENSED CHILD DAY CENTERS SERVING CHILDREN OF PRESCHOOL AGE OR YOUNGER

Learning songs
Musical instruments
etc. Age: 4 1/2 and up

MATHEMATICS

Numbers (1 to 10)

Number rods
Sandpaper numbers
Number rods and cards
Spindle boxes
Cards and counters
Memory game

Purpose: To give the keys to the world of written numbers.

To understand that each number is an entity unto itself.

To teach the quantity, the symbol of sequence of numbers.

To teach the concept of zero.

Preparation for additional math.

Age: 4

Decimal system (Golden Bead Exercises)

Introduction of beads
Introduction of cards
Cards and beads together
Processes of Addition
subtraction
multiplication
division

Purpose: To teach the concepts of the decimal system through 1000s.

To give the child the overall picture of the workings of the decimal system and all its processes.

Age: 4 1/2 to 5 1/2 +

Further Exercises in Math

Linear and skip counting
Teen board
Tens board
Stamp game
Dot game
Snake game
Addition strip board
Negative snake game
Negative strip board
Bead Bar Layouts
Multiplication Bead Board
Division Unit Board
Charts
Small Bead Frame
Hierarchical materials
Large bead frame
Racks and tubes
Fractions

Purpose: To give the child opportunity for further exploration with numbers, the opportunity for repetition and perfection in executing the processes in math.

The opportunity to commit to memory the math facts.

Steps to total abstraction.

Age: 5 - 5 1/2 and up

GEOGRAPHY

Sandpaper Globe Purpose: To introduce the child, to the

VR 175-08-01 MINIMUM STANDARDS FOR LICENSED CHILD DAY CENTERS SERVING CHILDREN OF PRESCHOOL AGE OR YOUNGER

Land & Water Forms
Painted Globe
Puzzle Maps
Pictures
Definition cards Age: 2 1/2 +
Stories
Simple reference books

concepts of physical political, economic geography, interdependence of man and related language.

HISTORY

Artifacts
Pictures
Definition cards
Simple reference books
Stories

Purpose: To introduce the child to world cultures, physical and spiritual needs of man throughout history, famous persons, holidays, etc.

Age: 2 1/2 +

MUSIC

Songs
Records, tapes
Rhythm and movement
Tone bells
Tone charts
Composers/famous music

Purpose: To give the child a variety of musical experiences, including pitch, tone, rhythm, movement, auditory comparisons, related symbols and language.

Age: 2 1/2 +

CREATIVITY

Appropriate media
Pictures
Stories
Reference books
Practical life
Sensorial lessons

Purpose: To introduce the child to concepts of color, tone, light, form, history and art appreciation, and afford the child appropriate opportunities for self expression.

Age: 3 +

BOTANY/BIOLOGY

Botany leaf cabinet
Plants
Pictures/plants and animals
Definition cards
Classifications materials
Stories
Simple reference books
Opportunities to explore nature

Purpose: To introduce the child to nature, the vast variety of plants and animals, the characteristics and functions, simple classification of the plant and animal kingdom, interdependence and ecology.

Age: 2 1/2 +

* All work in the areas of science, history, culture, music, and creativity are interrelated and presented to give the child an age appropriate understanding of these areas, factual information, the tools and ability to work with the materials, and the opportunity to share this knowledge.

Important prerequisites are practical life lessons and skills, sensorial and related language lessons and skills, and an understanding of reality and factual concepts.

NOTICE: The forms used in administering the Minimum Standards for Licensed Child Day Centers Serving Children of Preschool Age or Younger 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 Social Services, Theater Row Building, 730 E. Broad Street, Richmond, Virginia, or at the Office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Room 262, Richmond, Virginia.

Licensing Information for Parents About Child Day Programs, Appendix I (7/93)

School Entrance Physical Examination and Immunization Certification, Appendix II

Art Materials: Recommendations for Children Under 12, Appendix III

Information from Handbook for Public Playground Safety U.S. Consumer Product Safety Commission, Appendix IV

Preschool Activities, Appendix V

Toddler Activities, Appendix VI

Communicable Disease Reference Chart for School Personnel, Appendix VII

Medication Authorization, Appendix VIII

Child Care Food Program Meal Patterns, Appendix IX

Some Foods with Vitamin A and Vitamin C, Appendix X

Protocols for Microwave Heating of Refrigerated Infant Formula, Appendix XI

Initial Application for a License to Operate a Child Day Center (032-05-512/9, 7/93)

Renewal Application for a License to Operate a Child Day Center (032-05-225/8, 7/93)

V.A.R. Doc. No. R93-733; Filed July 21, 1993, 9:31 a.m.

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Title of Regulation: VR 175-09-01. Minimum Standards for Licensed Child Day Centers Serving School Age Children.

Statutory Authority: §§ 63.1-202 and 63.1-202.1 of the Code of Virginia.

Effective Date: November 1, 1993.

Summary:

This regulation lists the standards that child day

centers serving school age children must meet to be licensed by the Department of Social Services. The following areas are addressed in the regulation: (i) administration; (ii) personnel; (iii) physical plant, staffing, and supervision; (iv) program; (v) special care provisions and emergencies; and (vi) special services.

The Council revised the regulation taking into consideration the public comments received. Many suggestions for clarifying the standards were incorporated into the regulation. Substantial changes made to the standards in response to public comments are described below:

§ 2.13 - Instead of reducing the center's capacity by one for each child 13 years or older who receive supervision in the licensed program, these children shall be counted in the number of children receiving care.

§ 2.17 9 - Added back the previous exception so health records of children would not need to be duplicated when the center is located in the same building where the child attends school, the center has a statement verifying the school's possession of the health record, and the school's records are accessible during the center's hours of operation.

§ 3.8 - Added qualification options for program directors that recognize college credit without an actual degree.

§ 3.10 - Added a qualification option for program leaders that recognize college credit without an actual degree. Also, added qualification option for program leaders that is similar to one in the regulations for child day centers serving children of preschool age or younger.

§ 4.17 - Revised so smoking is prohibited inside the center unless the center meets a specific exception.

§ 5.10 - Revised the standard so there must be two staff on the outdoor activity area when the area is not adjacent to the center and one or more children are present.

§ 6.2 - Revised the amount of time for outdoor activity.

§ 6.8 - Revised to require daily activities to promote curiosity and exploration but added an exception so this requirement does not apply to speciality camps.

§ 6.36 - Added a new standard so indoor slides and climbing equipment shall not be over bare concrete, hardwood floors, masonry, vinyl, tile surface or similar surface.

§ 7.7 - Revised standards so staff wash their hands

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after using the toilet.

§ 7.14 - Revised so that all medication, not just prescription medication, shall be kept in the original container.

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

Agency Contact: Copies of the regulation may be obtained from Peggy Friedenber, Department of Social Services, Theater Row Building, 730 E. Broad Street, Richmond, VA 23219, telephone (804) 692-1820. There may be a charge for copies.

VR 175-09-01. Minimum Standards for Licensed Child Day Centers Serving School Age Children.

PART I. INTRODUCTION.

Article 1. Definitions.

§ 1.1. Definitions.

Position titles used in these standards are descriptive only and do not preclude the use of other titles by centers.

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

["Administrator" means a manager or coordinator designated to be in charge of the total operation and management of one or more centers. The administrator may be responsible for supervising the program director or, if appropriately qualified, concurrently serve as the program director.]

"Admission" means a written or oral agreement for a child's provisional inclusion in the program.

"Adult" means any individual 18 years of age or older.

["Aide" means the individual designated to be responsible for helping the program leader or child care supervisor in supervising children and in implementing the activities and services for children.]

"Camp" means a child day camp.

"Center" means a child day center.

"Character and reputation" means findings have established, and knowledgeable and objective people agree, that the individual (i) maintains business, professional,

family, and community relationships which are characterized by honesty, fairness, and truthfulness, and (ii) demonstrates a concern for the well-being of others to the extent that the individual is considered suitable to be entrusted with the care, guidance, and protection of children. Relatives by blood or marriage, and people who are not knowledgeable of the individual, such as recent acquaintances, shall not be considered objective references.

"Child" means any individual under 18 years of age.

"Child day camp" means a child day center for school age children which operates during the summer for less than four months in a 12 month period and which emphasizes outdoor activities.

"Child day center" means a child day program offered to (i) two or more children under the age of 13 in a facility that is not the residence of the provider or of any of the children in care or (ii) 13 or more children at any location.

Exemptions (§ 63.1-196.001 of the Code of Virginia):

1. A child day center that has obtained an exemption pursuant to § 63.1-196.3;
2. A program where, by written policy given to and signed by a parent or guardian, children are free to enter and leave the premises without permission or supervision. A program that would qualify for this exemption except that it assumes responsibility for the supervision, protection and well-being of several children with disabilities who are mainstreamed shall not be subject to licensure;
3. A program of instructional experience in a single focus, such as, but not limited to, computer science, archaeology, sport clinics, or music, if children under the age of six do not attend at all and if no child is allowed to attend for more than 25 days in any three-month period commencing with enrollment. This exemption does not apply if children merely change their enrollment to a difference focus area at a site offering a variety of activities and such children's attendance exceeds 25 days in a three-month period;
4. Programs of instructional or recreational activities wherein no child under age six attends for more than six hours weekly with no class or activity period to exceed 1 1/2 hours, and no child six years of age or above attends for more than six hours weekly when school is in session or 12 hours weekly when school is not in session. Competition, performances and exhibitions related to the instructional or recreational activity shall be excluded when determining the hours of program operation;
5. A program that operates no more than a total of 20 program days in the course of a calendar year provided that programs serving children under age six

operate no more than two consecutive weeks without a break of at least a week;

6. Instructional programs offered by public and private schools that satisfy compulsory attendance laws or the Individuals with Disabilities Education Act and programs of school-sponsored extracurricular activities that are focused on single interests such as, but not limited to, music, sports, drama, civic service, or foreign language;

7. Education and care programs provided by public schools which are not exempt pursuant to subdivision A 6 of this section shall be regulated by the State Board of Education using regulations that incorporate, but may exceed, the regulations for child day centers licensed by the commissioner;

8. Early intervention programs for children eligible under Part H of the Individuals with Disabilities Education Act wherein no child attends for more than a total of six hours per week;

9. Practice or competition in organized competitive sports leagues;

10. Programs of religious instruction, such as Sunday schools, vacation Bible schools, and Bar Mitzvah or Bat Mitzvah classes, and child-minding services provided to allow parents or guardians who are on site to attend religious worship or instructional services;

11. Child-minding services which are not available for more than three hours per day for any individual child offered on site in commercial or recreational establishments if the parent or guardian (i) is not an on-duty employee, (ii) can be contacted and can resume responsibility for the child's supervision within 30 minutes, and (iii) is receiving services or participating in activities offered by the establishment;

12. A certified preschool or nursery school program operated by a private school which is accredited by a statewide accreditation organization recognized by the State Board of Education which complies with the provisions of § 63.1-196.3:1. The provisions of this subdivision shall expire on July 1, 1994;

13. Prescribed therapeutic recreation programs provided for children with disabilities in programs that meet the child day center definition shall not be subject to licensure under this chapter until the appropriate regulations are promulgated; or

14. By policy, a child day center that is required to be programmatically licensed by another state agency for that service.

"Child day program" means a regularly operating service arrangement for children where, during the

absence of a parent or guardian, a person or organization has agreed to assume responsibility for the supervision, protection, and well-being of a child under the age of 13 for less than a 24-hour period.

"Commissioner" means the commissioner of Social Services, also known as the director of the Virginia Department of Social Services.

"Contract employee" means an individual who enters into an agreement to provide specialized services for a specified period of time.

"Department" means the Virginia Department of Social Services.

"Department's representative" means an employee or designee of the Virginia Department of Social Services, acting as the authorized agent of the commissioner.

"Developmentally appropriate" means a philosophy which applies a knowledge of child development to the curriculum, the environment, adult-child interactions, and staff-parent interactions, and which recognizes the age span of the children within the group, as well as the needs of the individual child.

"Enrollment" means the actual attendance of a child as a member of the center.

"Evening care" means care provided in a center between the hours of 7 p.m. and 1 a.m., inclusively.

"Fall zone" means the area underneath and surrounding equipment that requires a resilient surface. It shall encompass sufficient area to include the child's trajectory in the event of a fall while the equipment is in use.

["Field trips" means excursions away from the facility including walks away from the facility.]

"Licensee" means any individual, partnership, association, public agency, or corporation to whom the license is issued.

"Montessori Module" means a group of alternative, specific standards in the regulations allowed for all programs meeting the eligibility criteria of a Montessori preschool, as specified in the module.

"Montessori preschools" are educational programs wherein the teacher training and subsequent pedagogy are approved by either American Montessori Society, American Montessori Internationale, National Council of Montessori Education, or Saint Nicholas Montessori, thus verifying that the preschool meets the Montessori standards as outlined in the Montessori Module. Only Montessori schools which meet the Montessori criteria as outlined in the Montessori Module are eligible to comply with the modified licensing standards contained in that module.

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"Overnight care" means care provided in a center between the hours of 1 a.m. and 5 a.m., inclusively.

"Parent" means the biological or adoptive parent or parents or legal guardian or guardians of a child enrolled in or in the process of being admitted to a center.

"Physician" means an individual licensed to practice medicine in any of the 50 states or the District of Columbia.

"Primitive camp" means a camp where places of abode, water supply system, permanent toilet and cooking facilities are not usually provided.

["Program director" means the primary, on-site director or coordinator designated to be responsible for developing and implementing the activities and services offered to children, including the supervision ; orientation, training, and scheduling of staff who work directly with children, whether or not the program director personally performs these functions.

Exception: The administrator may perform staff orientation, training or program development functions if the administrator meets the qualifications in § 3.6 of these regulations and a written delegation of responsibility specifies the duties of the program director.

"Program leader" or "child care supervisor" means the individual designated to be responsible for the direct supervision of children and for implementation of the activities and services for a group of children.]

"Programmatic experience in the group care of children" means time spent working directly with children in a group, in a child care situation which is located away from the child's home (e.g., Sunday school, vacation Bible school, scouts, etc.).

"School age" means children from the age of eligibility to attend public school and older, age five or older by September 30.

"Speciality camps" means those centers which have an educational or recreational focus on one subject which may include, but is not limited to, dance, drama, music, sports.

"Sponsor" means an individual, partnership, association, public agency, corporation or other legal entity in whom the ultimate authority and legal responsibility is vested for the administration and operation of a center subject to licensure.

"Staff" means administrative, activity , service, and volunteer personnel including the licensee when the licensee is an individual who works in the facility.

["Staff positions" are defined below:

"Aide" means the individual designated to be responsible for helping the program leader or child care supervisor in supervising children and in implementing the activities and services for children.

"Program leader" or "child care supervisor" means the individual designated to be responsible for the direct supervision of children and for implementation of the activities and services for a group of children.

"Program director" means the primary, on-site director or coordinator designated to be responsible for developing and implementing the activities and services offered to children, including the supervision, orientation, training, and scheduling of staff who work directly with children, whether or not the program director personally performs these functions.

Exception: The administrator may perform staff orientation, training or program development functions if the administrator meets the qualifications in § 3.6 of these regulations and a written delegation of responsibility specifies the duties of the program director.

"Administrator" means a manager or coordinator designated to be in charge of the total operation and management of one or more centers. The administrator may be responsible for supervising the program director or, if appropriately qualified, may concurrently serve as the program director.]

"Volunteers" means persons who come to the center less than once a week and are not counted toward the required number of staff.

"Volunteer personnel" means persons who work at the center once a week or more often or who are counted in the required ratio of staff to children.

Article 2. Legal Base.

§ 1.2. Chapter 10 (§ 63.1-195 et seq.) of Title 63.1 of the Code of Virginia describes the responsibility of the Department of Social Services for the regulation of residential and day programs for children, including child day centers.

§ 1.3. Section 63.1-202 of the Code of Virginia requires the Child Day-Care Council to prescribe standards for certain activities, services, and facilities for child day centers.

Article 3. Purpose.

§ 1.4. The purpose of these minimum standards is to protect school age children who are separated from their parents during a part of the day by:

1. Ensuring that the activities, services, and facilities

of centers are conducive to the well-being of children, and

2. Reducing risks in the [child care] environment.

Article 4. Applicability.

§ 1.5. The minimum standards in Part I through VIII [~~or the alternative standards in the Montessori Module in Part IX of these regulations and the Montessori module in Part IX of these regulations~~ for Montessori preschools wanting to meet alternative standards,] apply to child day centers serving school age children as defined in § 1.1 of these standards.

PART II. ADMINISTRATION.

Article 1. Sponsorship.

§ 2.1. Each center shall have a clearly identified sponsor which shall be identified by its legal name in accordance with state requirements.

§ 2.2. The names and addresses of individuals who hold primary financial control and officers of the sponsor or governing body shall be disclosed fully to the Department of Social Services.

§ 2.3. The sponsor, represented by the individual proprietor, partners, officers, and managers who has delegated authority to act for a sponsor, shall be of good character and reputation and shall not have been convicted of a felony or a misdemeanor related to abuse, neglect, or exploitation of children or adults.

Article 2.

Operational Responsibilities.

§ 2.4. As required by § 63.1-198 of the Code of Virginia, the sponsor shall afford the commissioner or his agents the right at all reasonable times to inspect facilities, all of his financial books and records, and to interview his agents, employees, and any child or other person within his custody or control.

§ 2.5. The license shall be posted in a place conspicuous to the public, near the main entrance of the building or the main office.

§ 2.6. The operational responsibilities of the licensee shall include, but not be limited to, the following:

1. To develop a written statement of the purpose, scope, and philosophy of the services to be provided by the center and written policies under which the center will operate;

2. To ensure that the center's activities, services, and facilities are maintained in compliance with [:] these minimum standards; the terms of the current license issued by the department; other relevant federal, state, and local laws and regulations including the Americans with Disabilities Act and state law regarding disabilities; and the center's own policies and procedures; and

3. To identify in writing the individuals responsible for the day-to-day operations and implementation of both these regulations and the facility's policies.

§ 2.7. No center "shall make, publish, disseminate, circulate, or place before the public, or cause, directly or indirectly, to be made...an advertisement of any sort regarding services or anything so offered to the public, which...contains any promise, assertion, representation, or statement of fact which is untrue, deceptive, or misleading" (§ 63.1-196 of the Code of Virginia).

§ 2.8. The center shall maintain public liability insurance for bodily injury with a minimum limit of at least \$500,000 each occurrence and [with a minimum limit of] \$500,000 aggregate or have equivalent self-insurance which is in compliance with local codes. Evidence of insurance coverage shall be made available to the department's representative upon request unless the center is self-insured.

§ 2.9. A plan of accident or school insurance shall be available to the parent. The center may designate whether the parent's participation in the plan is optional or mandatory.

§ 2.10. The center shall develop an annual plan for injury prevention. This plan shall be based on documentation of injuries and a review of the activities and services.

§ 2.11. The center shall develop a playground safety plan which shall include:

1. Provision for active supervision by staff;
2. Positioning of staff on the playground to help meet the safety needs of children; and
3. Method of maintaining resilient surface.

§ 2.12. Hospital operated centers may temporarily exceed their licensed capacity during a natural disaster or other catastrophe if:

1. The center has developed a plan with defined limits for its emergency operation, and
2. The center has received prior approval of the plan by the department. The department may monitor the center during this time and impose additional requirements for the safety of children or withdraw the approval to exceed the capacity.

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§ 2.13. If children 13 years or older receive supervision in the licensed program, [~~the center's licensed capacity shall be reduced by one for each child 13 years of age or older they shall be counted in the number of children receiving care~~] .

Article 3. Policies and Procedures.

§ 2.14. Before a child's enrollment, parents shall be provided in writing the following:

1. Operating information:

- a. The center's purpose, scope, philosophy, and any religious affiliations;
- b. The hours and days of operation and holidays or other times closed;
- c. The procedures for admission and registration of children;
- d. Fees and tuition including whether participation in the accident or school insurance is mandatory;
- [e. The phone number of the center;]
- [e. f.] The program and services provided and the ages of children accepted;
- [f. g.] Organizational chart or other description of established lines of authority for persons responsible for center management within the organization;
- [g. h.] Reasons and procedures for removal of children from rolls including the amount of notice required for the parent and center before removal from the program; and
- [h. i.] Licensing information found in Appendix I.

2. Arrival and departure for children:

- a. Policy governing a parent picking up a child after closing hours and procedures if the child is not picked up;
- b. Policy for release of children from the center only to responsible persons for whom the center has written authorization; and
- c. Procedures for protecting children from traffic and other hazards during arrival and departure and when crossing streets.

3. Program and activities:

- a. Procedures and policies about accepting and storing children's personal belongings;

- b. Discipline policies including acceptable and unacceptable discipline measures;

- c. Food policies; and

- d. Transportation safety policies and procedures when provided.

4. Health and emergencies:

- a. Procedures for storing and giving children's medications; and

- b. Policy for reporting suspected child abuse.

§ 2.15. Before staff are allowed to supervise children, staff shall be provided with the information listed in § 2.14 and the following:

1. Procedures for caring for a child who may arrive after any scheduled start time or the center;
2. Procedures to confirm absence of a child from the center when the child attends more than one care or educational arrangement a day;
3. Procedures for identifying where attending children are at all times including field trips; and
4. Procedures for action in case of lost or missing children, ill or injured children, medical emergencies, and natural disasters, including but not limited to fire, flood, or other severe weather.

Article 4. Records, Logs, and Reports.

§ 2.16. General record keeping.

A. All children's records and personnel records shall be treated confidentially [~~with access restricted to staff and officials under the authority of the Code of Virginia. Children's records shall also be available to the custodial parent unless otherwise provided in the law~~] . [~~Exception: Children's records shall be made available to the custodial parent upon request.~~]

B. Records, logs, and reports shall be kept. Records may be kept at a central location except as indicated otherwise in these standards .

C. All records, logs, and reports on children and staff required by these standards shall be maintained and made accessible for two years after termination of enrollment or employment unless specified otherwise.

§ 2.17. Children's records.

Each center shall maintain and keep at the center a separate record for each child enrolled which shall contain the following information:

1. Name, nickname (if any), sex, and birth date of the child;

2. Name, home address, and home phone number of each parent who has custody;

3. When applicable, work phone number and place of employment of each parent who has custody;

4. Name and phone number of child's physician;

5. Name, address, and phone number of two designated people to call in an emergency if a parent cannot be reached;

6. Names of persons authorized to pick up the child. Appropriate legal paperwork shall be on file when the custodial parent requests the center not to release the child to the other parent;

7. Allergies and intolerance to food, medication, or any other substances, and actions to take in an emergency situation;

8. Chronic physical problems and pertinent developmental information;

9. Health information as required by [§§ 2.27 through 2.29 §§ 2.26 through 2.28] of these regulations;

[Exception: When a center is located in the same building where a child attends school and the child's record has a statement verifying the school's possession of the health record, the center is not required to maintain duplicates of the school's health record for that child provided the school's records are accessible during the center's hours of operation.]

10. Written agreements between the parent and the center as required by §§ 2.21 through 2.23;

11. Name of any additional programs or schools that the child is concurrently attending and the grade or class level; and

12. Enrollment and termination date.

§ 2.18. Staff records.

Staff records shall be kept for paid staff and volunteer personnel which shall include the following:

1. Name, address, verification of age requirement, job title, and date of employment or volunteering;

2. Documentation that two or more references as to character and reputation as well as competency were checked before employment or volunteering. If a reference check is taken over the phone, documentation shall include dates of contact, names of persons contacted, the firms contacted, results, and

signature of person making call.

[~~Exception~~ Exceptions] : Reference checks are not required for:

a. Staff hired before April 1, 1986, in centers initially licensed before July 1, 1993; and

b. Staff who began work before July 1, 1993, in previously excepted centers that were initially required to be licensed after July 1, 1993.

3. A criminal record check as required by the Regulation for Criminal Record Checks for Child Welfare Agencies; and

[Note: Criminal record checks are required for volunteers, except parent volunteers as defined in the Regulation for Criminal Record Checks, who at any time would be alone with, in control of, or supervising one or more children outside the physical presence of a paid facility staff member.]

4. Name, address, and telephone number of a person to be notified in an emergency which shall be kept at the center;

5. Written information to demonstrate that the individual possesses the education, orientation training, staff development, certification, and experience required by the job position;

6. First aid and other certification as required by the responsibilities held by the staff member;

7. Health information as required by [§§ 2.30 through 2.32 §§ 2.29 through 2.31] of these regulations;

8. Information, to be kept at the center, about any health problems which may interfere with fulfilling the job responsibilities; and

9. Date of termination when applicable.

§ 2.19. The center shall keep a written log of the following:

1. Children in attendance each day;

2. Medication given to children as required in subdivisions 1 through 4 of § 7.17;

3. Children's accidents or injuries as required in subdivisions 1 through 7 of § 7.35;

4. Asbestos inspections as required in subdivision C 2 of § 4.2; and

5. Emergency evacuation practice drills as required in § 7.29.

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§ 2.20. Reports shall be filed and maintained as follows:

1. The center shall inform the commissioner's representative within two working days of the circumstances surrounding the following incidences:

- a. Death of a child, and
- b. Missing child when local authorities have been contacted for help.

2. Any suspected incidence of child abuse shall be reported in accordance with § 63.1-248.3 of the Code of Virginia.

Article 5.

Enrollment and Termination Procedures.

§ 2.21. A written agreement between the parent and the center shall be in each child's record at the time of the child's enrollment. The agreement shall be signed by the parent and include:

1. An authorization for emergency medical care should an emergency occur when the parent cannot be located immediately, and

2. A statement that the center will notify the parent when the child becomes ill and that the parent will arrange to have the child picked up as soon as possible.

§ 2.22. When applicable, written permission from the parent authorizing the child's participation in the center's transportation and field trips shall be in the child's record.

§ 2.23. If a parent wishes a child to leave the center unaccompanied, written permission from the parent authorizing the child to leave the center shall be secured and the center shall maintain a record of the child leaving unaccompanied.

[§ 2.24. The phone number of the center shall be given to the parent upon the child's enrollment.]

[§ 2.25: § 2.24.] When a center decides to terminate the enrollment of a child, the center shall provide the parent in writing the reasons for termination.

[§ 2.26: § 2.25.] Reserved.

Article 6.

Health for Children and Staff.

[§ 2.27: § 2.26.] Immunizations for children.

A. Regulations by the State Board of Health for the immunization of school children require documentation of all age appropriate immunizations prescribed in the regulations before each child's enrollment to a center licensed by this Commonwealth.

Exemptions (subsection C of § 22.1-271.2 of the Code of Virginia and § 3.03 of the Regulations for the Immunizations of School Children.): Documentation of immunizations is not required for any child whose (i) parent submits an affidavit to the center, on the form entitled "Certification of Religious Exemption," stating that the administration of immunizing agents conflicts with the parent's or child's religious tenets or practices, or (ii) physician or a local health department states on a MCH 213B or MCH 213C Form that one or more of the required immunizations may be detrimental to the child's health.

B. Updated information on immunizations received shall be obtained once between each child's fourth and sixth birthdays.

[§ 2.28: § 2.27.] Physical examinations for children.

Each child shall have a physical examination by or under the direction of a physician before enrollment or within one month after enrollment.

For children two years of age through five years of age [,] the examination shall be completed within 12 months prior to enrollment.

Exceptions:

1. Children transferring from a facility licensed by the Virginia Department of Social Services, certified by a local department of public welfare or social services, registered as a small family day home by the Virginia Department of Social Services or by a contract agency of the Virginia Department of Social Services, or approved by a licensed family day system:

a. If the initial report or a copy of the initial report of immunizations is available to the admitting facility, no additional examination is required.

b. If the initial report or a copy of the initial report is not available, a report of physical examination and immunization is required in accordance with [§§ 2.27 and 2.28 §§ 2.26 and 2.27] of these regulations.

2. Subsection D of § 22.1-270 of the Code of Virginia: Physical examinations are not required for any child whose parent objects on religious grounds. The parent must submit a signed statement noting that the parent objects on religious grounds and certifying that to the best of the parent's knowledge the child is in good health and free from communicable or contagious disease.

[§ 2.29: § 2.28.] Form and content of immunizations and physical examination reports for children.

A. The current form required by the Virginia Department of Health shall be used to report immunizations received and the results of the required

physical examination. See Appendix II for a copy of this form.

Exception: When the current Health Department form has not been used such as, but not limited to, when a child transfers from another state, other documentary proof of the child having received the required examination and immunization shall be accepted. Documentary proof may include, but not be limited to, an International Certificate of Immunization, another state's immunization form, or a physician's letterhead.

B. Each report shall include the date of the physical examination and dates immunizations were received.

C. Each report shall be signed by a physician, his designee, or an official of a local health department.

[~~§ 2.30.~~ § 2.29.] Tuberculosis examination for staff.

A. Each staff member, including the licensee, administrator, and volunteer personnel, shall obtain and submit a statement that he is free of tuberculosis in a communicable form. The statement shall be submitted no later than five working days after employment [or volunteering] and shall:

1. Be dated within 30 days before or five working days after employment of the individual;
2. Include the types of tests used and the results; and
3. Include the signature of the physician, the physician's designee, or an official of a local health department.

Exceptions: When a staff member terminates work at one licensed facility or public or private school begins work at a licensed center with a gap in service of six months or less, the previous statement of tuberculosis screening may be transferred to the licensed center. Centers newly subject to licensure do not need to require staff hired before [the effective date of these regulations November 1, 1993,] to submit a statement of tuberculosis screening.

B. The tuberculosis examination shall be repeated as required by a licensed physician or the local health department.

C. Any staff member who comes in contact with a known case of tuberculosis or who develops chronic respiratory symptoms shall within one month after exposure or development receive an evaluation in accordance with subsections A and B of [~~§ 2.30 of these regulations~~ this section] .

[~~§ 2.31.~~ § 2.30.] When there is evidence that the safety of children may be jeopardized by the physical health or mental health of a staff member or volunteer, a report of examination of this person by a physician or, if

appropriate, a clinical psychologist skilled in the diagnosis and treatment of mental illness shall be obtained. The request for obtaining an examination may come from the licensee, administrator, or department.

[~~§ 2.32.~~ § 2.31.] If a staff member's or volunteer's examination or test results indicate that his physical or mental condition may jeopardize the safety of children or prevent his performance of duties, the staff member shall not be allowed contact with children or food served to children. The staff member may return when his condition is cleared to the satisfaction of the physician or clinical psychologist as evidenced by a signed, dated statement from the physician or clinical psychologist.

PART III. PERSONNEL.

Article I. General Qualifications.

§ 3.1. No staff shall have been convicted of a felony or a misdemeanor related to abuse, neglect, or exploitation of children or adults.

§ 3.2. All staff shall understand and be sensitive to the varying capabilities, interests, needs, and problems of children in care.

§ 3.3. All staff shall be:

1. Of good character and reputation;
2. Capable of carrying out assigned responsibilities;
3. Willing and able to accept training and supervision;
4. Able to communicate effectively both orally and in writing as applicable to the job responsibility; and
5. Able to understand and apply the minimum standards in this booklet which relate to their respective responsibilities.

§ 3.4. All staff who work directly with children shall have the ability to:

1. Communicate with emergency personnel and understand instructions on a prescription bottle;
2. Communicate effectively and appropriately with the age group to which the staff person is assigned;
3. Communicate effectively with parents;
4. Provide a stimulating and safe environment for the age group to which the staff person is assigned; and
5. Use materials, activities, and experiences to encourage children's growth and development.

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Article 2. Qualifications by Job Responsibility.

§ 3.5. All staff who work in multiple positions within the center shall meet the qualifications for each position.

Note: Personnel titles used in the standards are descriptive only. Centers are not required to use the same titles. The program director may have responsibilities for several centers at one site.

§ 3.6. Administrators.

There shall be an administrator designated to be in charge of the total operation of the center. Administrators hired after the effective date of these regulations who perform responsibilities of the program director shall be at least 21 years of age and shall possess an endorsement, bachelor's degree or associate degree in a child related field from an accredited college or university and one year of programmatic experience in the group care of children.

Exception: Montessori preschools may meet the alternative requirements in the Montessori Module.

§ 3.7. There shall be a program director designated to be responsible for developing and implementing the activities and services offered to children. There may be one program director for [~~several types of centers~~ a center offering care to both school age and preschool children] at one site or there may be [~~one program director for each type of center at one site~~ two directors, according to the age of the children, for a center serving school age and preschool children] . If a program director is responsible for a center with school age children and a center with children of preschool age or younger, the qualifications applicable to both school age and preschool age and younger shall apply.

§ 3.8. Program directors.

Program directors for centers with school age children shall be at least 21 years of age unless directly supervised by an administrator meeting the qualifications of § 3.6, in which case, the program director shall be at least 19 years of age. Program directors shall possess one of the following:

1. An endorsement, bachelors, or associate degree in a child related field from an accredited college or university and six months of age appropriate programmatic experience in the group care of children; or

[~~2. Forty-eight semester hours or 72 quarter hours of college credit from an accredited college or university of which 12 semester hours or 18 quarter hours are in subjects relating to group care of children and one year of age appropriate, programmatic experience in the group care of children; or~~

3. Forty-eight semester hours or 72 quarter hours of college credit from an accredited college or university and two years of age appropriate, programmatic experience in the group care of children, of which one year of this experience is in a staff supervisory capacity; or]

[~~2. 4.] Three years of age appropriate, programmatic experience in the group care of children which has been obtained after the age of 16 and a high school diploma or G.E.D. if supervised by an administrator meeting the qualifications of § 3.6; or~~

[~~3. 5.] Certification by a nationally recognized accrediting body whose staff qualification standards [~~have been determined~~] to meet minimum state regulations for the program director position [as determined by the department based on documentation supplied by those claiming equivalency] .~~

Note: For the programmatic experience to be considered age appropriate, at least some of the experience shall be with school age children.

Exception: Montessori preschools may meet the alternative requirements in the Montessori Module.

§ 3.9. Back-up for program directors.

A. For centers operating eight hours or more per day, if the program director is regularly present in the facility fewer than four hours per day, there shall be an officially designated person who shall assume the responsibility in the absence of the program director and meet the qualifications of subdivisions 1 through [~~3 5~~] of § 3.8. In addition, if the program operates multiple shifts for working parents, a program director shall be regularly present for at least four hours of each shift or have a back-up program director who shall assume responsibility in the absence of the director and meet the qualifications of subdivisions 1 through [~~3 5~~] of § 3.8.

B. For centers operating eight hours or less per day, if the program director is regularly present in the facility less than 50% of the hours of operation, there shall be an officially designated person who shall assume responsibility in the absence of the program director and meet the qualifications of subdivisions 1 through [~~3 5~~] of § 3.8.

Exception: Montessori preschools may meet the alternative requirements in the Montessori Module.

§ 3.10. Program leaders and child care supervisors.

Program leaders and child care supervisors shall [~~±. Be~~ be] at least 18 years of age [; ~~2. Have and have~~] a high school diploma or G.E.D. [; ~~and~~ In addition, program leaders and child care supervisors who work with school age children shall meet the program director qualifications in § 3.8 or possess one of the following:]

[~~3. Have six months of age appropriate, programmatic experience in the group care of children or a degree in elementary education or early childhood education.~~

1. An endorsement or bachelor's degree in a child related field from an accredited college or university; or

2. Forty-eight semester hours or 72 quarter hours of college credit from an accredited college or university of which 12 semester hours or 18 quarter hours are in subjects relating to the group care of children and three months of age appropriate, programmatic experience in the group care of children; or

3. Six months of age appropriate, programmatic experience in the group care of children.]

Note: For the programmatic experience to be considered age appropriate, at least some of the experience shall be with school age children.

Exception: Montessori preschools may meet the alternative requirements in the Montessori Module.

§ 3.11. Aides.

Aides shall be at least 16 years of age and shall meet the general qualifications, health, orientation training, and staff development requirements for the applicable position.

§ 3.12. Volunteer personnel.

Volunteer personnel shall meet the qualifications for the applicable position.

§ 3.13. Volunteers.

The duties of volunteers shall be clearly defined.

Article 3. Staff Orientation Training and Development.

§ 3.14. Orientation training.

Before assuming job responsibilities, all staff shall receive the following training [~~and shall certify in writing that all the required training was received~~] :

1. Job responsibilities and to whom they report;
2. The policies and procedures listed in §§ 2.14 and 2.15 that relate to the staff member's responsibilities;
3. The center's playground safety plan unless the staff member will have no responsibility for playground activities or equipment;
4. Confidential treatment of personal information about children in care and their families; and

5. The minimum standards in this booklet which relate to the staff member's responsibilities.

§ 3.15. Staff development.

A. The center shall have a plan for staff development.

B. Staff development activities to meet the requirements of subsection C of this section shall:

1. Be related to children and the function of the center;
2. Consist of some sources outside the center which may include but not be limited to audio and visual tapes, conferences, and workshops;
3. Be from someone with verifiable expertise or experience when conducted as in-service training; and
4. Include annually the topics of safety for children, child development and discipline, and playground supervision for staff.

C. In addition to first aid, CPR, and orientation training required elsewhere in these regulations, employed staff who work directly with children shall annually attend eight hours of staff development activities.

Exception: Montessori preschools may meet the alternative requirements in the Montessori Module.

§ 3.16. Whenever one or more children under the age of eight are present in a center, there shall be at least one staff member on duty at all times who has obtained instruction in performing the daily health observation of children. This instruction shall be obtained from a physician, registered nurse, or health department medical personnel at a three year interval.

PART IV. PHYSICAL PLANT.

Article 1. Approval from Other Agencies.

§ 4.1. Requirements prior to initial licensure.

A. Before issuance of initial license and before use of newly constructed, renovated, remodeled, or altered buildings or sections of buildings, written documentation of the following shall be provided by the applicant or licensee to the licensing representative:

1. Inspection and approval [~~of buildings~~] from the appropriate authority [~~that the buildings meet building codes or that the center has an approved plan of correction~~] ; and
2. Inspection and approval from the local health department, or approval of a plan of correction, for

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meeting requirements for:

- a. water supply;
- b. sewerage disposal system; and
- c. food service, if applicable.

Exception: Any building which is currently approved for school occupancy and which houses a public or private school during the school year shall be considered to have met the requirements of subdivision A 1 of this section when housing a center only serving children 2 1/2 years of age or older.

B. If a building was under construction before 1978, a written statement from a Virginia licensed asbestos inspector and management planner shall be submitted before initial licensure in order to comply with § 63.1-198.01 of the Code of Virginia. The statement shall include:

1. Verification that the building in which the child day center is located was inspected for asbestos according to the requirements of the Asbestos Hazard Emergency Response Act - 40 CFR Part 763 - Asbestos Containing Materials in Schools;
2. The dates of the inspection;
3. Whether asbestos was found in the building;
4. Signature of the licensed asbestos inspector and management planner, including the Virginia license numbers; and
5. If asbestos is found or assumed, the statement shall include:
 - a. The location of any significant asbestos hazard areas;
 - b. Verification of completion of the management plan;
 - c. Response actions recommended by the inspector; and
 - d. Verification that response actions have been completed.

Exception: Private, nonprofit schools providing educational instruction to children five years of age or older are also subject to the federal requirements of the Asbestos Hazard Emergency Response Act (AHERA). Private, nonprofit schools which are also subject to licensure and have had an asbestos inspection completed prior to the implementation of these regulations may submit the letter of completion they have received from the Department of Education, in lieu of the requirements of this subsection.

Private, nonprofit schools subject to the federal AHERA requirements, but which have not already received an asbestos inspection must comply with subsections B and C of this section.

C. If asbestos was found in the building, before a license will be issued the prospective licensee shall:

1. Submit to the department a signed, written statement that:
 - a. Response actions to remove all asbestos containing materials have been completed; or
 - b. The recommendations of the operations and maintenance plan will be followed, appropriate staff will receive the necessary training and documentation of required inspections will be completed.
2. Maintain documentation of removal at the center for review by the department's representative.
3. Send written notification to the parents, department, and other adult occupants of the building about the presence and location of the asbestos containing material as well as the advisement that the asbestos inspection report and operation and maintenance plan are available for review. A copy of this notification shall be submitted to the department.

Note: The department may request that the complete asbestos inspection report and operations and maintenance plan be submitted for review.

Exception: The asbestos requirements of subsections B and C of this section do not apply to child day centers located in a currently operating public school building or a state owned building since the asbestos requirements of these buildings are regulated by other agencies.

D. Prior to initial licensure, camps shall make the following documentation available to the licensing representative:

1. Notification to closest fire department of camp location;
2. Approval or permit from local building official for installation and operation of any incinerator; and
3. Approval from appropriate fire official for any open fire, if applicable.

§ 4.2. Requirements subsequent to initial licensure.

A. Every 12 months, written documentation shall be obtained and provided to the licensing representative of inspection and approval from the appropriate fire prevention official that the center's facility complies with the Statewide Fire Prevention Code.

* [Exception: If a center is located in a building currently housing a public or private school during the school year, the school's fire inspection report may be accepted in lieu of the requirements of subsection A of this section if the inspection was completed within the past 12 months.]

B. Subsequent to initial licensure, and as required by the local health department, written documentation shall be provided of any additional inspections and approvals, or approvals of a plan of correction, for meeting:

1. Water supply;
2. Sewerage disposal system; and
3. Food service, if applicable.

C. For those buildings where asbestos containing materials are found or assumed and not removed:

1. The administrator or a designated staff member shall take the required asbestos training as specified in the operations and maintenance plan for the facility;
2. The administrator or a designated staff member who has received the required asbestos training shall conduct visual inspections of all asbestos containing materials according to the schedule recommended in the management plan and document the date and the findings of these inspections; and
3. New parents and new adult occupants of the building shall be provided written notification of the presence and location of asbestos in the building and be advised that the asbestos inspection report and operations and maintenance plan are available for their review. A copy of this written notification shall be maintained at the center for review by the department's representative.

D. For those buildings where asbestos containing materials have been found or assumed and asbestos has been removed, the center shall maintain at the center documentation of that removal for review by the department's representative. Unless all asbestos containing materials have been removed, the operations and maintenance plan shall be followed for any remaining asbestos material.

Exception: Subsections C and D of this section do not apply to child day centers located in a currently operating public school building or a state owned building since the asbestos requirements of these buildings are regulated by other agencies.

Article 2. General Requirements.

§ 4.3. The facility's areas and equipment, inside and

outside, shall be:

1. Maintained in clean and sanitary condition;
2. Maintained in conditions that are safe and free of hazards such as [,] but not limited to [,] sharp points or corners, splinters, protruding nails, loose rusty parts, and objects small enough to be swallowed; and

Exception: Montessori preschools may meet the alternative requirements in the Montessori Module.

3. Maintained in operable condition.

§ 4.4. Heating provisions.

A. A heating system shall be provided except for camps for school age children that only operate from May 15 to October 1. The heating system shall meet the following specifications:

1. It shall be approved by the appropriate building official;
2. Heating shall not be provided by stoves except in camps for school age children;
3. It shall be installed to prevent accessibility of children to the system; and
4. It shall have appropriate barriers to prevent children from being burned, shocked, or injured from heating equipment. In addition, proper supervision shall be available to prevent injury.

Exception: In case of emergency, portable electric or kerosene heaters may be used if they have been previously inspected and approved by the appropriate building official.

B. In areas used by children, the temperature shall be maintained no lower than 68°F;

§ 4.5. Fans or other cooling systems shall be used when the temperature of areas used by children exceeds 80°F.

§ 4.6. Provisions for water shall be as follows:

1. Drinking water fountains or individual disposable cups, or both, shall be provided. Drinking water shall be available and accessible at all times.
2. Where portable water coolers are used, they shall be of easily cleanable construction, maintained in a sanitary condition, kept securely closed, and so designed that water may be withdrawn from the container only by water tap or faucet. Individual disposable cups shall be provided.
3. Water which is transported to camp sites for

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drinking purposes shall be in enclosed containers.

4. Safe water shall be provided each day.

§ 4.7. Building equipment shall include, but not be limited to, the following:

1. Outside lighting provided at entrances and exits used by children before sunrise or after sundown;
2. A working, nonpay telephone;
3. First aid kit or kits; and
4. Provision for locking medication as described in § 7.16 of these regulations.

§ 4.8. Hazardous substances and other harmful agents.

A. No center shall be located where conditions exist that would be hazardous to the health and safety of children.

B. Hazardous substances such as cleaning materials, insecticides, and pesticides shall be kept away from food preparation and storage areas and in a locked place using a safe locking method that prevents access by children. If a key is used, the key shall not be accessible to the children.

C. Hazardous substances shall be stored in the original container unless this container is of such a large size that its use would be impractical.

D. If hazardous substances are not kept in original containers, the substitute containers shall clearly indicate their contents and shall not resemble food or beverage containers.

E. Cosmetics, medications, or other harmful agents of staff members shall not be stored in areas, purses or pockets that are accessible to children.

F. Hazardous art and craft material, such as those listed in Appendix III, shall not be used with children.

§ 4.9. Reserved.

§ 4.10. Any building which is currently approved for school occupancy and which houses a public school during the school year shall be considered to have met the building requirements in this regulation when housing a center only serving school age children.

§ 4.11. Camps shall be located on ground which has good surface drainage and which is free of natural and man-made hazards such as mine pits, shafts, and quarries. Adequate, approved safeguards or preventive measurements shall be taken when the camp is located on ground which is in or adjacent to swamps, marshes, landfills, abandoned landfills, or breeding places for insects or rodents of public health importance.

§ 4.12. Portable camping equipment for heating or cooking, that is not required to be approved by the building official shall bear the label of a recognized inspection agency except for charcoal and wood burning cooking equipment.

§ 4.13. No cooking or heating shall occur in tents.

Article 3. Indoor Areas.

§ 4.14. There shall be 25 square feet of indoor space available to [~~children~~ each child] where activities are conducted.

Exceptions:

[1.] Centers in operation before [the effective date of these regulations November 1, 1993,] and newly subject to licensure may have until July 1, 1996, to meet this requirement; and

2. Primitive camps for school age children are not required to meet this requirement if weather prevents outdoor activities by children:

a. Twenty-five square feet of indoor space per child is provided either at the program site or at a predesignated, approved location off site; or

b. The program is canceled during this type of weather.

§ 4.15. Areas not routinely used for children's activities shall not be calculated as available activity space. Space not calculated shall include, but not be limited to, offices, hallways, restrooms, kitchens, storage rooms or closets, and space occupied by equipment which is not used in or does not contribute to the children's activities.

§ 4.16. A place away from the children's activity area shall be designated for children who are ill, injured, tired, or emotionally upset.

§ 4.17. [~~Smoking shall not be allowed in areas used by children or in the presence of children~~ Smoking shall be prohibited inside the center and outside the center in the presence of the children.

Exception: Smoking may be allowed inside the building if it occurs in a room with a separate air circulation system from the one used for children's areas and the circulation system is vented directly to the outdoors.]

§ 4.18. Reserved.

§ 4.19. Reserved.

Article 4. Restroom Areas and Furnishings.

§ 4.20. Centers shall have at least two toilets and two

sinks.

§ 4.21. Each restroom provided for children shall:

1. Be within a confined area;
2. Be accessible and within the building used by the children;

Exception: Restrooms used by school age children at camps do not have to be located within the building.

3. Have toilets that are all flushable;
4. Have sinks that are all equipped with running water which does not exceed 120°F; and
5. Be equipped with soap, toilet paper, and disposable towels.

§ 4.22. For restrooms available to boys, urinals may be substituted for not more than one-half the required number of toilets, provided the center has at least two toilets.

§ 4.23. An adult size toilet with privacy shall be provided for staff use. Staff toilets may be counted in the number of required toilets for children only if children are allowed unrestricted access to them on a routine basis.

Exception: Primitive camps are not required to have a toilet facility with privacy for staff.

§ 4.24. Restrooms shall have at least one standard size toilet and one sink for every 30 school age children. When sharing restrooms with other programs the children in the other programs shall be included in the toilet and sink ratio calculations.

Exception: Montessori preschools may meet the alternative requirements in the Montessori Module.

§ 4.25. Reserved.

§ 4.26. School age children of the opposite sex shall not use the same restroom at the same time.

§ 4.27. In any restroom used for school age children which contains more than one toilet, at least one toilet shall be enclosed for privacy.

§ 4.28. Restrooms used by school age children at primitive camps are not required to have:

1. Sinks, if adequate water, supplies, and equipment for hand washing are available, and
2. Flushable toilets if the number of sanitary privies or portable toilets, constructed and operated in accordance with the applicable law and regulations of the Virginia Department of Health, meets the toilet

ratio stated in § 4.24 of these regulations. No privy or outdoor toilet shall be located within 75 feet of other buildings or camp activities.

§ 4.29. Requirements for centers with children who are not toilet trained.

Centers that serve children who are not toilet trained shall provide a diapering area which allows for sight and sound supervision of children in the classroom or is accessible and within the building used by children if the staff-to-children ratios required by § 5.17 are maintained in the classroom while other children are being escorted to toileting locations. The diapering area shall have at least the following:

1. A sink with running water not to exceed 120°F;
2. A nonabsorbent surface for changing diapers;
3. A leakproof storage system for diapers that is not hand generated;
4. A covered receptacle for soiled bed linens;
5. Soap and disposable towels; and
6. Privacy for changing diapers of school age children.

Article 5. Outdoor Areas.

§ 4.30. Centers in operation before [~~the effective date of these regulations~~ November 1, 1993,] and newly subject to licensure may have until July 1, 1996, to meet the requirements of §§ 4.31 through 4.37.

§ 4.31. The outdoor play area shall provide a minimum of 75 square feet of space per child in the area at any one time.

§ 4.32. Playgrounds shall be located and designed in a way to protect children from hazardous situations.

§ 4.33. While [~~§ 6.36~~ § 6.35] addresses the variety and amount of materials and equipment available for children, the specific playground equipment the center shall have is not designated. If playground equipment is provided, resilient surfacing [that helps absorb the shock if a child falls off the equipment] shall be placed under all fixed playground equipment with moving parts or climbing apparatus to create a fall zone free of hazardous obstacles. Fall zones are defined as the area underneath and surrounding equipment that requires a resilient surface. It shall encompass sufficient area to include the child's trajectory in the event of a fall while the equipment is in use. For recommendations concerning resilient surfacing, please see Appendix IV.

Exception: Montessori preschools may meet the alternative requirements in the Montessori Module.

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§ 4.34. [~~Ground footings or supports shall be in-ground below ground level~~ Ground supports shall be covered with materials which would protect children from injury] .

§ 4.35. Equipment used by children shall:

1. Have no accessible openings between 3 1/2 inches and nine inches;
2. Have closed S-hooks when provided; and
3. Have no protrusions, sharp points, shearing points, or pinch points.

§ 4.36. All swing seats shall be made of flexible material.

§ 4.37. Sandboxes with bottoms which prevent drainage shall be covered when not in use.

§ 4.38. Reserved.

§ 4.39. Reserved.

PART V. STAFFING AND SUPERVISION.

Article 1. Supervision of Staff and Volunteers.

§ 5.1. All aides, volunteer personnel, and volunteers shall be under the individual supervision of a staff member on site who meets the qualifications of a program leader, child care supervisor, or program director.

§ 5.2. Each person serving in the positions of a program director, back-up program director, program leader or child care supervisor shall not be responsible for the individual supervision of more than two aides at any one time.

Exception: In a training environment, aides used beyond the required staff-to-children ratio of § 5.17 shall not be included in the above requirement.

§ 5.3. When with children, contract employees shall be sight supervised by a staff member unless the contract employee meets the personnel, health, and orientation training requirements for the applicable position.

Article 2. Supervision of Children.

§ 5.4. All staff assigned responsibility for supervision of children shall ensure their care, protection, and guidance at all times.

§ 5.5. During the center's hours of operation, one adult on the premises shall be in charge of the administration of the center. This person shall be either the administrator or an adult appointed by the licensee or designated by the administrator.

§ 5.6. There shall be in each building of the center and on field trips at all times when one or more children are present:

1. At least two staff, one of whom meets the qualifications of a program leader, child care supervisor, or program director; or

2. One staff member who meets the qualifications of a program leader, child care supervisor, or program director and a readily available designated support person with direct means for communication between the two of them.

§ 5.7. In each grouping of children at least one staff member who meets the qualifications of a program leader, child care supervisor, or program director shall be regularly present.

§ 5.8. Children under 10 years of age shall be within actual sight and sound supervision of staff at all times, except that staff need only be able to hear a child who is using the restroom provided that:

1. There is a system to assure that individuals who are not staff members or persons allowed to pick up a child in care do not enter the restroom area while in use by children, and

2. Staff check on a child who has not returned from the restroom after five minutes.

§ 5.9. Children 10 years of age and older shall be within actual sight and sound supervision of staff except when all of the following are met:

1. Staff can hear or see the children (Note: video equipment, intercom systems, or other technological devices shall not substitute for staff being able to directly see or hear children);

2. Staff are nearby so they can provide immediate intervention if needed;

3. There is a system to assure that staff know where the children are and what they are doing;

4. There is a system to assure that individuals who are not staff members or persons allowed to pick up a child in care do not enter areas where children are not under sight supervision; and

5. Staff provide sight and sound supervision of the children at variable and unpredictable intervals not to exceed 15 minutes.

§ 5.10. When the outdoor activity area is not adjacent to the center, there shall be at least two staff on the outdoor activity area [~~or a means for direct communication between the staff member on the outdoor activity area and another staff member at the facility~~] whenever on

or more children are present.

§ 5.11. Staff shall greet each child upon arrival at the center and oversee each child's departure from the center.

§ 5.12. Reserved.

Article 3.
Staff-to-Children Ratio Requirements.

§ 5.13. Staff shall be counted in the required staff-to-children ratios only when they are directly supervising children.

§ 5.14. A child volunteer not enrolled in the program shall not be counted as a child in the staff-to-children ratio requirements.

§ 5.15. When children are regularly in ongoing mixed age groups, the staff-to-children ratio applicable to the youngest child in the group shall apply to the entire group.

Exception: Montessori preschools may meet the alternative requirements in the Montessori Module.

§ 5.16. Reserved.

§ 5.17. The staff-to-children ratio shall be one staff member for every 20 school age children.

Exception: Montessori preschools may meet the alternative requirements in the Montessori Module.

PART VI.

PROGRAMS

Article 1.

Daily Schedule.

§ 6.1. There shall be a predictable sequence to the day but the schedule shall be flexible, based on the children's needs.

§ 6.2. For centers operating more than two hours per day or more than two hours per session per day, outdoor activity shall be provided daily, weather allowing, according to the following:

1. If the center operates between two and five [and one half] hours per day or per session, there shall be at least [15 30] minutes of activity per day or per session.

2. If the center operates [more than] five [and one half] hours [or more] per day or per session, there shall be at least one hour of outdoor activity per day or per session.

Exceptions: Outdoor activity is not required on days when

an all day field trip occurs and Montessori preschools may meet the alternative requirements in the Montessori Module for subdivision 2 of this section.

§ 6.3. Staff shall provide opportunities for children to engage in self-chosen tasks and activities and allow children to learn from self-directed problem-solving and experimentation.

Exception: The requirements of this section do not apply to speciality camps.

§ 6.4. Reserved.

§ 6.5. Reserved.

§ 6.6. Reserved.

§ 6.7. Reserved.

Article 2.
Activities.

§ 6.8. The daily activities shall be developmentally appropriate and promote the individual child's physical, intellectual, emotional, and social well-being and growth [as well as promoting curiosity and exploration] .

[Exception: Section 6.8 of these regulations is not applicable to speciality camps.]

§ 6.9. To promote emotional development, the center shall provide for:

1. Opportunities for individual self-expression;
2. Recognition that each child is an individual;
3. Respect for personal privacy; and
4. Respect for each child's cultural, ethnic, and family background, as well as the child's primary language or dialect.

§ 6.10. To promote social development, the center shall provide:

1. Guidance to children in developing and working out ways of getting along with one another;
2. Staff interaction with children in ways which emphasize and foster attitudes of mutual respect between adults and children; and
3. Staff behavior which demonstrates respect for all other persons as individuals and appreciation of cultural and ethnic diversity.

§ 6.11. The center shall provide for the self direction of the children by:

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1. Allowing children opportunities to choose activities according to personal desires and interests and to move freely from one activity to another;

[~~§ 6.21.~~ § 6.20.] Reserved.

2. Encouraging children to do things independently and to help with daily routines as appropriate to the child's developmental level but to be available to comfort and help when needed; and

[~~§ 6.22.~~ § 6.21.] Reserved.

[~~§ 6.23.~~ § 6.22.] Reserved.

3. Supporting children's friendships and providing children opportunities to be involved in decision making about group and individual activities.

[~~§ 6.24.~~ § 6.23.] Reserved.

[~~§ 6.25.~~ § 6.24.] Reserved.

[~~§ 6.26.~~ § 6.25.] Reserved.

[~~§ 6.27.~~ § 6.26.] Reserved.

Exception: Subdivisions 1 through 3 of this section are not applicable to speciality camps.

[~~§ 6.28.~~ § 6.27.] Reserved.

§ 6.12. A variety of children's activities shall be provided that allow for group and individual involvement and child and staff initiation.

[~~§ 6.29.~~ § 6.28.] Reserved.

[~~§ 6.30.~~ § 6.29.] Reserved.

§ 6.13. For children who cannot move without help, staff shall offer to change the places and position of the child and the selection of toys or objects available to the child at least every 30 minutes or more frequently depending on the individual needs of the child.

[~~§ 6.31.~~ § 6.30.] Reserved.

Article 3. Parental Involvement.

§ 6.14. The center shall provide a balance of active and quiet activities except for speciality camps.

[~~§ 6.32.~~ § 6.31.] The center shall be open for parents to visit and observe their children at any time [as stated in § 63.1-210.1 of the Code of Virginia] .

§ 6.15. Children of all ages shall be allowed to rest or sleep as needed on cots, mats, or beds, as appropriate.

[~~§ 6.33.~~ § 6.32.] The center shall encourage parent involvement on a volunteer basis in appropriate center activities.

[~~§ 6.16.~~ Reserved.]

[~~§ 6.17.~~ § 6.16. Activities Daily activities] and experiences for school age children shall include, but not be limited to, the following:

[~~§ 6.34.~~ § 6.33.] Staff shall share information with parents about their child's health, development, behavior, adjustment, and needs.

Article 4. Equipment and Materials.

1. Large motor activities for at least 25% of the program time;

[~~§ 6.35.~~ § 6.34.] All furnishings, equipment, and materials shall be of a developmentally appropriate size for the child using it.

2. Arts and craft activities;

3. Rhythm, music, and drama;

4. Small motor activities;

5. Special projects and hobbies; and

6. Opportunity to do homework in a suitable area.

[~~§ 6.36.~~ § 6.35.] The amount and variety of materials and equipment available and the arrangement and use of the materials and equipment shall be developmentally appropriate for the children and shall include equipment and materials which:

1. Are in sufficient supply to avoid excessive competition among the children and to avoid long waits for use of the materials and equipment;

Exceptions: This section is not applicable to speciality camps and Montessori preschools may meet the alternative requirements in the Montessori Module.

[~~§ 6.18.~~ § 6.17.] Reserved.

2. Provide for a variety of experiences and appeal to the individual interests and abilities of children;

[~~§ 6.19.~~ § 6.18.] Reserved.

Exception: Subdivision 2 of this section is not applicable to speciality camps.

[~~§ 6.20.~~ § 6.19.] Reserved.

3. Are accessible to children for the activities require

by these standards;

4. Allow children to use small and large muscles for imaginative play and creative activities; and

5. Include multicultural materials.

[§ 6.36. Indoor slides and climbing equipment shall not be over bare concrete, hardwood floors, masonry, vinyl, tile surface or similar surface.]

§ 6.37. Storage space for play materials and equipment used by the children shall be accessible to children either independently or with help.

§ 6.38. If combs, toothbrushes, or other personal articles are used, they shall be individually assigned.

§ 6.39. All disposable products shall be used once and discarded.

§ 6.40. Disposable dishes and utensils shall be sturdy enough to contain food without leakage and to prevent harm and injury to children.

§ 6.41. Provision shall be made for a place for each child's personal belongings.

§ 6.42. Reserved.

§ 6.43. Reserved.

§ 6.44. Reserved.

§ 6.45. No more than one child at a time shall occupy a cot, rest mat, or bed.

§ 6.46. Cots, rest mats, and beds shall be marked or identified in some way for use by a specific child.

§ 6.47. Double decker cots or beds, or other sleeping equipment which is stacked shall not be used.

§ 6.48. Occupied cots, rest mats, and beds shall be at least 2 1/2 feet from any heat source in use.

§ 6.49. There shall be at least 15 inches of space between sides and ends of occupied cots, beds, and rest mats.

Exception: Fifteen inches of space are not required where cots, beds, or rest mats touch the wall or where screens are placed between cots or beds as long as one side is open at all times to allow for passage.

§ 6.50. If rest mats are used, they shall have comfortable cushioning and be sanitized between each use.

§ 6.51. Reserved.

§ 6.52. Reserved.

§ 6.53. Reserved.

§ 6.54. Reserved.

§ 6.55. Reserved.

§ 6.56. Reserved.

§ 6.57. Reserved.

§ 6.58. Linens.

A. Linens for cots, rest mats, or beds shall consist of a top cover and a bottom cover or a one-piece covering which is open on three edges.

B. Linens shall be assigned for individual use.

C. Linens shall be maintained in clean and sanitary condition and shall be washed at least weekly.

D. When pillows are used, they shall be assigned for individual use and covered with pillow cases.

E. Mattresses when used shall be covered with a waterproof material which can be easily sanitized.

Article 5.

[~~Discipline~~. Behavior Guidance.]

§ 6.59. Discipline shall be constructive in nature and include techniques such as:

1. Using limits that are fair, consistently applied, and appropriate and understandable for the child's level;
2. Providing children with reasons for limits;
3. Giving positively worded directions;
4. Modeling and redirecting children to acceptable behavior;
5. Helping children to constructively express their feelings and frustrations to resolve conflict; and
6. Arranging equipment, materials, activities, and schedules in a way that promotes desirable behavior.

§ 6.60. There shall be no physical punishment or disciplinary action administered to the body such as, but not limited to, spanking; roughly handling a child; forcing a child to assume an uncomfortable position (e.g., standing on one foot, keeping arms raised above or horizontal to the body); restraining to restrict movement through binding or tying; enclosing in a confined space, box, or similar cubicle; or using exercise as punishment.

§ 6.61. A child shall not be shaken at any time.

§ 6.62. Staff shall not be verbally abusive which would

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include, but not be limited to, threats, belittling remarks about any child, his family, his race, his religion, or his cultural background, or other statements that are frightening or humiliating to the child.

§ 6.63. When disciplining a child, staff shall not:

1. Force, withhold, or substitute food;
2. Force or withhold naps; or
3. Punish a child for toileting accidents.

§ 6.64. When separation is used as a discipline technique, it shall be brief and appropriate to the child's developmental level and circumstances. The [~~isolated~~] child [who is separated from the group] shall be in a safe, lighted, well-ventilated place and shall be within hearing and vision of a staff member.

§ 6.65. No child, for punishment or any other reason, shall ever be confined in any space that the child cannot open, such as but not limited to closets, locked rooms, latched pantries, or containers.

§ 6.66. Staff shall not give a child authority to punish another child nor shall staff consent to a child punishing another child.

§ 6.67. Staff shall follow the center's policy on acceptable and unacceptable discipline methods.

§ 6.68. Reserved.

Article 6. Swimming and Wading Activities.

§ 6.69. Staff and supervision.

A. The staff-child ratios required by § 5.17 shall be maintained while children are participating in swimming or wading activities. The designated water safety instructor or senior lifesaver shall not be counted in the staff to children ratios.

B. If a pool, lake, or other swimming area has a water depth of more than two feet, a water safety instructor or senior life saver holding a current certificate shall be on duty supervising the children participating in swimming or wading activities at all times when one or more children are in the water. The certification shall be obtained from an organization such as, but not limited to, the American Red Cross, the YMCA, or the Boy Scouts.

C. A minimum of two staff members of the center shall be on duty supervising the children during swimming or wading activities when one or more children are in the water.

§ 6.70. Pools and equipment.

A. When permanent swimming or wading pools are located on the premises of the center, the following shall apply:

1. The manufacturer's specifications for operating the pool shall be followed as well as any local ordinances and any Department of Health requirements for swimming pools;
2. All pools constructed, renovated, or remodeled after April 1, 1986, shall have a statement in writing of their inspection and approval from the local building official when such approval is required;
3. Outdoor swimming pools shall be enclosed by safety fences and gates which shall be kept locked when the pool is not in use;
4. Entrances to swimming pools shall be locked when the pool is not in use; and
5. A whistle or other audible signaling device, a buoy or a lemon line, a reach pole, and a backboard shall be available at the swimming or wading site.

B. If children are allowed to swim in a lake or other place other than a pool, safe swimming areas shall be clearly marked.

C. All piers, floats, and platforms shall be in good repair and where used for diving, the minimum water depth shall be indicated on the deck or planking.

D. If children are allowed to swim at a lake or other body of water larger than a pool, there shall be a rescue boat available at all times which is equipped with a reach pole and a lemon line or buoy.

E. If portable wading pools are used, they shall be emptied of dirty water and filled with clean water for each day's use and more frequently as necessary.

§ 6.71. General.

A. The center shall have emergency procedures and written safety rules for swimming or wading that are:

1. Posted in the swimming area when the pool is located on the premises of the center;
2. Given to staff involved in swimming or wading activities;
3. Given to parents of children participating in swimming or wading activities; and
4. Explained to children participating in swimming or wading activities.

B. Staff shall have a system for accounting for all children in the water.

C. Each child's swimming skills shall be determined before the child is allowed in water above the child's shoulder height.

D. Outdoor swimming activities shall occur only during daylight hours unless underwater and deck lighting is provided.

E. Children who are not toilet trained shall not use portable wading pools.

PART VII. SPECIAL CARE PROVISIONS AND EMERGENCIES.

Article 1. Preventing the Spread of Disease.

§ 7.1. If a child arrives at the center with the signs or symptoms listed in subdivisions 1 and 2 of § 7.3 of these regulations, the child shall not be allowed to attend for that day.

§ 7.2. Staff with training as required in § 3.16 of these regulations shall observe daily each child under eight years of age for signs and symptoms of illness.

§ 7.3. Unless otherwise instructed by the child's health care provider, that child shall be excluded if:

1. He has a temperature over 100°F, or
2. He has a communicable disease as delineated in the current Communicable Disease Chart recommendations for the exclusion of sick children. (Refer to Appendix V.)

§ 7.4. If a child needs to be excluded according to subdivisions 1 and 2 of § 7.3 of these regulations, the following shall apply:

1. Arrangements shall be made for the child to leave the center as soon as possible after the signs or symptoms are noticed, and
2. The child shall remain in the designated quiet area until leaving the center.

§ 7.5. When a child at the center has been exposed to a reportable communicable disease, the parent shall be informed.

§ 7.6. Children's hands shall be washed with soap and running water before eating meals or snacks, after toileting, and after any contact with body fluids.

§ 7.7. Staff [shall wash their] hands [shall be washed] with soap or germicidal cleansing agent and water after helping a child with toileting, [after the staff member uses the toilet,] after any contact with body fluids, and before feeding or helping children with feeding.

§ 7.8. When a child's clothing or diaper becomes wet or soiled, it shall be changed immediately.

§ 7.9. Children not toilet trained.

A. The child's soiled area shall be thoroughly cleaned with a disposable wipe during each diapering.

B. Staff shall wash their hands with soap or germicidal cleansing agent and water after each diaper change.

C. Disposable diapers shall be used for children in diapers unless the child's skin reacts adversely to disposable diapers. If cloth diapers are used, there shall be separate step-on diaper pails for the cloth and disposable diapers.

D. [~~Changing tables~~ Surfaces for changing diapers] shall be used only for changing diapers or cleaning children.

E. Diapers shall be changed on a nonabsorbent surface which shall be washed with soap and warm water or a germicidal cleansing agent after each use.

F. Tables used for children's activities or meals shall not be used for changing diapers.

Article 2. Medication.

§ 7.10. Prescription and nonprescription medication shall be given to a child according to the center's written medication policies and only with written authorization from the parent.

§ 7.11. The center's medication policies shall address methods for administering medication and shall include:

1. Any general restrictions of the center;
2. Duration of the parent's authorization for medication provided that it shall expire or be renewed after 10 work days. Long-term prescription drug use may be excepted if a form such as the one in Appendix VI is completed and on file; and
3. Methods to prevent use of outdated medication.

§ 7.12. The medication authorization shall be available to staff during the entire time it is effective.

§ 7.13. All medication shall be labeled with the child's name, the name of the medication, the dosage amount, and the time or times to be given.

§ 7.14. [~~Prescription~~ All] medication shall be in the original container with the prescription label [or direction label] attached.

§ 7.15. When needed, medication shall be refrigerated.

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When medication is stored in a refrigerator used for food, the medications shall be stored together in a container or in a clearly defined area away from food.

§ 7.16. All medication, including refrigerated medication and staff's personal medication, shall be kept in a locked place using a safe locking method that prevents access by children. If a key is used, the key shall not be accessible to children.

§ 7.17. Centers shall keep a log of medication given children which shall include the following:

1. Child to whom medication was administered;
2. Amount and type of medication administered to the child;
3. The day and time the medication was administered to the child; and
4. Staff member administering the medication.

§ 7.18. Medication shall be returned to the parent as soon as the medication is no longer being administered.

Article 3. Specialized Staff Training.

§ 7.19. First aid training.

There shall be at least one staff member on the premises during the [~~centers~~ center's] hours of operation and also one person on all field trips who is trained in first aid. This person shall be available to children and meet one of the following qualifications for first aid training:

1. Has a current first aid certificate by the American Red Cross;
2. Has a current first aid certificate by the National Safety Council;
3. Has successfully completed, within the past three years, a first aid course equivalent to the curriculum which has been approved by the State Board of Health; or
4. Be a R.N. or L.P.N. with a current license from the Board of Nursing.

§ 7.20. Camps shall have at least one staff member with first aid training, as mentioned in subdivisions 1 through 4 of § 7.19 of these regulations, for every 30 children present.

§ 7.21. Camps shall have at least one staff member on the premises during all hours of the program's operation and also one person on all field trips who is available to children and has a current cardiopulmonary resuscitation

(CPR) certificate. When there are more than 30 children present, there shall be at least one staff person with current CPR training for every 30 children present.

§ 7.22. Primitive camps shall have a staff member on the premises during the hours of operation who has successfully completed at least first responder training within the past three years.

Article 4. First Aid and Emergency Supplies.

§ 7.23. A first aid kit shall be on each floor of each building used by children and on all field trips.

§ 7.24. The required first aid kits shall include at a minimum:

1. Scissors;
2. Tweezers;
3. Gauze pads;
4. Adhesive tape;
5. Band-aids, assorted types;
6. An antiseptic cleansing solution;
7. An antibacterial ointment;
8. Thermometer;
9. [~~Triangular~~ Two or more triangular] bandages;
10. Disposable gloves; and
11. The first aid instructional manual.

§ 7.25. Each first aid kit shall be stored so that it is not available to children but is easily available to staff.

§ 7.26. The following emergency supplies shall be required:

1. Syrup of ipecac or activated charcoal preparation (to be used only upon the advice of the physician or the Poison Control Center);
2. Chemical cooling agents, zip-lock bags, and sponges readily available for icing down contusions, sprains, and breaks;
3. A working, battery-operated flashlight on each floor of each building of the facility that is used by children; and
4. One working, battery-operated radio in each building of the facility used by children and any camp location without a building.

Article 5. Procedures for Emergencies.

§ 7.27. The center shall have an emergency evacuation plan that addresses staff responsibility with respect to:

1. Sounding of fire alarms and notification of local authorities;
2. Evacuation procedures including assembly points, head counts, primary and secondary means of egress, and checking to ensure complete evacuation of the buildings;
3. Fire containment procedures, e.g., closing of fire doors or other barriers; and
4. Other special procedures developed with local authorities.

§ 7.28. Emergency evacuation procedures shall be posted in a location conspicuous to staff and children on each floor of each building of the center.

§ 7.29. The center shall implement these emergency evacuation procedures through monthly practice drills and shall maintain a log of the dates of the monthly drills for one year. For centers offering multiple shifts, the evacuation procedures shall be divided evenly among the various shifts.

§ 7.30. A generic emergency number such as 911 shall be posted in a conspicuous place near each telephone. If a generic number is not available, the following numbers shall be posted near each phone:

1. A physician or hospital;
2. An ambulance or rescue squad service;
3. The local fire department; and
4. The local police department .

§ 7.31. The number of a regional poison control center shall be posted in a conspicuous place near each phone.

§ 7.32. The center shall develop a plan for action in case of a missing or injured child which shall address:

1. Immediate notification of emergency services;
2. Stabilization of injured child; and
3. Transportation of injured child if necessary.

§ 7.33. If an ambulance service is not readily available within 10 to 15 minutes, [other] transportation shall be available at all times in case of emergency.

§ 7.34. The center or other appropriate official shall notify

the parent immediately if a child is lost, experiences a serious accident, needs emergency medical care, or dies. The center shall notify the parent at the end of the day of any known minor accidents or injuries.

Note: Examples of a serious accident might include unconsciousness; broken bones; deep cut requiring stitches; concussion; foreign object lodged in eye, nose, ear, or other body orifice. Examples of a minor accident might include a small scratch, cut or scrape; minor bruise or discoloration of the skin.

§ 7.35. The center shall maintain a written log of children's injuries in which entries are made the day of occurrence. The log shall include the following:

1. Date and time of injury;
2. Name of injured child;
3. Type of injury;
4. Circumstances of the injury;
5. Names of staff present during the injury;
6. Treatment; and
7. Method of notifying parents.

§ 7.36. The camp shall have a warning system. Staff and campers shall be trained in this alarm system.

PART VIII. SPECIAL SERVICES.

Article 1. Nutrition and Food Services.

§ 8.1. Centers shall serve appropriate snacks or meals, or both, based on the hours of operation and time of the day.

§ 8.2. The center shall ensure that children arriving from a half-day, morning kindergarten program who have not yet eaten lunch receive a lunch.

§ 8.3. There shall be at least 1 1/2 hours between each meal and snack but no more than three hours between meals and snacks.

§ 8.4. Drinking water or other beverage not containing caffeine shall be offered at regular intervals to nonverbal children.

§ 8.5. In environments of 80°F or above, constant attention shall be given to the fluid needs of all children. Children in such environments shall be encouraged to drink fluids.

§ 8.6. When food is provided by the center, the following shall apply:

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1. Centers providing care to the same children more than four hours a day shall comply with the nutritional requirements of a recognized authority such as the Child and Adult Care Food Program of the United States Department of Agriculture (USDA) or the meal patterns in Appendix VII.

2. Centers offering both meals and snacks shall serve a variety of nutritious foods and shall serve at least three sources of vitamin A and at least three sources of vitamin C on various days each week. Appendix VIII lists sources of vitamin A and vitamin C.

3. A menu listing all foods to be served for all meals and snacks during the current one-week period shall be:

- a. Dated;
- b. Posted in a location conspicuous to parents or given to parents;
- c. Indicate any substituted food; and
- d. Kept on file for six weeks at the center.

4. Powdered milk shall not be used except for cooking.

§ 8.7. When food is brought from home, the following shall apply:

1. The food shall not be subject to rapid deterioration or spoilage;
2. The center shall give parents the USDA requirements and a list of suggested nonperishable food. Appendix VII has the requirements of USDA.
3. The food shall be clearly labeled in a way that identifies the owner;
4. The center shall have extra food or shall have a plan available to obtain food to serve to children so they can have an appropriate snack or meal if they forget to bring food from home, bring an inadequate meal or snack, or bring perishable food; and
5. All unused portions of food shall be discarded and not served again.

§ 8.8. If a catering service is used, it shall be approved by the local health department.

§ 8.9. Food during cookouts.

A. All food shall be prepared in a clean and sanitary manner.

B. Unused, perishable food shall be discarded and not served again.

§ 8.10. Reserved.

§ 8.11. Reserved.

§ 8.12. Reserved.

§ 8.13. Reserved.

§ 8.14. Reserved.

§ 8.15. Reserved.

§ 8.16. Reserved.

§ 8.17. Reserved.

§ 8.18. Reserved.

§ 8.19. Reserved.

§ 8.20. Reserved.

§ 8.21. Reserved.

§ 8.22. Reserved.

§ 8.23. Reserved.

Article 2. Transportation and Field Trips.

§ 8.24. If the center transports children to the site of the center, the center shall assume responsibility for the child between the place where the child boards the vehicle and the center site, while at the center and on any center field trips, and from the time the child leaves the center site until the child is delivered to a designated location or to a responsible person designated by his parent.

§ 8.25. Any vehicle used by the center for the transportation of children shall meet the following requirements:

1. The vehicle shall be enclosed and provided with door locks;
2. The vehicle's seats shall be attached to the floor;
3. The vehicle shall be insured with at least the minimum limits set by the Virginia state statutes; and
4. The vehicle shall meet the safety standards set by the Department of Motor Vehicles and shall be kept in satisfactory condition to assure the safety of children.

§ 8.26. The center shall ensure that during transportation of children:

1. Virginia state statutes about safety belts and child restraints are followed;

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2. The children remain seated and each child's arms, legs, and head remain inside the vehicle;

3. Doors are closed properly and locked;

4. At least one staff member or the driver always remain in the vehicle when children are present;

5. The telephone numbers for obtaining emergency help as stated in §§ 7.30 and 7.31 of these regulations are in the vehicle and available to staff;

6. The name, address, and phone number of the center and an additional emergency contact number is in the vehicle and available to staff; and

7. A list of the names of the children being transported is kept in the vehicle.

§ 8.27. When entering and leaving vehicles, children shall enter and leave the vehicle from the curb side of the vehicle or in a protected parking area or driveway.

§ 8.28. When necessary to cross streets, children shall cross streets at corners or crosswalks or other designated safe crossing point if no corner or crosswalk is available.

§ 8.29. The staff-to-children ratio of § 5.17 of these regulations shall be followed on all field trips but not necessarily in each vehicle. The staff-to-children ratio may not be followed during transportation of children to and from the center.

Exception: Montessori preschools may meet the alternative requirements in the Montessori Module.

§ 8.30. At least one staff member on field trips shall be trained in first aid according to subdivisions 1 through 4 of § 7.19 of these regulations and shall be instructed on procedures to follow if there is a vehicle break down.

§ 8.31. A first aid kit with the supplies mentioned in subdivisions 1 through 11 of § 7.24 of these regulations, syrup of ipecac or activated charcoal preparation, and chemical cooling agents for icing down contusions, sprains, and breaks shall be available to staff on field trips.

§ 8.32. The center shall make provisions for providing children on field trips with adequate food and water.

§ 8.33. If perishable food is taken on field trips, the food shall be stored in insulated containers with ice packs to keep the food cold.

§ 8.34. Before leaving on a field trip, a schedule of the trip's events and locations shall be [left posted and visible] at the center site.

§ 8.35. There shall be an established plan of communication between staff at the center site and staff who are away from the center site transporting children

or on field trip.

§ 8.36. The center shall develop and implement procedures to assure that all children return to the facility after a field trip.

§ 8.37. Staff shall follow the center's transportation safety policy.

§ 8.38. Parental permission for transportation and field trips shall be secured at least 24 hours before the scheduled activity. If a blanket permission is used instead of a separate written permission, the following shall apply:

[~~1. The schedule of activities away from the facility shall be posted;]~~

[~~2. 1.] Parents shall be notified of the field trip; and~~

[~~3. 2.] Parents shall be given the opportunity to withdraw their children from the field trip.~~

Article 3. Animals and Pets.

§ 8.39. Animals that are kept on the premises of the center shall be vaccinated [if applicable] against diseases which present a hazard to the health of children.

§ 8.40. Animals which are, or are suspected of being, ill or infested with external lice, fleas and ticks or internal worms shall be removed from contact with children.

§ 8.41. If a child is bitten by an animal, an attempt shall be made to confine the animal for observation or laboratory analysis for evidence of rabies. The site of the bite shall be washed with soap and water immediately, and the child's physician or local health department shall be contacted as soon as possible for medical advice. The center shall report the animal bite incident to the local health department.

§ 8.42. Manure shall be removed from barns, stables and corrals at least once a day and stored and disposed of in a manner to prevent the breeding of flies.

Article 4. Evening and Overnight Care.

§ 8.43. Resting.

A. For evening care, beds with mattresses or cots with at least one inch of dense padding shall be used by children who sleep longer than two hours. *Exception: Camps, providing evening or overnight care to school age children on an occasional basis, are not required to meet the requirements of subsection A of this section if sleeping bags or cots are used.*

B. For overnight care, beds with mattresses or cots with at least two inches of dense padding shall be used by

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children.

Exception: Camps, providing evening or overnight care to school age children on an occasional basis, are not required to meet the requirements of subsection B of this section if sleeping bags or cots are used.

C. For overnight care which occurs for a child on a weekly or more frequent basis, beds with mattresses shall be used.

D. In addition to subsections A through E of § 6.58 of these regulations about linens, bedding appropriate to the temperature and other conditions of the rest area shall be provided.

E. For evening and overnight care, separate sleeping areas shall be provided for children of the opposite sex eight years of age or older.

F. If sleeping bags are used, §§ 6.45 through 6.49 of these regulations about rest furnishings shall also apply to the use of sleeping bags.

G. Camps may use bunk beds if children are at least eight years of age.

§ 8.44. In centers providing overnight care, an operational tub or shower with heated and cold water shall be provided.

Exception: Primitive camps are not required to have a tub or shower.

§ 8.45. When bath towels are used, they shall be assigned for individual use.

§ 8.46. Activities.

A. Activities for children in evening or overnight care shall include, as time allows, age-appropriate activities as described in subdivisions 1 through 6 of § [6.17 6.16] of these regulations.

B. Quiet activities and experiences shall be available immediately before bedtime.

§ 8.47. For children receiving evening and overnight care, the provider shall offer a regularly scheduled evening meal and snack.

PART IX. MONTESSORI MODULE.

Article 1. Qualifications of a Montessori Preschool.

§ 9.1. Montessori preschools are educational programs wherein the teacher training and subsequent pedagogy are approved by either American Montessori Society, American Montessori Internationale, National Council of Montessori

Education, or Saint Nicholas Montessori, thus verifying that the school meets the Montessori standards as outlined in the Montessori Module.

§ 9.2. Meeting these Montessori standards shall afford the Montessori preschool a waiver from specific minimum standards that conflict with the Montessori educational philosophy as referenced in the regulations. Only preschools which meet the Montessori criteria as outlined in the module are eligible to comply with the modified licensing standards contained in the Montessori Module.

§ 9.3. Programs operated by a Montessori preschool which go outside the scope of the regular Montessori preschool classes shall comply with the minimum standards for licensed child day centers [without the benefit of the Montessori module] for the extended care portion of the day. Programs going beyond four hours per day for children ages [two 2 1/2] through four and beyond 6 1/2 hours per day for children five [through six] years of age, exclusive of the allowable two hour additional enrichment program once a week, shall comply with the minimum standards for licensed child day centers [without the benefit of the Montessori module] for the extended care portion of the day. [Regular Montessori preschool classes within an all day program shall meet the minimum standards for licensed child day centers with the option of meeting the Montessori module to obtain waivers from specified standards that conflict with the Montessori philosophy for the regular day portion of their program only.]

Article 2. Specific Alternatives for Qualifying Montessori Preschools.

§ 9.4. Administrators.

The administrator of a Montessori preschool shall be at least 21 years of age and shall have or meet one of the following:

1. An endorsement or bachelor's degree in a child related field from an accredited college or university and one year of programmatic experience in the group care of children;
2. An associate degree in a child related field from an accredited college or university and one year of programmatic experience in the group care of children;
3. The teacher qualification standards of American Montessori Society, American Montessori Internationale, National Council of Montessori Education, or Saint Nicholas Montessori; or
4. Five years of Montessori programmatic experience if the program director meets one of the qualifications of subdivisions 1 through 3 of this section.

§ 9.5. Program directors and back-up program directors.

The program director and back-up program director at a Montessori preschool shall be at least 21 years of age and shall have or meet one of the following:

1. An endorsement or bachelor's degree in a child related field from an accredited college or university and one year of programmatic experience in the group care of children;
2. An associate degree in a child related field from an accredited college or university and one year of programmatic experience in the group care of children;
3. The Montessori teacher qualification standards of American Montessori Society, American Montessori Internationale, National Council of Montessori Education, or Saint Nicholas Montessori; or
4. Five years of Montessori programmatic experience.

§ 9.6. Teachers.

Montessori teachers at a Montessori preschool shall:

1. Be at least 21 years of age, and
2. Hold a teaching diploma recognized by American Montessori Society, American Montessori Internationale, National Council of Montessori Education, or Saint Nicholas Montessori for the level the teacher is teaching.

§ 9.7. Staff development.

A. In addition to first aid and orientation training required elsewhere in these regulations, employed staff who work directly with a single group of children for more than three hours daily at a Montessori preschool shall:

1. Take advantage of formal and informal opportunities for personal and professional growth, including methodology and specific subject matter, as recognized by Montessori standards for a minimum of eight hours annually; or
2. In the event of a staff member's participation in a credit course or a seminar longer than eight hours, these hours may be prorated over a period of no more than five years at the rate of 12 hours annually.

B. Specialty staff at a Montessori preschool providing enrichment activities to a single group of children less than three hours a week shall take advantage of opportunities for professional growth to remain current in their field of expertise.

§ 9.8. The facilities of a Montessori preschool, inside and

outside, shall be maintained in conditions that are safe and free of hazards, protruding points or sharp corners, splinters, protruding nails, and loose rusty parts.

§ 9.9. The Montessori materials at a Montessori preschool shall be maintained in an attractive, accessible, and safe manner, so as to afford the children complete and appropriate opportunity to develop individual and group skills according to the Montessori curriculum standard.

§ 9.10. A Montessori preschool shall have restrooms that are easily accessible with a ratio of one toilet and one sink for every 20 children.

§ 9.11. A Montessori preschool shall have a safe outdoor play area which allows for exploration of nature and provides a resilient surface in fall zones.

§ 9.12. A Montessori preschool shall maintain a balanced multi-age grouping, with a ratio of one staff member for every 15 children.

§ 9.13. Teachers at a Montessori preschool shall be, at all times during the Montessori program, responsible for the development and activities of the children in his Montessori class. In the event of the teacher's extended absence, there shall be sufficient substitute staff to comply with a ratio of one staff member for every 12 children.

§ 9.14. A Montessori preschool shall have readily accessible, and in close classroom proximity, auxiliary persons sufficient to maintain a 1:10 adult-to-child ratio for 2 1/2 to four year olds or 1:15 for balanced mixed age groupings of 2 1/2 to six year olds, to be available in the event of emergency evacuation.

§ 9.15. A Montessori preschool shall offer outdoor and indoor space affording the children complete opportunity to develop individual and group skills, including large and small motor development.

§ 9.16. In a Montessori preschool program operating between five and 6 1/2 hours per day there shall be at least 1/2 hour of outdoor activity per day.

§ 9.17. A Montessori preschool shall abide by the pedagogy and curriculum guidelines in the Montessori Module.

§ 9.18. During transportation of children and on all field trips, the staff to children ratio for a multi-age grouping of students in a Montessori preschool shall be no more than one to 20.

Article 3. Montessori Preschool Standards.

§ 9.19. Hours and scope of operation.

A. A Montessori preschool shall operate, at a minimum, nine months a year, five days a week, allowing for holidays, teacher in-service days, and parent-teacher

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conferences, as deemed necessary by the preschool in accordance with Montessori standards.

B. The hours of operation for a Montessori preschool program for children, ages 2 1/2 through four years, shall be at least three hours a day, but not more than four hours a day.

C. The hours of operation for a Montessori preschool program for children five [through six] years of age shall be at least six hours a day but no more than 6 1/2 hours a day.

D. Enrichment programs, compatible with Montessori standards shall be acceptable when operated, in keeping with the Montessori curriculum; physical, emotional, and developmental welfare of the child; and available to the individual child not more than an additional two hours once a week.

E. Any program operated beyond these specified school hours [and ages of children] shall comply with the minimum standards for licensed child day centers [without the benefit of the Montessori module for the extended care portion of the day. Regular Montessori preschool classes within an all day program shall meet the minimum standards for licensed child day centers with the option of meeting the Montessori module to obtain waivers from specified standards that conflict with the Montessori philosophy for the regular day portion of their program only] .

§ 9.20. Montessori class structure and supervision.

A. A class shall be deemed a group of children under the direct and continuous supervision of a fully qualified Montessori teacher.

B. Teachers at a Montessori preschool shall maintain a safe Montessori environment for the class.

C. Teachers at a Montessori preschool shall give the appropriate, individual or group lessons and supervise the ongoing work of the children in accordance with all Montessori pedagogical standards, included herein.

D. Teachers at a Montessori preschool shall be observant of the needs of the children in the class at all times and, accordingly, shall provide developmentally appropriate materials and class designation regardless of age.

E. Teachers at a Montessori preschool shall be aware of the family backgrounds and individual needs and development of the children within the Montessori program.

F. Teachers at a Montessori preschool shall maintain appropriate and confidential communication and records with other school personnel and parents as necessary for the development of the child.

G. Children enrolled in a Montessori class at a Montessori preschool shall demonstrate to the teacher an adequate level of development indicating a readiness for formal Montessori education.

H. Children enrolled in the Montessori class at a Montessori preschool shall be toilet trained and demonstrate a level of large and small motor development acceptable to working in a positive manner within the Montessori classroom environment.

I. Children enrolled in the Montessori class at a Montessori preschool shall demonstrate adequate communication skills and the ability to function with appropriate independence outside the home or away from a day-care provider.

J. Children are initially accepted into a Montessori program at a Montessori preschool on an observational basis, and shall be given adequate, but limited, time to demonstrate individual readiness for the Montessori program.

K. A newly established Montessori class at a Montessori preschool shall be comprised of no more than 12 to 15 children between the ages of 2 1/2 and six years and shall not increase enrollment to more than 25 children during its first year.

L. As the children and the class [development develop] at a Montessori preschool, the class structure may gradually build to the recommended Montessori size of 25 to 30 children between the ages of 2 1/2 and six years of age.

M. The class and the children at a Montessori preschool shall function at all times during the Montessori program according to the Montessori standards as outlined herein.

§ 9.21. Classroom materials.

A. Classrooms at a Montessori preschool shall contain the necessary and appropriately approved Montessori materials for each age level in the class. These Montessori materials may be complemented by appropriate, teacher-approved materials, but shall not displace or detract from the implementation of the Montessori materials.

B. The children at a Montessori preschool shall have continuous access to these materials as deemed appropriate by the Montessori teacher.

C. These materials at a Montessori preschool shall be organized in the classroom and used by the children in work areas that afford safe and ample working space under the direction of the Montessori teacher.

D. Use of Montessori materials in a Montessori preschool shall be presented by the Montessori teacher in accordance with the Montessori curriculum standards as

included herein.

§ 9.22. Curriculum guidelines, including appropriate materials for children from two years to six years, as stated below, shall be followed in a Montessori preschool.

These requirements are based on guidelines used by American Montessori Society, American Montessori Internationale, National Council of Montessori Education, and Saint Nicholas Montessori teacher training.

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VR 175-09-01 MINIMUM STANDARDS FOR LICENSED CHILD DAY CENTERS SERVING SCHOOL AGE CHILDREN

PRACTICAL LIFE

Preliminary Exercises

Spooning
Pouring rice
Pouring water

Purpose: To teach the child muscular control, care, exactness, how to pour.
Indirect preparation for writing.

Age: 2 1/2 - 3 1/2

Napkin folding

Purpose: To teach muscular control, exactness.

Indirect preparation for geometry.

Age: 2 1/2 - 4

Care of the Environment

Table washing
Dusting
Polishing wood
Polishing metal
Arranging flowers
Sweeping

Purpose: To teach the child how to care for his environment so that he might adapt to his environment and gain independence.

To teach control of action, acquisition of movement, order and sequence, conscious awareness, development of large and small muscles, left to right movement, increased concentration through repetition.

Preparation for life and future learning.

Age: 2 1/2 - 4 and up

Care of the Person

Dressing frames
Polishing shoes

Purpose: To teach the child to care for himself, to take pride in his person, to gain independence and self-worth.

Washing hands

Age: 2 1/2 - 4 and up

Grace and Courtesy

How to interrupt,
listen
make way
pass

Purpose: To help the child develop understanding of rules of grace and courtesy, to adapt and be accepted into a social group.

How to greet
introduce oneself
offer a chair
take a cookie
serve others
carry scissors
etc.

Age: 2 1/2 and up

VR 175-09-01 MINIMUM STANDARDS FOR LICENSED CHILD DAY CENTERS SERVING SCHOOL AGE CHILDREN

Movement

How to walk
 move around the room
 move furniture
 stop when hear bell
 walk on line
 carry a chair
 sit properly
 carry mats & materials
 roll a mat
 where to place mat
 open & close a door
 play silence game
 respect silence
 etc.

Purpose: To learn control of movement, self awareness of ones self, purposeful activity order, respect for persons and property, attention to details and environment.

Age: 2 1/2 and up

SENSORIAL

Visual discrimination

Pink Tower
 Broad Stair
 Long Stair
 Solid Cylinders
 Color Tablets
 Geometric Cabinet
 Biology Cabinet
 Binomial & trinomial cube
 Constructive triangles
 Super imposed geometric figures
 Knobless Cylinders
 Solid Geometric shapes
 Mystery bag
 Progressive Exercises

Purpose: Aid the child's processes of classification.

Purpose: To teach visual discrimination of dimension (length, width, height). Indirect preparation for number work, algebra and proof of formulas, geometry, art, biology.

Indirect preparation for writing.
 Development of vocabulary.

Age: Progressive from 2 1/2 to 4 1/4 +

Auditory discrimination

Sound boxes
 Bells
 Listening exercises

Purpose: Training of auditory sense, discrimination of sounds, development of listening skills, discrimination of tones.

Age: 2 1/2 and up

Tactile Sense

Rough and smooth boards
 Rough and smooth tablets
 Fabrics

Purpose: Development of tactile sense, control of muscular action and lightness touch.

Indirect preparation for writing.

Age: 2 1/2 - 3 1/2

Baric, Thermic, Olfactory Senses

Baric tablet
 Thermic bottles
 Scent boxes and bottles

Purpose: Further develop senses. Help one to be aware of one's environment.

VR 175-09-01 MINIMUM STANDARDS FOR LICENSED CHILD DAY CENTERS SERVING SCHOOL AGE CHILDREN

Age: 2 1/2 and 3 1/2

LANGUAGE

Oral Vocabulary

Enrichment of vocabulary
 Language training

Purpose: Through giving the names of objects in the environment, the sensorial materials and their relations, picture card materials, stories, poems, etc. help the child develop a fluent vocabulary so that he might express himself both orally and in written form.

Preparation for reading, writing, self expression, research in cultural areas.

Age: 0 and up

Writing

Sand paper letters
 sound game
 Moveable Alphabet
 Metal Insets
 Perfection of writing

Purpose: To make the child aware of the sounds in words and to unite these sounds by muscular and visual memory.

To help him explore and analyze his vocabulary.

To acquire mastery of the hand in wielding a writing instrument.

Age: Progressive 2 1/2 - 4

Reading

Phonetic object game
 Phonograms
 Puzzle/Secret words

Purpose: To give facility to phonetic reading.

To give the keys to further reading and exploration of language.

Age: 4 1/2 - 5

Reading Classification

Social cards, cultural cards
 Definition booklets
 Labels for environment
 Etc.

Purpose: To further the child's reading and knowledge by introducing him to the written symbols for words he knows.

To enable him to classify his knowledge.

Age: 4 1/2 on

Function of Words

Articles
 Adjective

Purpose: To make the child aware of the individual function of words in

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VR 175-09-01 MINIMUM STANDARDS FOR LICENSED CHILD DAY CENTERS SERVING SCHOOL AGE CHILDREN

<u>Logical Adjective game</u> <u>Conjunction</u> <u>Preposition</u> <u>Verb</u> <u>Adverb</u> <u>Commands</u>		<u>his reading and writing.</u> <u>To give him further keys to the perfection of reading, writing and self expression.</u>
	Age:	4 1/2 - 5
<u>Reading Analysis</u>		
<u>Simple sentence (first stage, second stage and extensions attributes and appositives)</u>	Purpose:	<u>To give the child the keys to total reading, full awareness of the intent, feeling and style of the writer.</u> <u>Help the child in his own reading and writing.</u>
	Age:	5 1/2 and up
<u>Word Study</u>	Purpose:	<u>To allow the child to explore words on a more advanced level.</u>
<u>Punctuation</u>	Purpose:	<u>To help the child communicate more effectively in his written work.</u>
<u>Reading & writing of Music</u>		
<u>Green boards with notes</u> <u>Green manuscript board</u> <u>White music charts</u> <u>Summary exercises</u> <u>Learning songs</u> <u>Musical instruments</u> <u>etc.</u>	Purpose:	<u>To recognize and create the language of musical composition through notation and lyrics.</u>
	Age:	4 1/2 and up
<u>MATHEMATICS</u>		
<u>Numbers (1 to 10)</u>		
<u>Number rods</u> <u>Sandpaper numbers</u> <u>Number rods and cards</u> <u>Spindle boxes</u> <u>Cards and counters</u> <u>Memory game</u>	Purpose:	<u>To give the keys to the world of written numbers.</u> <u>To understand that each number is an entity unto itself.</u> <u>To teach the quantity, the symbol of sequence of numbers.</u> <u>To teach the concept of zero.</u> <u>Preparation for additional math.</u>
	Age:	4
<u>Decimal system (Golden Bead Exercises)</u>		
<u>Introduction of beads</u> <u>Introduction of cards</u>	Purpose:	<u>To teach the concepts of the decimal system through 1000s.</u>

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<u>Cards and beads together</u> <u>Processes of Addition</u> <u>subtraction</u> <u>multiplication</u> <u>division</u>		<u>To give the child the overall picture of the workings of the decimal system and all its processes.</u>
	Age:	4 1/2 to 5 1/2 +
<u>Further Exercises in Math</u>		
<u>Linear and skip counting</u> <u>Teen board</u> <u>Tens board</u> <u>Stamp game</u> <u>Dot game</u> <u>Snake Game</u> <u>Addition strip board</u> <u>Negative snake game</u> <u>Negative strip board</u> <u>Bead Bar Layouts</u> <u>Multiplication Bead Board</u> <u>Division Unit Board</u> <u>Charts</u> <u>Small Bead Frame</u> <u>Hierarchical materials</u> <u>Large Bead Frame</u> <u>Racks and tubes</u> <u>Fractions</u>	Purpose:	<u>To give the child opportunity for further exploration with numbers, the opportunity for repetition and perfection in executing the processes in math.</u> <u>The opportunity to commit to memory the math facts.</u> <u>Steps to total abstraction.</u>
	Age:	5 - 6 1/2 and up
<u>GEOGRAPHY</u>		
<u>Sandpaper Globe</u> <u>Land & Water Forms</u> <u>Painted Globe</u> <u>Puzzle Maps</u> <u>Pictures</u> <u>Definition cards</u> <u>Stories</u> <u>Simple reference books</u>	Purpose:	<u>To introduce the child to the concepts of physical, political, economic geography, interdependence of man and related language.</u>
	Age:	2 1/2 +
<u>HISTORY</u>		
<u>Artifacts</u> <u>Pictures</u> <u>Definition cards</u> <u>Simple reference books</u> <u>Stories</u>	Purpose:	<u>To introduce the child to world cultures, physical and spiritual needs of man throughout history, famous persons, holidays, etc.</u>
	Age:	2 1/2 +
<u>MUSIC</u>		
<u>Songs</u> <u>Records, tapes</u> <u>Rhythm and movement</u> <u>Tone balls</u> <u>Tone charts</u> <u>Composers/famous music</u>	Purpose:	<u>To give the child a variety of musical experiences, including pitch, tone, rhythm, movement, auditory comparisons, related symbols and language.</u>
	Age:	2 1/2 +

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STANDARD 09-01

CREATIVITY

CREATIVITY

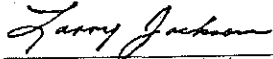
<u>Appropriate media</u> <u>Pictures</u> <u>Stories</u> <u>Reference books</u> <u>Practical life</u> <u>Sensorial lessons</u>	Purpose: To introduce the child to concepts of color, tone, light, form, history and art appreciation; and, afford the child appropriate opportunities for self expression.
Age:	3 +

BOTANY/BIOLOGY

<u>Botany leaf cabinet</u> <u>Plants</u> <u>Pictures/plants and animals</u> <u>Definition cards</u> <u>Classifications</u> <u>Materials</u> <u>Stories</u> <u>Simple reference books</u> <u>Opportunities to explore nature</u>	Purpose: To introduce the child to nature, the vast variety of plants and animals, the characteristics and functions; simple classification of the plant and animal kingdom; interdependence and ecology.
Age:	2 1/2 +

* All work in the areas of science, history, culture, music, and creativity are interrelated and presented to give the child an age appropriate understanding of these areas, factual information, the tools and ability to work with the materials, and the opportunity to share this knowledge.

(e) Important prerequisites are practical life lessons and skills, sensorial and related language lessons and skills, and an understanding of reality and factual concepts.



Larry D. Jackson, Commissioner

July 20, 1993

Date

NOTICE: The forms used in administering the Minimum Standards for Licensed Child Day Centers Serving School Age Children 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 Social Services, Theater Row Building, 730 E. Broad Street, Richmond, Virginia, or at the Office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Room 262, Richmond, Virginia.

Licensing Information for Parents About Child Day Programs, Appendix I (7/93)

School Entrance Physical Examination and Immunization Certification

Art Materials: Recommendations for Children Under 12, Appendix III

Information from Handbook for Public Playground Safety U.S. Consumer Product Safety Commission, Appendix IV

Communicable Disease Reference Chart for School Personnel, Appendix V

Medication Authorization, Appendix VI

Child Care Food Program Meal Patterns, Appendix VII

Some Foods with Vitamin A and Vitamin C, Appendix VIII

Initial Application for a License to Operate a Child Day Center (032-05-512/9, 7/93)

Renewal Application for a License to Operate a Child Day Center (032-05-225/8, 7/93)

V.A.R. Doc. No. R93-732; Filed July 21, 1993, 9:22 a.m.

DEPARTMENT OF GAME AND INLAND FISHERIES (BOARD OF)

NOTICE: The Board of Game and Inland Fisheries is exempt from the Administrative Process Act pursuant to § 9-6.14:4.1 A of the Code of Virginia; however, it is required by § 9-6.14:22 to publish all proposed and final regulations.

Title of Regulations: VR 325-02. Game.
VR 325-02-1. In General.

Statutory Authority: §§ 29.1-501 and 29.1-502 of the Code of Virginia.

Effective Date: September 9, 1993.

Summary:

Summaries are not provided since, in most instances, the summary would be as long or longer than the full text.

VR 325-02. GAME.

VR 325-02-01. In General.

§ 25. Sunday hunting on controlled shooting areas.

A. Except as otherwise provided in the sections appearing in this regulation, it shall be lawful to hunt pen-raised game birds seven days a week as provided by § 29.1-514. The length of the hunting season on such preserves and the size of the bag limit shall be in accordance with rules of the board. For the purpose of this regulation, controlled shooting areas shall be defined as licensed shooting preserves.

B. It shall be unlawful to hunt pen-raised game birds on Sunday on controlled shooting areas in those counties having a population of not less than 54,000, nor more than 55,000, or in any county or city which prohibits Sunday operation by ordinance.

V.A.R. Doc. No. R93-727; Filed July 21, 1993, 9:41 a.m.

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT (BOARD OF)

REGISTRAR'S NOTICE: The following regulatory action is exempt from the Administrative Process Act in accordance with § 9-6.14:4.1 C 4 (a) of the Code of Virginia, which excludes regulations that are necessary to conform to changes in Virginia statutory law where no agency discretion is involved. The Department of Housing and Community Development will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: VR 394-01-3. Asbestos Survey Standards - Inspection of Buildings Being Converted to Condominiums for the Presence of Asbestos (REPEALED).

Statutory Authority: § 36-99.7 of the Code of Virginia.

Effective Date: September 8, 1993.

Summary:

The Board of Housing and Community Development's statutory authority to promulgate this regulation ceased as of July 1, 1993, because of legislative action. Specifically, Chapter 660 of the 1993 Acts of Assembly repealed the board's authority to amend standards for inspections and management for renovation and demolition of buildings. Therefore, the board is repealing this regulation.

V.A.R. Doc. No. R93-734; Filed July 21, 1993, 11:30 a.m.

* * * * *

REGISTRAR'S NOTICE: The following regulatory action is exempt from the Administrative Process Act in accordance with § 9-6.14:4.1 C 4 (a) of the Code of Virginia, which excludes regulations that are necessary to conform to changes in Virginia statutory law where no agency discretion is involved. The Department of Housing and Community Development will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: VR 394-01-7. Asbestos Survey Standards - Inspection of Buildings to be Renovated or Demolished for the Presence of Asbestos (REPEALED).

Statutory Authority: § 36-99.7 of the Code of Virginia.

Effective Date: September 8, 1993.

Summary:

The Board of Housing and Community Development's statutory authority to promulgate this regulation ceased as of July 1, 1993, because of legislative action. Specifically, Chapter 660 of the 1993 Acts of Assembly repealed the board's authority to amend standards for inspections and management for renovation and demolition of buildings. Therefore, the board is repealing this regulation.

V.A.R. Doc. No. R93-735; Filed July 21, 1993, 11:30 a.m.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

REGISTRAR'S NOTICE: The following regulations relating to Specified Low-Income Medicare Beneficiaries are excluded from Article 2 of the Administrative Process Act in accordance with § 9-6.14:4.1 C 4 (c) of the Code of Virginia, which excludes regulations that are necessary to meet the requirements of federal law or regulations, provided such regulations do not differ materially from those required by federal law or regulation. The Department of Medical Assistance Services will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Due to the length, only the amended pages of the following regulations are being published; however, a summary is being published in lieu of full text. The full text of the regulations is available for public inspection at the Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, Virginia 23219 and at the Office of the Registrar of Regulations, Virginia Code Commission, General Assembly Building, 2nd Floor, Richmond, Virginia 23219.

Title of Regulations: State Plan for Medical Assistance Relating to Specified Low-Income Medicare Beneficiaries.

VR 460-01-10:1. Application, Determination of Eligibility

Final Regulations

and Furnishing Medicaid (§ 2.1(a) through (d)).
VR 460-01-21.1. Amount, Duration, and Scope of Services: Required Special Groups (§ 3.1(a)(3) through (5)).
VR 460-01-29. Coordination of Medicaid with Medicare and Other Insurance (§ 3.2(a)(1)(i)).
VR 460-01-29.1.1. Qualified Disabled and Working Individuals (§ 3.2(a)(1)(ii)).
VR 460-01-29.2. Other Medicaid Recipients (§ 3.2(a)(1)(iv)).
VR 460-01-29.3. Deductibles/Coinsurance (§ 3.2(b)).
VR 460-02-2.2100:1. Groups Covered and Agencies Responsible for Eligibility Determinations (Attachment 2.2-A).
VR 460-02-2.6100:1. Eligibility Conditions and Requirements (Attachment 2.6-A).

Statutory Authority: §§ 32.1-324 and 32.1-325 of the Code of Virginia.

Effective Date: September 8, 1993.

Summary:

This action incorporates new preprinted pages, which have been issued by the Health Care Financing Administration in Medicaid Letter 93-2, concerning the provision of Medicaid eligibility to Specified Low-Income Medicare Beneficiaries. This action promulgates replacement Plan pages which have already been promulgated by the agency.

The sections of the State Plan for Medical Assistance affected by this action are preprinted pages 11, 21, 29, 29a-c, Attachment 2.2 A, Attachment 2.6 A, and Supplement 1 to Attachment 2.6 A.

Section 4501 of OBRA 90 amended § 1902(a)(10)(E) of the Social Security Act to mandate coverage of a new group of eligibles effective January 1, 1993. This new group called Specified Low-Income Medicare Beneficiaries (SLMB) are individuals who meet all of the eligibility requirements for Qualified Medicare Beneficiary (QMB) status except for having income in excess of the QMB income limit. SLMBs may have income no greater than 110% of the federal poverty level. However, effective January 1, 1995, the income limit for SLMBs will increase to 120% of the federal poverty limit.

Additional requirements for SLMB eligibility are:

1. Eligibility can be retroactive up to three calendar months prior to the month of application (unlike QMBs).
2. The SLMB is eligible for Medicaid payment of the Part B premium only. Medicaid will not pay for any coinsurance or deductibles or any Part A premiums.
3. Cost of living increases in Social Security Title II benefits (COLAs) are disregarded in determining

income eligibility through the month following the month in which the annual federal poverty level update is published. The new poverty level becomes effective the first of the following month for this group. For SLMBs without title II benefits, the new poverty levels become effective no later than the date of their publication in the Federal Register.

Qualified Medicare Beneficiaries are those individuals who are eligible for Medicare Part A (hospitalization) coverage, whose income is no more than the poverty level, and whose resources do not exceed \$4,000 for a single person and \$6,000 for a couple. Eligible recipients receive Medicaid coverage of Medicare premiums, coinsurance, and deductibles.

Based on available demographic information and prior experience with similar poverty level increases, it is estimated there will be approximately 4,000 new recipients for payment of the Medicare Part B premium. The monthly Medicare Part B premium in 1993 is expected to be \$36.60 and in 1994 is expected to be \$41.10. Expenditures for this new group of eligibles is projected to be \$1,756,000 (\$878,000 GF) in calendar year '93 and \$3,452,000 (\$1,726,200 GF) in calendar year '94. In 1995, there will be an increase to 120% of the poverty level (such increase will be duly promulgated at that time), thereby increasing this new group of eligibles by another 4,000 individuals and costing an additional \$2,210,800 (\$1,105,000 GF) in calendar year '95. DMAS' Medicare premium forecast takes this future policy change into account. FY 93 - FY 94 funding is included in the DMAS budget through the forecast which includes this mandate.

VR 460-01-10:1. Application, Determination of Eligibility and Furnishing Medicaid (§ 2.1(a) through (d)).

Citation: 42 CFR 435.914, 1902(a)(34) of the Act

2.1(b) (1) Except as provided in § 2.1(b)(2) and (3) below, individuals are entitled to Medicaid services under the plan during the three months preceding the month of application, if they were, or on application would have been, eligible. The effective date of prospective and retroactive eligibility is specified in Attachment 2.6-A.

Citation: 1902(e)(8) and 1905(a) of the Act

(2) For individuals who are eligible for Medicare cost-sharing expenses as qualified Medicare beneficiaries under § 1902(a)(10)(E)(i) of the Act, coverage is available for services furnished after the end of the month in which the individual is first determined to be a qualified Medicare beneficiary. Attachment 2.6-A specifies the requirements for determination of eligibility for this group.

Citation: 1902(a)(47) and 1920 of the Act

(3) Pregnant women are entitled to ambulatory prenatal care under the plan during a presumptive eligibility period in accordance with § 1920 of the Act. Attachment 2.6-A specifies the requirements for determination of eligibility for this group.

Citation: 42 CFR 434.20

2.1(c) The Medicaid agency elects to enter into a risk contract with an HMO that is:

Qualified under Title XIII of the Public Health Service Act or is provisionally qualified as an HMO pursuant to § 1903(m)(3) of the Social Security Act.

Not federally qualified, but meets the requirements of 42 CFR 434.20(c) and is defined in Attachment 2.1-A.

Not applicable.

VR 460-01-21:1. Amount, Duration, and Scope of Services: Required Special Groups (§ 3.1(a)(3) through (5)).

Citation: 1902(a)(10)(E)(i) and clause (VIII) of the matter following (F), and 1905(p)(3) of the Act

3.1 (a)(3) Other Required Special Groups: Qualified Medicare Beneficiaries

Medicare cost sharing for qualified Medicare beneficiaries described in § 1905(p) of the Act is provided only as indicated in § 3.2 of this plan.

Citation: 1902(a)(10)(E)(ii) and 1905(s) of the Act

(a)(4)(i) Other Required Special Groups: Qualified Disabled and Working Individuals

Medicare Part A premiums for qualified disabled and working individuals described in § 1902(a)(10)(E)(ii) of the Act are provided as indicated in § 3.2 of this plan.

Citation: 1902(a)(10)(E)(iii) and 1905(p)(3)(A)(ii) of the Act

(ii) Other Required Special Groups: Specified Low-Income Medicare Beneficiaries

Medicare Part B premiums for specified low-income Medicare beneficiaries described in § 1902(a)(10)(E)(iii) of the Act are provided as indicated in § 3.2 of this plan.

Citation: 1925 of the Act

(a)(5) Other Required Special Groups: Families Receiving Extended Medicaid Benefits

Extended Medicaid benefits for families described in §

1925 of the Act are provided as indicated in § 3.5 of this plan.

VR 460-01-29. Coordination of Medicaid with Medicare and Other Insurance (§ 3.2(a)(1)(i)).

§ 3.2. Coordination of Medicaid with Medicare and Other Insurance

(a) Premiums

Citation: 1902(a)(10)(E)(i) and 1905(p)(1) of the Act

(1) Medicare Part A and Part B

(i) Qualified Medicare Beneficiary (QMB)

The Medicaid agency pays Medicare Part A premiums (if applicable) and Part B premiums for individuals in the QMB group defined in Item A.25 of Attachment 2.2-A, by the following method:

Group premium payment arrangement for Part A

Buy-In agreement for

Part A Part B

The Medicaid agency pays premiums, for which the beneficiary would be liable, for enrollment in an HMO participating in Medicare.

VR 460-01-29.1:1. Qualified Disabled and Working Individuals (§ 3.2(a)(1)(ii)).

Citation: §§ 1902(a)(10)(E)(ii) and 1905(s) of the Act

(ii) Qualified Disabled and Working Individuals (QDWI)

The Medicaid agency pays Medicare Part A premiums under a group premium payment arrangement, subject to any contribution required as described in Attachment 4.18-E, for individuals in the QDWI group defined in item A.26 of Attachment 2.2-A of this plan.

Citation: 1905(s) of the Act

(iii) Specified Low-Income Medicare Beneficiary (SLMB)

The Medicaid agency pays Medicare Part B premiums under the state buy-in process for individuals in the SLMB group defined in item A.27 of Attachment 2.2-A of this plan.

VR 460-01-29.2. Other Medicaid Recipients (§ 3.2(a)(1)(iv)).

(iv) Other Medicaid Recipients

Final Regulations

Citation: 42 CFR 431.625

The Medicaid agency pays Medicare Part B premiums to make Medicare Part B coverage available to the following individuals:

All individuals who are a) receiving benefits under Titles I, IV-A, X, XIV, or XVI (AABD or SSI); b) receiving state supplements under Title XVI; or c) within a group listed at 42 CFR 432.625(d)(2).

Individuals receiving Title II or Railroad Retirement benefits.

Medically needy individuals (FFP is not available for this group).

Citation: § 1902(a)(30) and 1905(a) of the Act

(2) Other Health Insurance

The Medicaid agency pays insurance premiums for medical or any other type of remedial care to maintain a third party resource for Medicaid covered services provided to eligible individuals (except those over 65 years of age and disabled individuals, entitled to Medicare Part A but not enrolled in Medicare Part B).

H.I.P.P. project.

VR 460-01-29.3. Deductibles/Coinsurance (§ 3.2(b)).

(b) Deductibles/Coinsurance

(1) Medicare Part A and B

Citation: § 1902(a)(30), 1902(n), 1905(a), and 1916 of the Act

Supplement 2 to Attachment 4.19-B describes the methods and standards for establishing payment rates for services covered under Medicare, and/or the methodology for payment of Medicare deductible and coinsurance amounts, to the extent available for each of the following groups.

Citation: §§ 1902(a)(10)(E)(i) and 1905(p)(3) of the Act

(i) Qualified Medicare Beneficiaries (QMBS)

The Medicaid agency pays Medicare Part A and Part B deductibles and coinsurance amounts for QMBS (subject to any nominal Medicaid copayment) for all services available under Medicare.

(ii) Other Medicaid Recipients

Citation: 1902(a)(10), 1902(a)(30), and 1905(a) of the Act

The Medicaid agency pays Medicaid services also

covered under Medicare and furnished to recipients entitled to Medicare (subject to any nominal Medicaid copayment). For services furnished to individuals who are described in § 3.2(a)(1)(iv), payment is made as follows:

Citation: 42 CFR 431.625

For the entire range of services available under Medicare.

Only for the amount, duration, and scope of services otherwise available under this plan.

Citation: § 1902(a)(10), 1902(a)(30), 1905(a) and 1905(p) of the Act

(iii) Dual Eligible-QMB plus

The Medicaid agency pays Medicare Part A and Part B deductible and coinsurance amounts for all services available under Medicare and pays for all Medicaid services furnished to individuals eligible both as QMBs and categorically or medically needy (subject to any nominal Medicaid copayment).

VR 460-02-2.2100:1. Groups Covered and Agencies Responsible for Eligibility Determinations (Attachment 2.2-A).

Groups Covered:

A. Mandatory Coverage - Categorically Needy and Other Required Special Groups (Continued)

Agency*: IV-D

Citation: 1902(a)(10)(E)(i) and 1905(p) of the Act

25. Qualified Medicare beneficiaries--

a. Who are entitled to hospital insurance benefits under Medicare Part A, (but not pursuant to an enrollment under § 1818 of the Act);

b. Whose income does not exceed 100% of the federal poverty level; and

c. Whose resources do not exceed twice the maximum standard under SSI.

(Medical assistance for this group is limited to Medicare cost sharing as defined in § 3.2 of this plan.)

Agency*: IV-D

Citation: §§ 1902(a)(10)(E)(ii), 1905(s) and 1905(p)(3)(A)(i) of the Act

26. Qualified disabled and working individuals--

- a. Who are entitled to hospital insurance benefits under Medicare Part A under § 1818A of the Act;
- b. Whose income does not exceed 200% of the federal poverty level;
- c. Whose resources do not exceed twice the maximum standard under SSI; and
- d. Who are not otherwise eligible for medical assistance under Title XIX of the Act.

(Medical assistance for this group is limited to Medicare Part A premiums under §§ 1818 and 1818 A of the Act).

Agency*: IV-A

Citation: §§ 1902(a)(100)(E)(iii) and 1905(p)(3)(A)(ii) of the Act

27. Specified low-income Medicare beneficiaries--

- a. Who are entitled to hospital insurance benefits under Medicare Part A (but not pursuant to an enrollment under § 1818 A of the Act);
- b. Whose income for calendar years 1993 and 1994 exceeds the income level in 25.b., but is less than 110% of the federal poverty level, and whose income for calendar years beginning 1995 is less than 120% of the federal poverty level; and
- c. Whose resources do not exceed twice the maximum standard under SSI.

(Medical assistance for this group is limited to Medicare Part B premiums under § 1839 of the Act.)

*Agency that determines eligibility for coverage.

VR 460-02-2.6100:1. Eligibility Conditions and Requirements (Attachment 2.6-A).

If an individual receives a Title II benefit, any amounts attributable to the most recent increase in the monthly insurance benefit as a result of a Title II COLA is not counted as income during a "transition period" beginning with January, when the Title II benefit for December is received, and ending with the last day of the month following the month of publication of the revised annual federal poverty level.

For individuals with Title II income, the revised poverty levels are not effective until the first day of the month following the end of the transition period.

For individuals not receiving Title II income, the revised poverty levels are effective no later than the date of publication.

Citation: 1905(s) of the Act

- g. (1) Qualified disabled and working individuals. In determining countable income for qualified disabled and working individuals covered under 1902(a)(10)(E)(ii) of the Act, the methods of the SSI program are used.

Citation: 1905(p) of the Act

- (2) Specified low-income Medicare beneficiaries. In determining countable income for specified low-income Medicare beneficiaries covered under 1902(a)(10)(E)(iii) of the Act, the same method as in f. is used.

V.A.R. Doc. No. R93-717; Filed July 7, 1993, 4:30 p.m.



COMMONWEALTH of VIRGINIA

JOAN W. SMITH
REGISTRAR OF REGULATIONS

VIRGINIA CODE COMMISSION
General Assembly Building

910 CAPITOL STREET
RICHMOND, VIRGINIA 23219
(804) 786-3591

July 20, 1993

Mr. Bruce Kozlowski, Commissioner
Department of Medical Assistance Services
600 East Broad Street, Suite 1300
Richmond, Virginia 23219

RE: VR 460-01-11; 460-01-21; 460-01-29; 460-01-29.1; 460-01-29.2;
460-01-29.3; 460-02-2.2100; and 460-02-2.6100.
Specified Low-Income Medicare Beneficiaries.

Dear Mr. Kozlowski:

This will acknowledge receipt of the above-referenced regulations from the Department of Medical Assistance Services.

As required by § 9-6.14:4.1 C.4.(c). of the Code of Virginia, I have determined that these regulations are exempt from the operation of Article 2 of the Administrative Process Act, since they do not differ materially from those required by federal law.

Sincerely,

Jean W. Smith
Jean W. Smith
Registrar of Regulations

JWS:jbc

Final Regulations

VIRGINIA WORKERS' COMPENSATION COMMISSION

REGISTRAR'S NOTICE: The following regulations filed by the Virginia Worker's Compensation Commission are exempt from the Administrative Process Act in accordance with § 9-6.14:4.1 A 2 of the Code of Virginia, which exempts courts, any agency of the Supreme Court, and any agency which by the Constitution is expressly granted any of the powers of a court of record.

Title of Regulation: VR 405-01-04 405-02-01 . Procedural Regulations Governing the Administration of Medical Costs Peer Review by the Regional Peer Review Committees Under the Virginia Workmen's Worker's Compensation Act.

Statutory Authority: § 65.2-1305 of the Code of Virginia.

Effective Date: July 16, 1993.

Summary:

The Statewide Coordinating Committee has promulgated these regulations in order to establish standard procedures for the review of the appropriateness of the level, quality, duration, and cost of health care and health services provided by physicians to recipients of compensation benefits. These regulations became effective following a public hearing on January 9, 1981, were amended April 13, 1993, by majority vote of the Statewide Coordinating Committee, and approved by the Virginia Workers' Compensation Commission on May 19, 1993.

VR 405-02-01. Procedural Regulations Governing the Administration of Medical Costs Peer Review by the Regional Peer Review Committees Under the Virginia Workers' Compensation Act.

PART I. GENERAL INFORMATION.

§ 1.1. Authority for regulations.

Chapter 13 (§ 65.2-1300 et seq.) of Title 65.2 of the Code of Virginia vests authority in the Statewide Coordinating Committee for the development of a peer review program for services rendered by physicians who are paid in whole or in part pursuant to the Virginia Workers' Compensation Act.

§ 1.2. Definitions.

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

"Commission" means the Virginia Workers' Compensation Commission.

"Peer review committee" means the appropriate regional

peer review committee for a designated health systems area.

§ 1.3. Purpose of regulations.

The Statewide Coordinating Committee has promulgated these regulations in order to establish standard procedures for the review of the appropriateness of the level, quality, duration, and cost of health care and health services provided by physicians to recipients of workers' compensation benefits.

§ 1.4. Implementation and administration of regulations.

These regulations shall be implemented and administered as follows:

1. The Statewide Coordinating Committee shall have the responsibility, subject to the approval of the commission, to promulgate, amend, and repeal, as appropriate, regulations for the implementation and administration of the peer review system; and

2. Each regional peer review committee shall administer these regulations for its respective health system area.

§ 1.5. Application of regulations.

These regulations shall have general application throughout the Commonwealth.

§ 1.6. Effective date of regulations.

These regulations shall become effective March 23, 1981, became effective following a public hearing on January 9, 1981, and were amended April 13, 1993, by majority vote of the Statewide Coordinating Committee .

§ 1.7. Severability.

If any provision of these regulations or the application thereof to any person or circumstances is held to be invalid, such invalidity shall not affect other provisions or application of any other part of these regulations which can be given effect without the invalid provisions or applications. To this end the provisions of these regulations are declared to be severable.

PART II. INITIAL REVIEW.

§ 2.1. Requests for peer review.

A. Requests for peer review may shall be made on a form prescribed by the Statewide Coordinating Committee and shall set forth or be accompanied by the following:

1. The name and address of the party requesting review;

2. The names of any physicians or clinics involved;
3. The name of the patient;
4. A description of the injury;
5. A description of the medical treatment, services, or costs complained of;
6. A description of where and when the treatment or services took place; and
7. A copy of any other relevant information forming the basis of the request for review , *including any evidence indicating that the fees charged are different from those that prevail in the same community for similar treatment when the treatment is paid for by the injured person .*

B. Requests for peer review shall be made to the Secretary of the Statewide Coordinating Committee. Requests may be submitted by the commission, a *treating physician*, any insurance company providing coverage for the cost of services paid for in whole or in part pursuant to the Workers' Compensation Act, or any employer.

C. The Secretary of the Statewide Coordinating Committee shall refer each completed request for review to the chairman of the appropriate regional peer review committee or to a member designated by the chairman.

§ 2.2. Notification of physician Defending party .

A. Any *physician defending party* subject to review under § 2.1 shall be notified in writing by the Secretary of the Statewide Coordinating Committee.

~~A. B.~~ The *physician defending party* shall be notified of peer review by certified mail, return receipt requested, within 30 days of the submission of a completed request for review to the Secretary. A copy of the notice shall be sent to the party requesting review.

~~B. C.~~ The notice shall include:

1. A copy of the request for review;
2. A notice of the right of physician, *insurer, employer, or counsel*, to respond in writing and to appear before the peer review committee at an informal hearing; and
3. A notice of the requirement that a decision be reached by the peer review committee within 30 days after the informal hearing.

§ 2.3. Assignment for initial review.

A. Each request for review shall be assigned by the chairman of the peer review committee to an individual member for initial investigation and evaluation. The

chairman shall establish rotating assignment procedures for equitable distribution among the committee members.

B. A committee member ~~may~~ shall disqualify himself from participation in the review and decision of a particular request for review if ethically constrained by a conflict of interest. *A committee member shall not participate in any review that relates to any care that he, or one of his associates, has rendered.*

§ 2.4. Initial evaluation.

A. The committee member shall review the completed request for review, any response submitted by the ~~physician defending party~~ , and any additional information acquired during investigation.

B. The responsible peer review committee member may request additional information from the physician, the ~~party requesting review insurer/employer~~ , or any other source that has relevant information. If necessary, the chairman of the peer review committee may request that the commission utilize its powers of investigation.

C. The committee member shall be prepared to make an oral evaluation of the request for review and recommended disposition at the informal hearing. *The committee member or chairman has the discretion to resolve the matter in dispute with the consent of the parties and without the necessity of an informal hearing.*

PART III. INFORMAL HEARING PROCEDURES.

§ 3.1. Informal fact finding.

Peer review committee consideration of each request for review shall be conducted as follows:

1. ~~Regular~~ Meetings of the peer review committee shall be scheduled ~~for alternating months, unless by the chairman advises otherwise. Special meetings may be called by the chairman .~~ The informal hearing on a request for review shall be scheduled during a ~~regular~~ meeting of the peer review committee. The hearing shall be scheduled on the next open agenda and shall be held no later than ~~120~~ 180 days after the date the request is received by the commission.

2. The Secretary of the Statewide Coordinating Committee shall notify the *physician defending party* by certified mail, return receipt requested, of the date of the informal hearing no less than 15 days before the hearing. A copy of the notice shall be sent to the party requesting review. *In the event there is a request for a continuance of an informal hearing, the decision whether to grant the continuance shall be left to the discretion of the chairman.*

3. Informal hearings on requests for review shall be conducted as follows:

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- a. A quorum shall consist of three members;
- b. The chairman or his designated substitute shall preside;
- c. The committee member who evaluated the request for review shall present orally his evaluation and recommendation;
- d. The ~~physician~~ *defending party* shall be advised of any contrary factual basis or information in the committee's possession upon which ~~it~~ *the committee* may rely in making an adverse decision;
- e. The chairman shall allow the ~~physician~~ *defending party*, or counsel, an opportunity to present factual data, argument, or proofs for a period of time not exceeding 20 minutes;
- f. Upon the conclusion of the presentation of all relevant information, the hearing will be closed;
- g. The committee will, at a convenient time, conduct its deliberations outside the presence of the parties.

4. The peer review committee shall determine whether the physician has provided treatment or charged fees as prevail in the same community for injuries requiring similar treatment of persons of a like standard of living where when the treatment is paid for by the injured person (§ 65.2-605 of the Code of Virginia).

5. Peer review committee proceedings, deliberations, and records constitute privileged communications as provided by § 65.2-1308 of the Code of Virginia. Committee communications, both oral and written, shall not be disclosed except as provided.

§ 3.2. Decision.

A. After deliberation, the peer review committee will vote on the recommended disposition, in the following manner:

1. The vote of the majority of the members present shall be adopted;
2. In the case of a tie vote, the review will be terminated and the decision deemed to be favorable to the ~~physician~~ *defending party*; and
3. Dissenting members may record their objections in writing.

B. If the decision is favorable to the physician, the peer review committee shall approve the payment of fees.

C. If the decision is unfavorable to the physician, the peer review committee shall set the physician's fee at a reasonable amount as described by the standard set out in

§ 65.2-605 of the Code of Virginia and, if the fee has already been paid by the party requesting review, require repayment by the physician of the excess amount.

D. Within 30 days of the informal hearing, the peer review committee shall prepare a statement, in writing, of the factual basis for its decision. Notice of the ~~physician's~~ *defending party's* right of appeal shall be included in this statement. A copy of this statement shall be forwarded by the Secretary of the Statewide Coordinating Committee by certified mail, return receipt requested, to the ~~physician~~ *defending party*, the party requesting review, and the commission. The peer review committee file compiled under § 2.4 of these regulations shall be forwarded to the commission

PART IV. APPEAL.

§ 4.1. Appeals.

Chapter 13 (§ 65.2-1300 et seq.) of Title 65.2 of the Code of Virginia and regulations promulgated by the commission shall govern all appeals.

V.A.R. Doc. No. R93-724; Filed July 16, 1993, 11.05 a.m.

* * * * *

Title of Regulation: VR 405-02-02. Plan of Operation for the Medical Costs Peer Review Statewide Coordinating Committee Under the Virginia Workers' Compensation Act.

Statutory Authority: § 65.2-1309 of the Code of Virginia.

Effective Date: July 16, 1993.

Summary:

These provisions establish the internal operating procedures for the committee and its staff. The plan of operation is descriptive in order to facilitate the performance of the committee's administrative functions, but the procedures shall not be exclusive. This Plan of Operation became effective following a public hearing on January 9, 1981, was amended April 13, 1993, by majority vote of the Statewide Coordinating Committee, and approved by the Virginia Workers' Compensation Commission on May 19, 1993.

VR 405-02-02. Plan of Operation for the Medical Costs Peer Review Statewide Coordinating Committee Under the Virginia Workers' Compensation Act.

PART I. GENERAL INFORMATION.

§ 1.1. Authority for plan of operation.

Chapter 13 (§ 65.2-1300 et seq.) of Title 65.2 of the Code of Virginia vests authority in the Statewide Coordinating Committee for the administration of a peer review program.

§ 1.2. Definitions.

As used in this plan of operation, the words and terms shall have the meanings as set forth herein and in § 65.2-1300 of the Code of Virginia unless the context clearly requires a different meaning.

"Commission" means the Virginia Workers' Compensation Commission.

"Committee" means the Statewide Coordinating Committee.

§ 1.3. Purpose of plan of operation.

These provisions establish the internal operating procedures for the committee and its staff. The plan of operation is descriptive in order to facilitate the performance of the committee's administrative functions, but the procedures shall not be exclusive.

§ 1.4. Effective date.

This plan of operation became effective following a public hearing on January 9, 1981, and was amended April 13, 1993, by majority vote of the Statewide Coordinating Committee.

PART II. MEETINGS OF THE COMMITTEE.

§ 2.1. Scheduled meetings.

A. Regular meetings shall be scheduled twice a year, on the call of the chairman of the committee. Special meetings may be called by the chairman or on the request of three or more members of the committee. Notice of committee meetings shall be mailed in advance by the secretary. The committee may, in lieu of a meeting, act pursuant to a telephone conference call to all members or by written ballot sent to all members provided that any such action shall be approved by a majority of the members then serving.

B. Committee meetings shall be conducted as follows:

1. A quorum shall consist of five members;
2. The chairman or his designated substitute shall preside;
3. The vote of the majority of the members present shall be adopted;
4. The secretary shall take minutes.

§ 2.2. Compensation.

Each member of the committee is entitled, pursuant to § 65.2-1302 of the Code of Virginia, to receive such compensation as may be specified by the commission, together with all necessary expenses incurred. The member shall file the appropriate forms and receipts with the secretary for reimbursement.

PART III. PEER REVIEW SYSTEM.

§ 3.1. Appointment of peer review committees.

A. The committee shall establish a regional peer review committee in each health systems area of the Commonwealth.

B. Each regional peer review committee shall be composed of five physicians who practice in the health systems area and treat recipients of workers' compensation benefits. The physician member of the committee who represents that health systems area shall be one of the members of, and shall serve as chairman of, the regional peer review committee.

C. The Medical Society of Virginia may nominate to the committee physicians having these qualifications. The committee may request additional nominees.

D. The term of the chairman shall be concurrent with his term on the committee. Appointments of members other than the chairman shall be made for terms of three years or the unexpired portions thereof. A vacancy other than by expiration of term shall be filled by the chairman of the committee for the unexpired term.

§ 3.2. Rules and regulations.

The committee, subject to the approval of the Virginia Workers' Compensation Commission, shall adopt and amend such rules and regulations as may be necessary to implement the peer review program.

§ 3.3. Administration.

The committee shall assist the regional peer review committees in administrative and procedural matters and shall monitor the performance of these committees to ensure consistent implementation of the peer review program throughout the Commonwealth. The committee shall not participate in substantive decisions by regional peer review committees.

PART IV. STAFF.

§ 4.1. Staff.

A. The committee may employ a secretary, subject to the approval of the commission, to perform various

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administrative functions of the committee, including the following:

1. All requests for peer review shall be submitted to the secretary who shall review each request for completeness. Completed requests shall be forwarded by the secretary to the chairman of the appropriate regional committee or to a member designated by the chairman.
 2. The secretary shall send notice of peer review to the defending party promptly by certified mail, return receipt requested. A copy shall be sent to the party requesting review.
 3. The secretary shall schedule an informal hearing on a request for peer review on the next open agenda, but in no case later than 180 days after receipt of request. Notice of the informal hearing date shall be sent by certified mail, return receipt requested, to the defending party and to the party requesting review no later than 15 days prior to the hearing.
 4. The secretary shall prepare an agenda for meetings of the Statewide Coordinating Committee at the direction of its chairman. Notice of the meeting and the proposed agenda shall be mailed by the secretary to committee members in advance.
 5. The secretary shall assist in the preparation of committee reports.
- B. The committee may hire additional staff or contract for services as may be required from time to time subject to the approval of the Virginia Workers' Compensation Commission.

PART V. FORMS AND REPORTS.

§ 5.1. Forms.

The committee shall promulgate forms to facilitate the acquisition of necessary data and information including the following:

1. A Request for Peer Review that shall include:
 - a. The name and address of the party requesting review;
 - b. The name and address of the defending party;
 - c. The name of the patient;
 - d. A description of the injury;
 - e. A description of the medical treatment, services, or costs complained of;
 - f. Where and when the treatment or services took

place;

g. A copy of any other relevant information forming the basis for the request for review.

2. A Notice of Peer Review that shall include:

- a. A copy of the request for review;
- b. Notice of right of physician, employer, insurer, or counsel, to respond in writing and to appear before the peer review committee at an informal hearing;
- c. Notice of requirement that a decision be reached by the peer review committee within 30 days of the informal hearing.

3. A Notice of Informal Hearing that shall include:

- a. The date and location of the hearing;
- b. Right of physician, employer, insurer, or counsel, to appear before the peer review committee for a period of time not exceeding 20 minutes.

§ 5.2. Reports.

The committee shall prepare and distribute the following reports:

1. A statistical report that shall accumulate regional totals and state totals annually for the following:
 - a. Number of requests for peer review;
 - b. Number of informal hearings;
 - c. Number of decisions favorable to physician;
 - d. Number of decisions favorable to employer/insurer;
 - e. Number of appeals to the Virginia Workers' Compensation Commission;
 - f. Number of appeals to state courts.
2. Special reports that shall be prepared from time to time to:
 - a. Publicize the availability of the peer review program to physicians, the insurance industry, and employers;
 - b. Advise persons interested in the program of the mechanics of the program.

VA.R. Doc. No. R93-723; Filed July 16, 1993, 11:04 a.m.

EMERGENCY REGULATIONS

STATE AIR POLLUTION CONTROL BOARD

Title of Regulation: VR 120-01. Regulations for the Control and Abatement of Air Pollution (Revision HH-E - Rule 5-6, Regulated Medical Waste Incinerators).

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

Effective Dates: June 28, 1993, through June 27, 1994.

Preamble:

The 1992 General Assembly of Virginia passed legislation to impose a moratorium on the issuance of permits for commercial regulated medical waste incinerators (MWIs) until September 1, 1993, and to require the promulgation of regulations by September 1, 1993. The legislation was proposed in response to health concerns about commercial MWI emissions. This legislation was again submitted to the General Assembly in the 1993 session, and a new version extending the original moratorium for the issuance of permits for commercial infectious waste incinerators (i.e., MWIs) from September 1, 1993, to December 1, 1993, was passed. However, the deadline for promulgation of regulations remains September 1, 1993.

Although the Virginia Waste Management Board has promulgated regulations regarding the storage, transportation, and disposal of regulated medical wastes, the Virginia State Air Pollution Control Board has not promulgated air pollution permit regulations specifically addressing MWIs. State and federal air quality regulations governing incineration in general and municipal waste combustors in particular do exist, but none specifically address MWIs.

The General Assembly passed legislation directly addressing MWIs for a number of reasons:

1. The State Air Pollution Control Board had not promulgated air pollution permit regulations specifically addressing medical waste incinerators.
2. The State Air Pollution Control Board had issued permits for approximately 17 hospital regulated medical waste incinerators and one commercial regulated medical waste incinerator during the preceding two years.
3. The total regulated medical waste generated in the Commonwealth averaged between 35 and 45 tons per day. Currently, sufficient capacity within the Commonwealth to dispose of such waste may exist.
4. The incineration of regulated medical waste generates toxic or trace metals, dioxins and furans, acid gases, particulate matter, and pathogens, which may adversely affect human health and the environment.

The legislation imposes a moratorium for the issuance of permits for commercial infectious waste incinerators (i.e., MWIs). An MWI is considered "commercial" if more than 25 percent of the waste it burns is generated off site. "Infectious waste" (i.e., regulated medical waste) is defined as solid waste with the potential to cause infectious disease in humans. The law states, "No permits for the construction, reconstruction, or expansion of a commercial infectious waste incinerator shall be issued or approved by the State Air Pollution Control Board or the Virginia Waste Management Board prior to December 1, 1993; and no such permits shall be reviewed or processed by the Boards prior to September 1, 1993." Existing and proposed noncommercial MWIs, and existing commercial MWIs are not affected.

The law further states, "The State Air Pollution Control Board and the Virginia Waste Management Board shall each promulgate regulations with respect to the permitting of infectious waste incinerators . . . by September 1, 1993, or as soon as practicable thereafter within the constraints of the Administrative Process Act (§ 9-6.14:1 et seq.)."

The State Air Pollution Control Board is required, by statute, to promulgate a regulation regarding regulated medical waste incinerators by September 1, 1993, or as soon as possible thereafter within the parameters of the Administrative Process Act. If the regulation is not promulgated before December 1, 1993, when the moratorium on regulated medical waste incinerators ends, permit applications for the construction of such incinerators may be submitted without having to meet the requirements of the new regulation. This would be contrary to the intent of the law, which is to preclude the issuing of permits without the new regulation in place. In order to meet the intent of the law, as well as the requirements of the Administrative Process Act, the regulation must be passed as an emergency regulation.

Summary:

The major provisions of the regulation are as follows: (i) establish emission limits for particulate matter, carbon monoxide, hydrogen chloride, dioxins and furans, visible emissions, fugitive dust/emissions, odor, toxic pollutants, and radioactive materials; (ii) establish incinerator unit operating parameters and practices for the minimization and removal of pollution, including temperature limitations, scrubber requirements, and operator training; (iii) establish test methods and procedures for monitoring compliance; (iv) establish specific emission and operational parameter monitoring requirements; and (v) establish notification, records and reporting requirements, including specific content and frequency information regarding measurements of opacity, emission rates, and temperatures.

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Terms of the order:

This emergency regulation (attached and identified by title above) shall be enforced under applicable statutes and shall remain in full force and effect for one full year from the effective date, unless sooner modified or vacated or superseded by permanent regulations adopted pursuant to the Administrative Process Act.

The State Air Pollution Control Board will receive, consider, and respond to petitions by any interested persons at any time for the reconsideration or revision of this regulation.

It is so ordered

BY:

/s/ Richard N. Burton, Director
Department of Environmental Quality
Date: June 25, 1993

APPROVED BY:

/s/ Elizabeth H. Haskell
Secretary of Natural Resources
Date: June 17, 1993

/s/ Lawrence Douglas Wilder
Governor of the Commonwealth
Date: June 24, 1993

FILED WITH:

/s/ Joan W. Smith
Registrar of Regulations
Date: June 28, 1993

PART V STANDARDS OF PERFORMANCE FOR REGULATED MEDICAL WASTE INCINERATORS (RULE 5-6)

§ 120-05-0601. *Applicability and designation of affected facility.*

A. Except as provided in subsections C and D of this section, the affected facility to which the provisions of this rule apply is each regulated medical waste incinerator.

B. The provisions of this rule apply throughout the Commonwealth of Virginia.

C. The provisions of this rule do not apply to incinerators the construction or modification of which as defined in Part VIII commenced prior to September 1, 1993.

D. The provisions of this rule do not apply to combustion units or incinerators burning materials that do not include regulated medical waste.

§ 120-05-0602. *Definitions.*

A. For the purpose of these regulations and subsequent amendments or any orders issued by the board, the words or terms shall have the meaning given them in subsection C of this section.

B. As used in this rule, all terms not defined herein shall have the meaning given them in Part I, unless otherwise required by context.

C. Terms defined.

"Commercial regulated medical waste incinerator" means any regulated medical waste incinerator that burns regulated medical waste if more than 25 percent of such waste is generated off-site.

"Continuous emission monitoring system" means a monitoring system for continuously measuring the emissions of a pollutant from an affected facility.

"Dioxins" and "furans" means tetra- through octachlorinated dibenzo-p-dioxins and dibenzofurans.

"Four-hour block average" means the average of all hourly emission rates or temperatures when the affected facility is operating and combusting regulated medical waste measured over four-hour periods of time from midnight to 4 a.m., 4 a.m. to 8 a.m., 8 a.m. to noon, noon to 4 p.m., 4 p.m. to 8 p.m., 8 p.m. to midnight.

"Incinerator" means any furnace or device used in the process of burning any type of waste for the primary purpose of destroying matter or reducing the volume of the waste by removing combustible matter or both.

"Maximum demonstrated particulate matter control device inlet temperature" means the maximum four-hour block average temperature measured at the final particulate matter control device inlet during the most recent dioxin/furan test demonstrating compliance with the emission standard in § 120-05-0606. If more than one particulate matter control device is used in a series at the affected facility, the maximum four-hour block average temperature is measured at the final particulate matter control device.

"On-site" means (i) the same or geographically contiguous property which may be divided by a public or private right-of-way, provided the entrance and exit between the properties are at a crossroads intersection and access is by crossing, as opposed to going along, the right-of-way or (ii) noncontiguous properties owned by the same person but connected by a right-of-way controlled by the same person and to which the public does not have an access.

"Off-site" means any site that does not meet the definition of on-site.

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"Pathological waste" means a solid waste that is human tissues, organs, body parts, fetuses, placentas, effluences or similar material, and animal tissue, organs, body parts, fetuses, placentas, effluence or similar material from animals exposed to human pathogens for purposes of testing or experimentation.

"Rated capacity" means the waste charging rate expressed as the maximum capacity guaranteed by the equipment manufacturer or the maximum normally achieved during use, whichever is greater.

"Regulated medical waste" means any solid waste identified or suspected by the health care profession as being capable of producing an infectious disease in humans. A waste shall be considered to be capable of producing an infectious disease if it has been or is likely to have been contaminated by an organism likely to be pathogenic to humans, such organism is not routinely and freely available in the community, and such organism has a significant probability of being present in significant quantities and with sufficient virulence to transmit disease. In addition, regulated medical waste shall include the following:

a. Discarded cultures, stocks, specimens, vaccines, and associated items likely to have been contaminated with organisms likely to be pathogenic to humans, discarded etiologic agents, and wastes from production of biologicals and antibiotics likely to have been contaminated by organisms likely to be pathogenic to humans;

b. Wastes consisting of human blood, human blood products, and items contaminated by free-flowing human blood;

c. Pathological wastes;

d. Used sharps likely to be contaminated with organisms that are pathogenic to humans, and all sharps used in patient care;

e. The carcasses, body parts, bedding material, and all other wastes of animals intentionally infected with organisms likely to be pathogenic to humans for purposes of research, in vivo testing, production of biological materials or any other reason, when discarded, disposed of, or placed in accumulated storage;

f. Any residue or contaminated soil, water, or debris resulting from cleanup of a spill of any regulated medical waste; and

g. Any waste contaminated by or mixed with regulated medical waste.

Regulated medical waste shall not include:

a. Wastes contaminated only with organisms which

are not generally recognized as pathogenic to humans, even if those organisms cause disease in other plants or animals, and which are managed in complete accord with all regulations of the U.S. Department of Agriculture and the Virginia Department of Agriculture and Consumer Services;

b. Meat or other food items being discarded because of spoilage or contamination, unless included in subdivisions a through g above;

c. Garbage, trash, and sanitary waste from septic tanks, single or multiple residences, hotels, motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day-use recreation areas, except for waste generated by provision of professional health care services on the premises, provided that all medical sharps shall be placed in a container with a high degree of puncture resistance before being mixed with other wastes or discarded;

d. Used products for personal hygiene, such as diapers, facial tissues, and sanitary napkins; and

e. Material, not including sharps, containing small amounts of blood or body fluids, and no free-flowing or unabsorbed liquid.

"Regulated medical waste incinerator" means any incinerator used in the process of burning regulated medical waste.

"Sharps" means needles, scalpels, knives, broken glass, syringes, pasteur pipettes and similar items having a point or sharp edge.

"Solid waste" shall have the meaning ascribed thereto in § 10.1-1400 of the Code of Virginia. However, for purposes of this rule, the following materials are not solid wastes:

a. Domestic sewage, including wastes that are not stored and are disposed of in a sanitary sewer system (with or without grinding);

b. Any mixture of domestic sewage and other wastes that pass through a sewer system to a wastewater treatment works permitted by the State Water Control Board or the Department of Health;

c. Human remains under the control of a licensed physician or dentist, when the remains are being used or examined for medical purposes and are not abandoned materials; and

d. Human remains properly interred in a cemetery or in preparation by a licensed mortician for such interment or cremation.

§ 120-05-0603. Standard for particulate matter.

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No owner or other person shall cause or permit to be discharged into the atmosphere from any regulated medical waste incinerator any particulate emissions in excess of the following limits:

A. For incinerators with a rated capacity equal to or greater than 1000 pounds per hour: 0.010 grains per dry standard cubic foot of exhaust gas corrected to 7 percent oxygen (dry basis).

B. For incinerators with a rated capacity equal to or greater than 500 pounds per hour and less than 1000 pounds per hour: 0.03 grains per dry standard cubic foot of exhaust gas corrected to 7 percent oxygen (dry basis).

C. For incinerators with a rated capacity less than 500 pounds per hour: 0.10 grains per dry standard cubic foot of exhaust gas corrected to 7 percent oxygen (dry basis).

§ 120-05-0604. Standard for carbon monoxide.

No owner or other person shall cause or permit to be discharged into the atmosphere from any regulated medical waste incinerator any carbon monoxide emissions in excess of the following limits:

A. For incinerators with a rated capacity equal to or greater than 500 pounds per hour: 25 parts per million volume dry average per operating cycle or per day, whichever is less in duration, corrected to 7 percent oxygen (dry basis). An operating cycle shall be the period of time from the initial loading of waste into the incinerator through the burn-down cycle.

B. For incinerators with a rated capacity less than 500 pounds per hour: 50 parts per million volume dry one hour average corrected to 7 percent oxygen (dry basis).

§ 120-05-0605. Standard for hydrogen chloride.

No owner or other person shall cause or permit to be discharged into the atmosphere from any regulated medical waste incinerator any hydrogen chloride emissions in excess of 20 parts per million dry volume, corrected to 7 percent oxygen (dry basis).

§ 120-05-0606. Standard for dioxins and furans.

A. No owner or other person shall cause or permit to be discharged into the atmosphere from any regulated medical waste incinerator with a rated capacity equal to or greater than 500 pounds per hour any total dioxin or furan emissions in excess of 8 grains per billion dry standard cubic feet corrected to 7 percent oxygen (dry basis).

B. No owner or other person shall cause or permit to be discharged into the atmosphere from any regulated medical waste incinerator any dioxin or furan emissions that will result in a maximum annual risk in excess of 1 in 1,000,000. Ambient air concentrations and risk

assessments shall be determined using air quality analysis techniques and methods acceptable to the board.

§ 120-05-0607. Standard for visible emissions.

A. The provisions of Rule 5-1 (Emission Standards for Visible Emissions and Fugitive Dust/Emissions) apply except that the provisions in subsection B of this section apply instead of § 120-05-0103 A of Rule 5-1.

B. No owner or other person shall cause or permit to be discharged into the atmosphere from any regulated medical waste incinerator any visible emissions which exhibit greater than 5 percent opacity. Failure to meet the requirements of this section because of the presence of water vapor shall not be a violation of this section.

§ 120-05-0608. Standard for fugitive dust/emissions.

The provisions of Rule 5-1 (Emission Standards for Visible Emissions and Fugitive Dust/Emissions) apply.

§ 120-05-0609. Standard for odor.

The provisions of Rule 5-2 (Emission Standards for Odor) apply.

§ 120-05-0610. Standard for toxic pollutants.

The provisions of Rule 5-3 (Emission Standards for Toxic Pollutants) apply, including those provisions that apply to emissions of hydrogen chloride, except that the provisions of § 120-05-0606 apply to emissions of dioxins and furans.

§ 120-05-0611. Standard for radioactive materials.

Radioactive materials shall be handled in accordance with the regulations of the U.S. Environmental Protection Agency, the U.S. Nuclear Regulatory Commission, and the Virginia Department of Health.

§ 120-05-0612. Compliance.

A. In addition to the provisions of § 120-05-02 (Compliance), the provisions of subsections B through I of this section apply.

B. The owner of an affected facility shall operate the facility within parameters as specified below in accordance with methods and procedures acceptable to the board.

1. For incinerators with a rated capacity equal to or greater than 500 pounds per hour, the temperature, measured at the final particulate matter control device inlet, shall not exceed 30 degrees Fahrenheit above the maximum demonstrated particulate matter control device inlet temperature.

2. The minimum primary chamber temperature shall be 1400 degrees Fahrenheit or the manufacturer's

recommended operating temperature, whichever is higher, for a period of time needed to achieve complete pyrolysis.

3. A secondary combustion chamber with afterburner is required. The minimum secondary chamber temperature shall be 2000 degrees Fahrenheit or the manufacturer's recommended operating temperature, whichever is higher, for a period of no less than two seconds.

4. Combustion chamber thermostats are to ignite and fire the auxiliary burners automatically in order to maintain the primary and secondary chamber temperatures.

5. An interlock system to prevent incinerator feeding prior to attaining the minimum secondary chamber temperature is required.

6. The burn-down cycle shall be automatically controlled and the minimum burn-down cycle time shall be set at the manufacturer's recommended time.

7. No incinerator shall be charged more than its rated capacity.

8. For incinerators with a rated capacity equal to or greater than 500 pounds per hour, the flue gas temperature at the outlet of the final control device shall not exceed 300 degrees Fahrenheit unless a demonstration is made that an equivalent collection of condensable heavy metals and toxic organics can be achieved at a higher temperature.

9. For incinerators with a rated capacity equal to or greater than 500 pounds per hour and less than 1000 pounds per hour, hydrogen chloride emissions shall be controlled by a scrubber system capable of removing at least 90 percent by weight of the hydrogen chloride entering the scrubber system.

10. For incinerators with a rated capacity equal to or greater than 1000 pounds per hour, hydrogen chloride emissions shall be controlled by a scrubber capable of removing at least 95 percent by weight of the hydrogen chloride entering the scrubber system.

11. The minimum sorbent injection rate, expressed in pounds per hour of active neutralizing agent, shall be calculated as follows:

$$SI_{\min} = 1.2 (SI_{\text{test}})(\% \text{ ANA})$$

where:

SI_{\min} = minimum sorbent injection rate (pounds per hour).

SI_{test} = pounds per hour of sorbent injected during the performance test, while the hydrogen chloride

inlet concentration was highest.

$\% \text{ ANA}$ = percent by weight of active neutralizing agent in the sorbent.

C. An owner may request that compliance with the applicable emission limit be determined using carbon dioxide measurements corrected to an equivalent of 7 percent oxygen. The relationship between oxygen and carbon dioxide levels for the affected facility shall be established during the initial performance tests. In such cases, the applicable emission limit shall be corrected to the established percent carbon dioxide without the contribution of auxiliary fuel carbon dioxide when using a fuel other than natural gas or liquified petroleum gas.

D. Each chief incinerator operator and shift supervisor shall obtain and keep current either a provisional or operator certification in a manner acceptable to the board.

E. No owner shall allow an affected facility to operate at any time without a certified shift supervisor, as provided by subsection D of this section, on duty at the affected facility.

F. The owner of an affected facility shall develop and update, on a yearly basis, a site-specific operating manual that shall, at a minimum, address the following elements of regulated medical waste incinerator operation:

1. Summary of the applicable standards;
2. Description of basic combustion theory applicable to a regulated medical waste incinerator;
3. Procedures for receiving, handling, and feeding regulated medical waste;
4. Procedures for regulated medical waste incinerator startup, shutdown, and malfunction;
5. Procedures for maintaining proper combustion air supply levels;
6. Procedures for operating the regulated medical waste incinerator within the emission standards and operational parameters established under this rule;
7. Procedures for responding to periodic upset or off-specification conditions;
8. Procedures for minimizing particulate matter carryover;
9. Procedures for monitoring the degree of regulated medical waste burnout;
10. Procedures for handling ash;
11. Procedures for monitoring regulated medical waste incinerator emissions; and

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12. Procedures for reporting and recordkeeping.

G. The owner of an affected facility shall establish a program for reviewing the operating manual annually with each person who has responsibilities affecting the operation of an affected facility including, but not limited to, chief facility operators, shift supervisors, control room operators, ash handlers, maintenance personnel, and crane/load handlers.

H. The initial review of the operating manual, as specified under subsection G of this section, shall be conducted prior to assumption of responsibilities affecting incinerator operation by any person required to undergo training under subsection G of this section. Subsequent reviews of the manual shall be carried out annually by each such person.

I. The operating manual shall be kept in a readily accessible location for all persons required to undergo training under subsection G of this section. The operating manual and records of training shall be available for inspection by the board upon request.

§ 120-05-0613. Test methods and procedures.

A. In addition to the provisions of § 120-05-03 (Performance testing), the provisions of subsections B through E of this section apply.

B. The owner of an affected facility shall conduct performance tests and reduce associated data as specified below in accordance with methods and procedures acceptable to the board.

1. For all incinerators: particulate matter, carbon monoxide and visible emissions.

2. For all incinerators with a rated capacity equal to or greater than 500 pounds per hour: hydrogen chloride emissions and control efficiency of scrubber systems for hydrogen chloride emissions. Hydrogen chloride performance tests shall begin no earlier than one hour after the initial loading of waste into the incinerator. Hourly feed rate during hydrogen chloride performance tests shall be determined as the total amount of waste loaded into the incinerator between the beginning of the first sampling run of the day and the end of the last sampling run of the day, divided by the total number of hours elapsed.

3. For all incinerators with a rated capacity equal to or greater than 500 pounds per hour: dioxin and furan emissions.

C. Frequency of testing as required in subsection B of this section shall be required as follows.

1. For all incinerators: on-site initial performance tests.

2. For incinerators with a rated capacity equal to or

greater than 1000 pounds per hour: on-site annual performance tests.

D. Regulated medical waste incinerators which are of standardized manufacture and are shipped as assembled incinerators from the factory of manufacture may be exempt from on-site initial particulate matter and carbon monoxide performance testing, provided that:

1. The incinerator has a rated capacity of less than 100 pounds per hour;

2. The manufacturer has obtained a satisfactory test on a identical incinerator of similar size and design certified by a registered engineer;

3. The test has been certified for the same type of waste as designated for the incinerator subject to the permit; and

4. The test results are submitted to the board and found acceptable (waste type, incinerator design, acceptable feed range, equivalent operating parameters, equivalent auxiliary fuel, acceptable methodology).

E. Required on-site testing shall be done while the incinerator is operated at 90 percent or greater of the rated capacity and operated by trained plant personnel only.

§ 120-05-0614. Monitoring.

A. In addition to the provisions of § 120-05-04 (Monitoring), the provisions of subsection B of this section apply.

B. The owner of an affected facility shall install, calibrate, maintain and operate equipment for continuously monitoring and recording emissions or process parameters or both as specified below in accordance with methods and procedures acceptable to the board.

1. For all incinerators with a rated capacity equal to or greater than 500 pounds per hour, continuous measurement and display is required for primary and secondary chamber temperatures. Thermocouples shall be located at or near the primary and secondary chamber exits.

2. For all incinerators with a rated capacity equal to or greater than 1000 pounds per hour, continuous recording is required for the secondary chamber temperature.

3. For all incinerators with a rated capacity equal to or greater than 1000 pounds per hour, continuous measurement, display and recording is required for opacity, with the output of the system recording on a six-minute average basis.

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4. For all incinerators with a rated capacity equal to or greater than 1000 pounds per hour, continuous measurement, display and recording is required for flue gas stream temperature at the inlet to the final particulate matter control device. Temperatures shall be calculated in four-hour block arithmetic averages.

5. For all incinerators with a rated capacity equal to or greater than 1000 pounds per hour, continuous measurement, display and recording is required for carbon monoxide emissions, with carbon dioxide or oxygen diluent monitor.

6. A pH meter is required for each wet scrubber system.

7. A flow meter to measure the sorbent injection rate is required for each wet scrubber system.

§ 120-05-0615. Notification, records and reporting.

A. In addition to the provisions of § 120-05-05 (Notification, records and reporting), the provisions of subsections B through F of this section apply.

B. Following initial notification as required under § 120-05-05 A 3, the owner of an affected facility shall submit the initial performance test data, the performance evaluation of the continuous emission monitoring systems using the applicable performance specifications in 40 CFR Part 60 Appendix B, and the maximum demonstrated particulate matter control device inlet temperature established during the dioxin and furan test.

C. Following initial notification as required under § 120-05-05 A 3, the owner of an affected facility shall submit quarterly compliance reports for hydrogen chloride, carbon monoxide, secondary combustion chamber temperature and maximum demonstrated particulate matter control device inlet temperature to the board containing the information for each applicable pollutant or parameter. The hourly average values recorded under subsection F 2 of this section are not required to be included in the quarterly reports. Such reports shall be postmarked no later than the thirtieth day following the end of each calendar quarter.

D. The owner of an affected facility shall submit quarterly excess emission reports, as applicable, for opacity. The quarterly excess emission reports shall include all information recorded under this subsection which pertains to opacity, and a listing of the six-minute average opacity levels recorded under this subsection for all periods when such six-minute average levels exceeded the opacity limit under § 120-05-0607. The quarterly report shall also list the percent of the affected facility operating time for the calendar quarter during which the opacity continuous emission monitoring system was operating and collecting valid data. Such excess emission reports shall be postmarked no later than the thirtieth day following the end of each calendar quarter.

E. The owner of an affected facility shall submit reports to the board of all annual performance tests for particulate matter, carbon monoxide, dioxins and furans, and hydrogen chloride, as applicable, from the affected facility. For each annual dioxin and furan performance test, the maximum demonstrated particulate matter control device inlet temperature shall be reported. Such reports shall be submitted when available but in no case later than the date of the required submittal of the quarterly report specified under subsection C of this section covering the calendar quarter following the quarter during which the test was conducted.

F. The owner of an affected facility shall maintain and make available to the board upon request records of the following information for a period of at least five years:

1. Dates of emission tests and continuous monitoring measurements.
2. The emission rates and parameters measured using performance tests or continuous emission or parameter monitoring, as applicable, as follows:
 - a. The following measurements shall be recorded in computer-readable format and on paper:
 - i. The six-minute average opacity levels;
 - ii. All one-hour average hydrogen chloride emission rates at the inlet and outlet of the acid gas control device if compliance is based on a percent reduction and outlet emission limit; and
 - iii. All one-hour average carbon monoxide emission rates, secondary combustion chamber temperatures and final particulate matter control device inlet temperatures.
 - b. The following average rates shall be computed and recorded:
 - i. All 24-hour daily geometric average percent reductions in hydrogen chloride emissions and all 24-hour daily geometric average hydrogen chloride emission rates;
 - ii. All four-hour block or 24-hour daily arithmetic average carbon monoxide emission rates, as applicable; and
 - iii. All four-hour block arithmetic average secondary combustion chamber temperatures and final particulate matter control device inlet temperatures.
3. Identification of the operating days when any of the average emission rates, percent reductions, or operating parameters specified under this subsection or the opacity level have exceeded the applicable limit, with reasons for such exceedances as well as a description of corrective actions taken.

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4. Identification of operating days for which the minimum number of hours of emissions rate or operational data have not been obtained, including reasons for not obtaining sufficient data and a description of corrective actions taken.

5. Identification of the times when emissions rate or operational data have been excluded from the calculation of average emission rates or parameters and the reasons for excluding data.

6. The results of daily carbon monoxide continuous emission monitor system drift tests and accuracy assessments as required under 40 CFR Part 60, Appendix F, Procedure 1.

7. The results of all applicable performance tests conducted to determine compliance with the particulate matter, carbon monoxide, dioxins and furans, and hydrogen chloride limits. For all applicable dioxin and furan tests, the maximum demonstrated particulate matter control device inlet temperature shall be recorded along with supporting calculations.

8. Records of continuous emission or parameter monitoring system data for opacity, carbon monoxide, secondary combustion chamber temperature and final particulate matter control device inlet temperature data.

9. Records showing the names of the persons who have completed review of the operating manual and the date of the initial review and all subsequent annual reviews.

10. For commercial regulated medical waste incinerators, records of the amount and types of waste brought in from off-site.

§ 120-05-0616. Registration.

The provisions of § 120-02-31 (Registration) apply.

§ 120-05-0617. Facility and control equipment maintenance or malfunction.

The provisions of § 120-02-34 (Facility and control equipment maintenance or malfunction) apply.

§ 120-05-0618. Permits.

A permit may be required prior to beginning any of the activities specified below if the provisions of Part V (New and Modified Sources) and Part VIII (Permits for Stationary Sources) apply. Owners contemplating such action should review those provisions and contact the appropriate regional office for guidance on whether those provisions apply.

A. Construction of a facility.

B. Reconstruction (replacement of more than half) of a facility.

C. Modification (any physical change to equipment) of a facility.

D. Relocation of a facility.

E. Reactivation (re-startup) of a facility.

VA.R. Doc. No. R93-586; Filed June 28, 1993, 1:29 p.m.

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Title of Regulation: Regulations for the Control and Abatement of Air Pollution (Revision KK-E – Rule 8-6, Permit Program Fees for Stationary Sources).

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

Effective Dates: June 28, 1993, through June 27, 1994.

Preamble:

Title V of the Clean Air Act (the Act) as amended November 1990 provides a mechanism to implement the various requirements under the other titles in the Act through the issuance of operating permits. Under this title, the U.S. Environmental Protection Agency (EPA) is required to develop regulations with specific operating permit requirements. The federal regulations (40 CFR Part 70) were promulgated in final form on July 21, 1992. The states are required, in turn, to develop operating permit programs that meet the requirements specified in EPA's regulations. These programs are due to EPA for review by November 15, 1993.

One of the requirements of Title V is for states to develop fee programs to fund the development, implementation, and enforcement of the other requirements of Title V. The basis of the required fees is an annual charge per ton of emissions of regulated pollutants emitted by stationary sources covered under Title V.

The 1992 General Assembly responded to the mandates of Title V by amending the Virginia Air Pollution Control Law to supplement the new federal requirements. Section 10.1-1322 B specifies that the State Air Pollution Control Board may require the payment and collection of annual permit program fees for air pollution sources. The law directs that the fees must be based on actual emissions of each regulated pollutant, as defined in Section 502 of the Act, in tons per year. The law stipulates that the regulation cannot charge for emissions in excess of 4,000 tons per year of each pollutant for each source.

The law restricts the program to obtaining a base

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year amount of no more than \$25 per ton, using 1990 as the base year. It allows annual adjustments of this amount using the Consumer Price Index, as directed by Section 502 (b)(3)(B) of the Act. The fees obtained are to approximate the direct and indirect costs of the program, as directed by Section 502 (B)(3)(A) of the Act.

The State Air Pollution Control Board complied with the federal and state requirements by promulgating two regulations, one governing the establishment of the permit program and the second governing the fees to fund the program. The emergency regulation which is the subject of this preamble is the latter.

In conformance with the Administrative Process Act's mandated procedures for regulatory development, the board issued a notice of intended regulatory action, held a public meeting, solicited public comment, and used an ad hoc advisory group in the development of this regulation. A draft proposed regulation was developed but not yet promulgated for public comment. This draft proposed regulation is the basis for the emergency regulation.

As a result of legislation passed by the 1993 General Assembly amending the Administrative Process Act, the Office of the Attorney General has ruled that all regulations not adopted before July 1, 1993, must begin a new cycle of regulatory development. Therefore, development of the fee regulation cannot continue. Virginia must, however, promulgate and submit an applicable regulation to the U.S. Environmental Protection Agency by November 15, 1993, or else face the threat of federal sanctions, which include loss of highway construction funds statewide. Therefore, an emergency regulation must be promulgated.

The fee program is a supplement to the operating permit program. The applicability for the operating permit program to any given source is based on that source's potential to emit, despite the fact that the amount of the fees is based on the source's actual emissions. Many small sources will be subject to the Title V operating permit program because of their potential to emit. In order to reduce the burden of the federal program on these small sources, the department proposes to use the state operating permit program to reduce the potential to emit of the small sources, thus allowing them to avoid being subject to the Title V permit.

The department will incur costs, however, in issuing state operating permits to these small sources. To recover some of these costs, therefore, the regulation requires these sources to pay the annual permit program fee.

Summary:

The key provisions of the regulation are as follows:

1. The permit program applies to major sources as defined under the Clean Air Act, to other stationary sources regulated by federal programs, and to sources issued permits under the state operating permit program (§ 120-08-04).
2. A flat per-ton fee not to exceed \$25 for all emissions will be assessed to fund the permit program.
3. The fee will be adjusted annually according to the Consumer Price Index, using 1990 as the base year.
4. The fee will be assessed for applicable sources emitting any of the regulated pollutants in any quantity up to 4,000 tons per pollutant per year.
5. Any source which has been issued a new source permit is exempt from the fee for the calendar year of its initial operation.

Terms of the order:

This emergency regulation (attached and identified by title above) shall be enforced under applicable statutes and shall remain in full force and effect for one full year from the effective date, unless sooner modified or vacated or superseded by permanent regulations adopted pursuant to the Administrative Process Act.

The State Air Pollution Control Board will receive, consider, and respond to petitions by any interested persons at any time for the reconsideration or revision of this regulation.

It is so ordered

BY:

/s/ Richard N. Burton, Director
Department of Environmental Quality
Date: June 25, 1993

APPROVED BY:

/s/ Elizabeth H. Haskell
Secretary of Natural Resources
Date: June 17, 1993

APPROVED BY:

/s/ Lawrence Douglas Wilder
Governor
Date: June 23, 1993

FILED WITH:

/s/ Joan W. Smith
Registrar of Regulations
Date: June 28, 1993

Emergency Regulations

VR 120-01. Regulations for the Control and Abatement of Air Pollution (Revision KK-E – Rule 8-6, Permit Program Fees for Stationary Sources).

PART VIII

PERMIT PROGRAM FEES FOR STATIONARY SOURCES (RULE 8-6)

§ 120-08-0601. Applicability.

A. Except as provided in subsection C of this section, the provisions of this rule apply to the following stationary sources:

1. Any major source.
2. Any source, including an area source, subject to the provisions of Parts IV and V adopted pursuant to section 111 of the federal Clean Air Act.
3. Any source, including an area source, subject to the provisions of Part VI adopted pursuant to section 112 of the federal Clean Air Act.
4. Any affected source.
5. Any other source subject to the permit requirements of Rule 8-5 or § 120-08-04.

B. The provisions of this rule apply throughout the Commonwealth of Virginia.

C. The provisions of this rule shall not apply to the following:

1. All sources and source categories that would be subject to this rule solely because they are subject to the provisions of 40 CFR Part 60, Subpart AAA (standards of performance for new residential wood heaters), as prescribed in Rule 5-5.
2. All sources and source categories that would be subject to this rule solely because they are subject to the provisions of 40 CFR Part 61, Subpart M, Section 61.145 (national emission standard for hazardous air pollutants for asbestos, standard for demolition and renovation), as prescribed in Rule 6-1.
3. Any source issued a permit under § 120-08-01, § 120-08-02, or § 120-08-03 that began initial operation during the calendar year preceding the year in which the annual permit program fee is assessed.
4. That portion of emissions in excess of 4,000 tons per year of any regulated air pollutant emitted by any source otherwise subject to an annual permit program fee.
5. During the years 1995 through 1999 inclusive, any

affected unit under section 404 of the federal Clean Air Act (phase I sulfur dioxide requirements).

§ 120-08-0602. Definitions.

A. For the purpose of this rule and subsequent amendments or any orders issued by the board, the words or phrases shall have the meaning given them in subsection C of this section.

B. All words and phrases not defined in subsection C of this section shall have the meaning given them in part I, unless otherwise required by context.

C. Terms defined.

“Actual emissions” means the actual rate of emissions in tons per year of any regulated air pollutant emitted from a source subject to this rule over the preceding calendar year. Actual emissions may be calculated according to any method acceptable to the department and may use the source’s actual operating hours, production rates, in-place control equipment, and types of materials processed, stored, or combusted during the preceding calendar year.

“Affected source” means a source that includes one or more affected units.

“Affected unit” means a unit that is subject to any federal acid rain emissions reduction requirement or limitation under Title IV of the federal Clean Air Act.

“Area source” means any stationary source that is not a major source. For purposes of this section, the phrase “area source” shall not include motor vehicles or nonroad vehicles.

“Hazardous air pollutant” means an air pollutant to which no ambient air quality standard is applicable, which causes or contributes to air pollution which may reasonably be anticipated to result in an increase in mortality or an increase in serious irreversible or incapacitating reversible illness, and which is designated as such as Appendix U.

“Major source” means:

- a. For hazardous air pollutants other than radionuclides, any stationary source that emits or has the potential to emit, in the aggregate, 10 tons per year or more of any hazardous air pollutant or 25 tons per year or more of any combination of hazardous air pollutants. Notwithstanding the preceding sentence, emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any pipeline compressor or pump station shall not be aggregated with emissions from other similar units, whether or not such units are in a contiguous area or under common control, to determine whether such units or stations are major sources.

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b. For air pollutants other than hazardous air pollutants, any stationary source that directly emits or has the potential to emit 100 tons per year or more of any air pollutant (including any major source of fugitive emissions of any such pollutant). The fugitive emissions of a stationary source shall not be considered in determining whether it is a major stationary source, unless the source belongs to one of the following categories of stationary source:

- (1) Coal cleaning plants (with thermal dryers);
- (2) Kraft pulp mills;
- (3) Portland cement plants;
- (4) Primary zinc smelters;
- (5) Iron and steel mills;
- (6) Primary aluminum ore reduction plants;
- (7) Primary copper smelters;
- (8) Municipal incinerators capable of charging more than 250 tons of refuse per day;
- (9) Hydrofluoric, sulfuric, or nitric acid plants;
- (10) Petroleum refineries;
- (11) Lime plants;
- (12) Phosphate rock processing plants;
- (13) Coke oven batteries;
- (14) Sulfur recovery plants;
- (15) Carbon black plants (furnace process);
- (16) Primary lead smelters;
- (17) Fuel conversion plant;
- (18) Sintering plants;
- (19) Secondary metal production plants;
- (20) Chemical process plants;
- (21) Fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input;
- (22) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
- (23) Taconite ore processing plants;
- (24) Glass fiber processing plants;

(25) Charcoal production plants;

(26) Fossil-fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input; or

(27) All other stationary source categories subject to the provisions of Rule 5-5 or Rule 6-1, but only with respect to those air pollutants that have been regulated for that category.

c. For ozone nonattainment areas, any source with the potential to emit 100 tons per year or more of volatile organic compounds or nitrogen oxides in areas classified as "marginal" or "moderate," 50 tons per year or more in areas classified as "serious," 25 tons per year or more in areas classified as "severe," and 10 tons per year or more in areas classified as "extreme"; except that the references in this definition to 100, 50, 25, and 10 tons per year of nitrogen oxides shall not apply with respect to any source for which the administrator has made a finding that requirements under section 182(f) of the federal Clean Air Act (NOX requirements for ozone nonattainment areas) do not apply.

"Permit program costs" means all reasonable (direct and indirect) costs required to develop, administer, and enforce the permit program; and to develop and administer the Small Business Technical and Environmental Compliance Assistance Program established pursuant to the provisions of § 10.1-1323 of the Code of Virginia.

"Potential to emit" means the maximum capacity of a stationary source to emit any air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of a source to emit an air pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation is state and federally enforceable.

"Regulated air pollutant" means any of the following:

- a. Nitrogen oxides or any volatile organic compound.
- b. Any pollutant for which an ambient air quality standard has been promulgated except carbon monoxide.
- c. Any pollutant subject to any standard promulgated under Parts IV or V as adopted pursuant to the requirements of section 111 of the federal Clean Air Act.
- d. Any pollutant subject to a standard promulgated under section 112 (hazardous air pollutants) or other requirements established under section 112 of the

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federal Clean Air Act, particularly sections 112(b), 112(d), 112(g)(2), 112(j), and 112(r).

"Stationary source" means any building, structure, facility or installation which emits or may emit any regulated air pollutant. A stationary source shall include all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same persons (or persons under common control), except the activities of any vessel. Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same "Major Group" (i.e., if they have the same two-digit code) as described in the Standard Industrial Classification Manual (see Appendix M).

§ 120-08-0603. General.

1. The owner of any source subject to this rule shall pay an annual permit program fee.
2. No annual permit program fees may be collected pursuant to this rule until the rule has been approved by the administrator, whether full, interim, partial or otherwise.

§ 120-08-0604. Annual permit program fee calculation.

3. The annual permit program fee shall not exceed a base year amount of \$25 per ton using 1990 as the base year and shall be adjusted annually by the Consumer Price Index.

1. The annual permit program fee shall be increased (consistent with the need to cover reasonable costs) each year by the percentage, if any, by which the Consumer Price Index for the most recent calendar year ending before the beginning of such year exceeds the Consumer Price Index for the calendar year 1989. The Consumer Price Index for any calendar year is the average of the Consumer Price Index for all-urban consumers published by the U.S. Department of Labor, as of the close of the 12-month period ending on August 31 of each calendar year.

2. The revision of the Consumer Price Index which is most consistent with the Consumer Price Index for the calendar year 1989 shall be used.

B. The annual permit program fee shall be set at a level which allows the department to collect an amount approximately equal to but not greater than the estimated permit program costs. This amount shall be calculated annually by the department and may vary depending on income and expenses.

C. The annual permit program fee for each fiscal year shall be based on the actual emissions of each regulated air pollutant emitted by the source during the preceding calendar year. Such emissions shall be determined in a

manner acceptable to the department.

§ 120-08-0605. Annual permit program fee payment.

A. Upon determining that the owner owes an annual permit program fee, the department shall mail a bill for the fee to that owner no later than June 1.

B. Within thirty days following the date of the postmark on the bill, the owner shall respond in one of the following ways:

1. The owner may pay the fee in full. The fee shall be paid by check or money order made payable to "Treasurer of Virginia."

2. The owner may make a written request to the department to authorize an alternative payment schedule. The deadline for payment of the fee shall be held in abeyance pending the department's response.

C. Failure of the owner to respond within ninety days following the date of the postmark on the bill in one of the two ways specified in subsection B of this section shall be grounds to institute a collection action against the owner by the Attorney General or to initiate appropriate enforcement action as provided in the Virginia Air Pollution Control Law.

APPENDIX U

HAZARDOUS AIR POLLUTANTS

I. General.

A. Section II designates hazardous air pollutants for the purposes of Rules 8-5 and 8-6.

B. The number to the left of each chemical name in section II of this appendix is the Chemical Abstract Service (CAS) number for that substance. Chemical names not indicating a unique substance have not been assigned CAS numbers (compounds, coke oven emissions, glycol ethers, fine mineral fibers, polycyclic organic matter, and radionuclides). The definitions of glycol ethers and all chemical compounds (unless otherwise specified) include any unique substance that contains the named chemical (i.e., antimony, arsenic, etc.) as part of the structure of that substance.

II. List of hazardous air pollutants.

75070 Acetaldehyde

60355 Acetamide

75058 Acetonitrile

98862 Acetophenone

53963 2-Acetylaminofluorene	532274 2-Chloroacetophenone
107028 Acrolein	108907 Chlorobenzene
79061 Acrylamide	510156 Chlorobenzilate
79107 Acrylic acid	67663 Chloroform
107131 Acrylonitrile	107302 Chloromethyl methyl ether
107051 Allyl chloride	126998 Chloroprene
92671 4-Aminobiphenyl	1319773 Cresols/Cresylic acid (isomers and mixture)
62533 Aniline	95487 o-Cresol
90040 o-Anisidine	108394 m-Cresol
1332214 Asbestos	106445 p-Cresol
71432 Benzene (including benzene from gasoline)	98828 Cumene
92875 Benzidine	94757 2,4-D, salts and esters
98077 Benzotrichloride	3547044 DDE
100447 Benzyl chloride	334883 Diazomethane
92524 Biphenyl	132649 Dibenzofurans
117817 Bis(2-ethylhexyl)phthalate (DEHP)	96128 1,2-Dibromo-3-chloropropane
542881 Bis(chloromethyl)ether	84742 Dibutylphthalate
75252 Bromoform	106467 1,4-Dichlorobenzene(p)
106990 1,3-Butadiene	91941 3,3-Dichlorobenzidine
156627 Calcium cyanamide	111444 Dichloroethyl ether (Bis(2-chloroethyl)ether)
105602 Caprolactam	542756 1,3-Dichloropropene
133062 Captan	62737 Dichlorvos
63252 Carbaryl	111422 Diethanolamine
75150 Carbon disulfide	121697 N,N-Diethyl aniline (N,N-Dimethylaniline)
56235 Carbon tetrachloride	64675 Diethyl sulfate
463581 Carbonyl sulfide	119904 3,3-Dimethoxybenzidine
120809 Catechol	60117 Dimethyl aminoazobenzene
133904 Chloramben	119937 3,3'-Dimethyl benzidine
57749 Chlordane	79447 Dimethyl carbamoyl chloride
7782505 Chlorine	68122 Dimethyl formamide
79118 Chloroacetic acid	57147 1,1-Dimethyl hydrazine

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131113 Dimethyl phthalate	7664393 Hydrogen fluoride (hydrofluoric acid)
77781 Dimethyl sulfate	7783064 Hydrogen sulfide
534521 4,6-Dinitro- <i>o</i> -cresol, and salts	123319 Hydroquinone
51285 2,4-Dinitrophenol	78591 Isophorone
121142 2,4-Dinitrotoluene	58899 Lindane (all isomers)
123911 1,4-Dioxane (1,4-Diethyleneoxide)	108316 Maleic anhydride
122667 1,2-Diphenylhydrazine	67561 Methanol
106898 Epichlorohydrin (1-Chloro-2,3-epoxypropane)	72435 Methoxychlor
106887 1,2-Epoxybutane	74839 Methyl bromide (Bromomethane)
140885 Ethyl acrylate	74873 Methyl chloride (Chloromethane)
100414 Ethyl benzene	71556 Methyl chloroform (1,1,1- Trichloroethane)
51796 Ethyl carbamate (Urethane)	78933 Methyl ethyl ketone (2- Butanone)
75003 Ethyl chloride (Chloroethane)	60344 Methyl hydrazine
106934 Ethylene dibromide (Dibromoethane)	74884 Methyl iodide (Iodomethane)
107062 Ethylene dichloride (1,2-Dichloroethane)	108101 Methyl isobutyl ketone (Hexone)
107211 Ethylene glycol	624839 Methyl isocyanate
151564 Ethylene imine (Aziridine)	80626 Methyl methacrylate
75218 Ethylene oxide	1634044 Methyl tert butyl ether
96457 Ethylene thiourea	101144 4,4-Methylene bis(2- chloroaniline)
75343 Ethylidene dichloride (1,1-Dichloroethane)	75092 Methylene chloride (Dichloromethane)
50000 Formaldehyde	101688 Methylene diphenyl diisocyanate (MDI)
76448 Heptachlor	101779 4,4'-Methylenedianiline
118741 Hexachlorobenzene	91203 Naphthalene
87683 Hexachlorobutadiene	98953 Nitrobenzene
77474 Hexachlorocyclopentadiene	92933 4-Nitrobiphenyl
67721 Hexachloroethane	100027 4-Nitrophenol
822060 Hexamethylene-1,6-diisocyanate	79469 2-Nitropropane
680319 Hexamethylphosphoramide	684935 N-Nitroso-N-methylurea
110543 Hexane	62759 N-Nitrosodimethylamine
302012 Hydrazine	59892 N-Nitrosomorpholine
7647010 Hydrochloric acid	56382 Parathion

82688 Pentachloronitrobenzene (Quintobenzene)	79016 Trichloroethylene
87865 Pentachlorophenol	95954 2,4,5-Trichlorophenol
108952 Phenol	88062 2,4,6-Trichlorophenol
106503 p-Phenylenediamine	121448 Triethylamine
75445 Phosgene	1582098 Trifluralin
7803512 Phosphine	540841 2,2,4-Trimethylpentane
7723140 Phosphorus	108054 Vinyl acetate
85449 Phthalic anhydride	593602 Vinyl bromide
1336363 Polychlorinated biphenyls (Aroclors)	75014 Vinyl chloride
1120714 1,3-Propane sultone	75354 Vinylidene chloride (1,1-Dichloroethylene)
57578 beta-Propiolactone	1330207 Xylenes (isomers and mixture)
123386 Propionaldehyde	95476 o-Xylenes
114261 Propoxur (Baygon)	108383 m-Xylenes
78875 Propylene dichloride (1,2-Dichloropropane)	106423 p-Xylenes
75569 Propylene oxide	Antimony compounds
75558 1,2-Propylenimine (2-Methyl aziridine)	Arsenic compounds (inorganic including arsine)
91225 Quinoline	Beryllium compounds
106514 Quinone	Cadmium compounds
100425 Styrene	Chromium compounds
96093 Styrene oxide	Cobalt compounds
1746016 2,3,7,8-Tetrachlorodibenzo-p-dioxin	Coke oven emissions
79345 1,1,2,2-Tetrachloroethane	Cyanide compounds ¹
127184 Tetrachloroethylene (Perchloroethylene)	Glycol ethers ²
7550450 Titanium tetrachloride	Lead compounds
108883 Toluene	Manganese compounds
95807 2,4-Toluene diamine	Mercury compounds
584849 2,4-Toluene diisocyanate	Fine mineral fibers ³
95534 o-Toluidine	Nickel compounds
8001352 Toxaphene (chlorinated camphene)	Polycyclic organic matter ⁴
120821 1,2,4-Trichlorobenzene	Radionuclides (including radon)
79005 1,1,2-Trichloroethane	Selenium compounds

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¹ X'CN where X = H' or any other group where a formal dissociation may occur; for example, KCN or Ca(CN)₂.

² Includes mono- and di- ethers of ethylene glycol, diethylene glycol, and triethylene glycol R-(OCH₂CH₂)_n-OR' where

n = 1, 2, or 3

R = alkyl or aryl groups

R' = R, H, or groups which, when removed, yield glycol ethers with the structure: R-(OCH₂CH)_n-OH. Polymers are excluded from the glycol category.

³ Includes mineral fiber emissions from facilities manufacturing or processing glass, rock, or slag fibers (or other mineral-derived fibers) of average diameter one micrometer or less.

⁴ Includes organic compounds with more than one benzene and which have a boiling point greater than or equal to 100 C.

V.A.R. Doc. No. R93-585; Filed June 28, 1993, 1:29 p.m.

DEPARTMENT OF CORRECTIONS (STATE BOARD OF)

EDITOR'S NOTICE: The emergency regulation entitled, "VR 230-30-005.2, Standards for Planning, Design, Construction and Reimbursement of Local Correctional Facilities" filed by the Department of Corrections is not being published due to the length. However, in accordance with § 9-6.14:22 of the Code of Virginia a summary is being published in lieu of the full text. The full text of the regulation is available for public inspection at the Office of the Registrar of Regulations, Virginia Code Commission, 910 Capitol Square, Room 262, Richmond, VA 23219, and at the Department of Corrections, 6900 Atmore Drive, Richmond, VA 23225. Copies of the regulation may be obtained from Mike Howerton, Department of Corrections, 6900 Atmore Drive, Richmond, VA 23225 telephone (804) 674-3251.

Title of Regulation: VR 230-30-005.2. Standards for Planning, Design, Construction and Reimbursement of Local Correctional Facilities.

Statutory Authority: §§ 53.1-5, 53.1-68, and 53.1-80 through 53.1-82.3 of the Code of Virginia.

Effective Dates: July 1, 1993, through June 30, 1994.

Preamble:

The Board of Corrections is promulgating emergency regulations as detailed in § 53.1-5, 53.1-68, and 53.1-80 through 53.1-82.3, Code of Virginia, which require the Board to establish minimum standards for the construction, equipment, administration and operation of local correctional facilities, along with regulations

establishing criteria to assess need, establish priorities, and evaluate requests for reimbursement of construction costs to ensure fair and equitable distribution of state funds provided.

Emergency status is requested as a result of the amendments approved by this 1993 General Assembly in Senate Bill 795, which alters requirements for managing these standards beginning July 1, 1993.

These regulations supersede VR 230-30-008, "Regulations for State Reimbursement of Local Correctional Facility Costs," "Procedures for Receiving State Reimbursement for Local Correctional Facility Construction, Enlargement or Renovation," and VR 230-30-005, "Guide for Minimum Standards in Design and Construction of Jail Facilities."

The Board will proceed to promulgate regulations during the next year in accordance with the provisions of the Administrative Process Act to ensure public participation in reviewing these standards.

V.A.R. Doc. No. R93-703; Filed June 30, 1993, 4:17 p.m.

DEPARTMENT FOR THE DEAF AND HARD-OF-HEARING

Title of Regulation: VR 245-02-01. Regulations Governing Eligibility Standards and Application Procedures for the Distribution of Telecommunications Equipment Technological Assistive Devices.

Statutory Authority: § 63.1-85.4 of the Code of Virginia.

Effective Dates: June 29, 1993, through June 28, 1994.

CONCURRENCES FOR EMERGENCY REGULATIONS

REQUEST: The Virginia Department for the Deaf and Hard of Hearing (VDDHH) is requesting emergency approval to adopt amendments to existing Regulations Governing Eligibility Standards and Application Procedures for the Distribution of Technological Assistive Devices.

RECOMMENDATION: The Secretary of Health and Human Resources recommends that the request for emergency approval be approved by the Governor.

CONCURRENCES:

/s/ Kathy E. Vesley
Acting Director of VDDHH
Date: June 22, 1993

/s/ Howard M. Cullum
Secretary of Health and Human Resources
Date: June 24, 1993

/s/ Lawrence Douglas Wilder

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Governor
Date: June 24, 1993

Filed with the Registrar of Regulations June 29, 1993.

Preamble:

The Department for the Deaf and Hard of Hearing is seeking approval of emergency regulations to implement new Regulations Governing Eligibility Standards and Application Procedures for the Distribution of Technological Assistive Devices. This emergency action is necessary for the Department to more equitably apply the sliding fee scale mandated by the Code of Virginia.

VR 245-02-01. Regulations Governing Eligibility and Application Procedures for the Distribution of Technological Assistive Devices.

PART I. DEFINITIONS.

§ 1.1. Definitions.

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

"Alerting device" means a device that alerts individuals with a hearing loss of sounds around them.

"Amplification device" means a device that amplifies either incoming sounds for individuals who have a hearing loss or outgoing sounds for individuals who have a speech disability.

"Applicant" means a person who applies for technological assistive devices.

"Application" means the TAP Application (VDDHH-TDD-1).

"Audiologist" means any person who accepts compensation for examining, testing, evaluating, treating or counseling persons having or suspected of having disorders or conditions affecting hearing and related communicative disorders or who assists persons in the perception of sound and is not authorized by another regulatory or health regulatory board to perform any such services.

"Completion date" means the date all supporting documentation for the application is received by the department.

"Coordinator" means the Technology Assistance Program Coordinator of the Virginia Department for the Deaf and Hard-of-Hearing.

"Coupon" means a voucher which may be used by the applicant towards the purchase of approved technological assistive devices from a contracted vendor.

"Deaf" means a hearing loss that requires use of a text telephone to communicate effectively on the telephone.

"Deaf-blind" means a dual loss of hearing and vision that requires use of a braille text telephone to communicate effectively on the telephone.

"Department" means the Virginia Department for the Deaf and Hard-of-Hearing.

"Family" means the applicant, his dependents and any person legally required to support the applicant, including spouses.

"Gross income" means the income, total cash receipts before taxes from all sources of the applicant, his dependents, and any person legally required to support the applicant, including spouses.

"Hard of hearing" means a hearing loss that requires use of either a text telephone or an amplification device to communicate effectively on the telephone.

"Hearing aid specialist" means a person who accepts compensation for evaluating hearing for the purpose of fitting appropriate hearing aids.

"Hearing-impaired/visually-impaired" means a dual loss of hearing and vision that requires use of large visual display text telephone or a braille text telephone to communicate effectively on the telephone.

"Minor" means a person less than 18 years of age whose parents are legally responsible for his support.

"Physician" means a person who has a medical degree and a license to practice medicine in any one of the United States.

"Program" or *"TAP"* means Technology Assistance Program for distributing technological assistive devices to individuals who are deaf, hard of hearing, hearing-impaired/visually-impaired, deaf-blind or speech-impaired and who meet eligibility requirements through an application process.

"Public assistance" means and includes aid to dependent children; auxiliary grants to the aged, blind and disabled; medical assistance; food stamps; general relief; fuel assistance; and social services.

"Recipient" means a person who receives technological assistive devices.

"Ring signal device" means a device that alerts an individual who is deaf, hard of hearing, hearing impaired/visually-impaired or deaf-blind of an incoming call.

"Speech-impaired" means a loss of verbal communication ability which prohibits normal usage of a

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standard telephone handset.

"Speech pathologist" means any person who accepts compensation for examining, testing, evaluating, treating or counseling persons having or suspected of having disorders or conditions affecting speech, voice or language and is not authorized by another regulatory or health regulatory board to perform any such services.

"Technological assistive device" means any adaptation for an alerting or communication system needed by individuals who are deaf, hard of hearing, hearing-impaired/visually impaired, deaf-blind or speech-impaired.

"Text telephone" (hereinafter called TTP) means a nonvoice terminal device used to transmit and receive messages via telephone. This includes, but is not limited to, telecommunications devices for the deaf (TDD/TTY) and computer modems.

"VDDHH outreach specialist" means a person hired by the department to provide outreach services and to assist the department in carrying out activities related to the Technology Assistance Program on either a regional or local level.

PART II. DETERMINING OWNERSHIP.

§ 2.1. Ownership guidelines.

A. Any technological assistive device or component distributed through the program is the property of the individual recipient except for any device which, individually, has a value or cost in excess of \$5,000 at the date of acquisition.

B. The department shall retain ownership of any technological assistive device or component distributed through the program that costs \$5,000 or more.

Where ownership of technological assistive devices or components is retained by the department, the department, in its discretion, may suspend part or all of the following regulations as deemed necessary.

PART III. PARTICIPATION OF APPLICANT.

§ 3.1. Eligibility requirements.

Upon request for technological assistive devices by an applicant, the department will require information as to the family size, financial status, and other related data as described on the application. It is the applicant's responsibility to furnish the department with the correct financial data in order to be appropriately classified according to income level and to determine applicable charges for technological assistive devices. Applicants eligible to participate in the program shall meet the

following requirements:

1. The applicant must be certified as deaf, hard of hearing, hearing-impaired/visually-impaired, deaf-blind, or speech-impaired by a licensed physician, audiologist, speech-language pathologist, hearing aid specialist, vocational rehabilitation counselor employed by the Department of Rehabilitative Services or the Department for the Visually Handicapped, a Virginia School for the Deaf and Blind representative, a VDDHH outreach specialist or other appropriate agency or government representative.

2. The applicant shall reside in the Commonwealth of Virginia.

3. An applicant shall submit a completed and signed application.

§ 3.2. Charges for equipment.

Eligible applicants shall be granted program participation based on a first-come, first-served basis and the availability of program funds.

A. Cost of the program to applicant.

If the individual or family monthly gross income is such that a charge for technological assistive devices is required, an explanation of the charges shall be provided to the recipient.

1. An applicant shall not be required to participate in the cost of technological assistive devices:

a. If his individual or family monthly gross income is:

(1) Obtained solely from public assistance, as defined in Part I of these regulations, earnings of minor children or gifts, or any combination thereof; or

(2) Less than or equal to the Economic Needs Guidelines found in subdivision A 3 of this section.

b. If ownership of technological assistive devices or components is retained by the department.

2. Any other applicant shall be required to participate in the cost of any technological assistive devices distributed to the applicant. The portion paid by the applicant to the vendor shall be equal to the amount which his individual or family monthly gross income exceeds the following Economic Needs Guidelines. However, this amount shall not exceed the approved 20% of the cost of the equipment total price package or \$75, whichever is lower.

3. Statewide Economic Needs Guidelines. The same formula used to determine the following sets of

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Economic Needs Guidelines shall be applied where the number of family members exceeds six.

	Monthly Gross Income	Annual Gross Income
Family of 1	\$1,210	\$14,520
Family of 2	1,583	18,996
Family of 3	1,995	23,940
Family of 4	2,327	27,924
Family of 5	2,699	32,388
Family of 6	3,072	36,864

a. Northern Virginia Economic Needs Guidelines. To be used for applicants residing in Arlington, Fairfax, Loudoun, and Prince William counties and the incorporated cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park.

	Monthly Gross Income	Annual Gross Income
Family of 1	\$1,319	\$15,828
Family of 2	1,726	20,712
Family of 3	2,175	26,100
Family of 4	2,537	30,444
Family of 5	2,942	35,304
Family of 6	3,349	40,188

b. If an applicant is paying monthly installments toward a debt(s), then the amount of one monthly installment will be subtracted from the applicant's expected contribution before the valid amount owed is determined, under the following conditions:

(1) The debt(s) is owed for nonpreventative medical or dental services; and

(2) The debt(s) is owed by or for the applicant or individuals whom the applicant is legally responsible to support or is legally supported by.

§ 3.3. Type of equipment.

The equipment that may be available through the program includes but is not limited to: TTPs, large visual display TTPs, braille TTPs, amplification devices, ring signal devices, doorbell signallers, visual smoke/fire detectors, TTP paper rolls, baby criers, and visual or vibrating alarm clocks.

PART IV. APPLICATION PROCEDURES.

§ 4.1. The application may be obtained from the department or the department's outreach specialists or other authorized distribution centers. Completed applications shall be forwarded to:

Virginia Department for the Deaf and Hard-of-Hearing
ATTN: VDDHH-TAP
Washington Building
Capitol Square
1100 Bank Street
12th Floor
Richmond, VA 23219-3640.

The VDDHH telephone number is 1-800-552-7917 (V/TT) or (804) 225-2570 (V/TT).

§ 4.2. Processing applications.

A. The coordinator shall approve all applications for which eligibility requirements defined in § 3.1 are satisfied, except as provided in subsections B, C, and D of this regulation.

B. Original application shall not be approved:

1. When the applicant who must contribute has already been issued a coupon which is still valid towards the purchase of technological assistive devices under this program.

2. When the applicant has received a device from the TAP Program within the preceding four years.

C. Application for replacement equipment shall not be approved when:

1. A device previously issued by the department has been subjected to abuse, misuse or unauthorized repair by the recipient.

2. The recipient fails to provide a police report of a stolen device or refuses to cooperate with the police investigation or in the prosecution of the suspect, including the refusal to testify in court when requested to do so.

3. The recipient is found negligent in the police report, such as doors to the house or car left unlocked or unattended.

4. The recipient has lost the device.

5. The recipient has sold the device.

D. Replacement equipment may be given within a four-year period if a technological assistive device is damaged through natural disasters, such as lightning, electrical storms, or floods. The recipient must first send damaged equipment to the vendor. If the vendor certifies to the department that the equipment, provided it is still under valid warranty, is unrepairable due to natural

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disaster, a replacement unit shall be issued to the recipient, upon reapplication, either free or up to \$75, depending on eligibility criteria as outlined in § 3.2.

E. Exchange of equipment may be permitted only where the original equipment can no longer be used by a recipient due to deteriorating vision or hearing. A recipient must obtain a letter from a physician stating that the recipient has deteriorating vision or hearing and can no longer benefit from the equipment currently used by the recipient and that the recipient would benefit from another device available through TAP.

F. Eligibility requirements regarding financial data and family size shall not be required by the department if ownership of telecommunications devices or components is retained by the department.

§ 4.3. Notice of action on approved or denied applications.

The recipient shall be notified of a decision regarding an original application within 30 days of the completion date.

§ 4.4. If a recipient obtained technological assistive devices under false premises or misrepresentation of facts on the TAP application, the department reserves the right to demand return of such equipment. Such a recipient may be prosecuted to the fullest extent of the law.

PART V. PROCESSING SYSTEM.

§ 5.1. Processing, redemption and invoicing shall be governed by internal department procedures, contractual agreements and the Commonwealth of Virginia's Prompt Payment Act that shall be applied uniformly to applicants and contracted vendors.

§ 5.2. Liability.

Recipients shall be responsible for any repairs to or loss of a device issued in the program, except where the department retains ownership of the device.

PART VI. CONFIDENTIALITY.

§ 6.1. Confidentiality.

All TAP applications and other client materials shall be kept confidential by department personnel and other persons authorized by the department to view such materials. An applicant's award shall also be confidential and shall not be released without the applicant's permission.

V.A.R. Doc. No. R93-647; Filed June 29, 1993, 4:51 p.m.

DEPARTMENT OF HEALTH (STATE BOARD OF)

Title of Regulation: VR 355-30-000:8E. Virginia Medical Care Facilities Certificate of Public Need Rules and Regulations.

Statutory Authority: §§ 32.1-12 and 32.1-102.2 of the Code of Virginia.

Effective Dates: July 1, 1993, through June 30, 1994.

Summary:

Nature of Emergency - On July 1, 1993 amendments to the Virginia Medical Care Facilities Certificate of Public Need Law will become effective (§ 32.1-12 and § 32.1-102.2, et seq., of the Code of Virginia). The amended law 1) expands the categories of medical care facility projects which require approval by the State Health Commissioner prior to initiation; 2) excludes from project review requirements capital expenditures of \$1 million but less than \$2 million which are registered with the State Health Commissioner and do not involve expansion of space for patient care services; 3) provides for an increase in the maximum application fees for certificate of public need (COPN) projects from 0.5% of the capital expenditure or \$5,000 to 1.0% of the capital expenditure for a project or \$10,000; 4) allows the State Health Commissioner to condition COPN project approvals on an applicant's agreement to develop and operate primary care services in medically underserved areas; 5) extends the moratorium on the issuance of COPNs for nursing homes from June 30, 1994 to June 30, 1995 and provides several additional exceptions to this moratorium.

Purpose - To amend the existing Virginia Medical Care Facilities Certificate of Public Need Rules and Regulations so that compliance with the amended law is possible on July 1, 1993.

Pursuant to the authority vested in me by the Virginia Code Section 32.1-20, I find that the foregoing regulations, VR 355-30-000:8E, Rules and Regulations Governing Virginia Medical Care Facility Certificate of Public Need, are necessitated by an emergency situation as set out in the preamble (summary). Pursuant to § 32.1-12 and § 32.1-102.2, as required under the basic law §§ 32.1-102.1 et seq., and subsection C 5 of § 9-6.14:4.1 of the Code, I hereby adopt the foregoing regulations.

/s/ Robert B. Strouble, MD, MPH
State Health Commissioner
Date: June 29, 1993

CONCURRENCES:

/s/ Howard M. Cullum
Secretary Health and Human Resources
Date: June 23, 1993

AUTHORIZATION:

/s/ Lawrence Douglas Wilder
Governor
Date: June 24, 1993

FILED:

/s/ Joan W. Smith
Registrar of Regulations
Date: June 29, 1993

VR 355-30-000:8E. Virginia Medical Care Facility Certificate of Public Need Rules and Regulations.

PART I. DEFINITIONS.

§ 1.1. Definitions.

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 \$700,000 or more that changes the ownership of a medical care facility. It shall also include the donation or lease of a medical care facility. 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% 1.0% of the proposed capital expenditure or cost increase for the project or \$5,000 10,000 .

"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. Such expenditure shall also include a series of related expenditures during a 12-month period or a financial

obligation or a series of related financial obligations made during a 12-month period by or in behalf of a medical care facility. 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 § 5.6.

"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.

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"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 tmg 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 facility" means any institution, place, building, or agency, at a single site, 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:

1. General hospitals.
2. Sanitariums.
3. Nursing homes.
4. Intermediate care facilities.
5. Extended care facilities.
6. Mental hospitals.

7. Mental retardation facilities.

8. Psychiatric hospitals and intermediate care facilities established primarily for the medical, psychiatric or psychological treatment and rehabilitation of alcoholics or drug addicts.

9. Specialized centers or clinics or that portion of a physician's office developed for the provision of out-patient or ambulatory surgery, cardiac catheterization, computed tomographic (CT) scanning, gamma knife surgery, lithotripsy, magnetic resonance imaging (MRI), magnetic source imaging (MSI), positron emission tomographic (PET) scanning, radiation therapy, single photon emission computed tomography (SPECT) scanning, or such other specialty services as may be designated by the board by regulation.

10. Rehabilitation hospitals.

For purposes of the regulations, the following medical care facility classifications shall not be subject to review:

1. Any facility of the Department of Mental Health, Mental Retardation and Substance Abuse Services.

2. Any nonhospital substance abuse residential treatment program operated by or contracted primarily for the use of a community services board under the Department of Mental Health, Mental Retardation and Substance Abuse Services Comprehensive Plan.

3. Any physician's office, except that portion of the physician's office which is described in subdivision 9 of the definition of "medical care facility."

"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."

"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.

"Operator" means any person having designated

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responsibility and legal authority from the owner to administer and manage a medical care facility. See definition of "owner."

"*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 who 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 following:

1. The applicant for a certificate of public need;
2. The regional health planning agency for the health planning region in which the proposed project is to be located;
3. Any resident of the geographic area served or to be served by the applicant;
4. Any person who regularly uses health care facilities within the geographic area served or to be served by the applicant;
5. 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;
6. Third party payors who provide health care insurance or prepaid coverage to 5.0% or more patients in the health planning region in which the project is proposed to be located; and
7. 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. See definition of "medical care facility."

"*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 on Progress.

"*Project*" means:

1. The establishment of a medical care facility. See definition of "medical care facility."
2. An increase in the total number of beds or operating rooms in an existing or authorized medical care facility.
3. Relocation at the same site 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.
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 of Virginia.
5. The introduction into an existing medical care facility of any new cardiac catheterization, computed tomography (CT), gamma knife surgery, lithotripsy, magnetic resonance imaging (MRI), magnetic source imaging (MSI), medical rehabilitation, neonatal special care services, obstetrical services, open heart surgery, positron emission tomographic (PET) scanning, organ or tissue transplant service, radiation therapy, single photon emission computed tomography (SPECT), psychiatric, substance abuse treatment, or such other specialty clinical services as may be designated by the board by regulation, which the facility has never provided or has not provided in the previous 12 months.
6. The conversion of beds in an existing medical care facility to medical rehabilitation beds or psychiatric beds.
- 6 7. The addition or replacement by an existing medical care facility of any medical equipment for the provision of cardiac catheterization, computed tomography (CT), gamma knife surgery, lithotripsy, magnetic resonance imaging (MRI), magnetic source

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imaging (MSI), open heart surgery, positron emission tomographic (PET) scanning, radiation therapy, single photon emission computed tomography (SPECT), or other specialized service designated by the board by regulation, except for the replacement of any medical equipment identified in this part which the commissioner has determined to be an emergency in accordance with § 3.5 of these regulations.

7 8 . Any capital expenditure of \$1 million or more by or on behalf of a medical care facility which is not defined as reviewable under subdivisions 1 through 6 7 of this definition , *except capital expenditures registered with the Commissioner of less than \$2 million that do not involve the expansion of any space in which patient care services are provided, including, but not limited to, expenditures for nurse call systems, materials handling and management information systems, parking lots and garages, child care centers, and laundry services* . See definition of "capital expenditure."

"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 § 5.7.

"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.

"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 authorized by the commissioner on the certificate of public need issued for the project by 10% or more;
3. Changes the service(s) proposed to be offered;
4. Extends the schedule for completion of the project beyond three 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 §§ 7.2 and 7.3.

"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 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.

§ 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. 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.

§ 2.8. 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 § 3.2 of these regulations shall be met.

§ 3.2. Requirements for registration of certain capital expenditures of \$1 million or more but less than \$2 million.

At least 30 days before any person contracts to make or is otherwise legally obligated to make a capital expenditure by or on behalf of a medical care facility that is \$1 million or more but is less than \$2 million and does not involve the expansion of any space in which patient care services are provided, including, but not limited to, expenditures for nurse call systems, materials handling and management information systems, parking lots and garages, child care centers, and laundry services, 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 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.

§ 3.3. Requirement for notification of proposed acquisition of medical care facility.

At least 30 days before any person is contractually obligated to acquire an existing medical care facility, the 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

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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 batch group which will be identified at the time of written notification by the commissioner to the applicant for such acquisition.

§ 3-3 3.4 . 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.

§ 3-4 3.5 . Requirements for health maintenance organizations (HMO).

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 § 3.2.

§ 2-5 3.6 . Requirements for emergency replacement of equipment.

The commissioner shall consider requests for emergency replacement of medical equipment as identified in Part I of these regulations. Such an emergency replacement is not a "project" of a medical care facility requiring a certificate of public need. To request authorization for such replacement, the owner of such equipment shall submit information to the commissioner to demonstrate that (i) the equipment is inoperable as a result of a

mechanical failure, Act of God, or other reason which may not be attributed to the owner and the repair of such equipment is not practical or feasible; or (ii) the immediate replacement of the medical equipment is necessary to maintain an essential clinical health service or to assure the safety of patients or staff.

For purposes of this section, "inoperable" means that the equipment cannot be put into use, operation, or practice to perform the diagnostic or therapeutic clinical health service for which it was intended.

Within 15 days of the receipt of such requests the commissioner will notify the owner in the form of a letter of the decision to deny or authorize the emergency replacement of equipment.

PART IV. DETERMINATION OF PUBLIC NEED.

§ 4.1. Required considerations.

In determining whether a public need exists for a proposed project, the following factors shall be taken into account when applicable:

1. The recommendation and the reasons therefor of the appropriate regional health planning agency.
2. 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.
3. The relationship of the project to the long-range development plan, if any, of the person applying for a certificate.
4. The need that the population served or to be served by the project has for the project.
5. The extent to which the project will be accessible to all residents of the area proposed to be served.
6. 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.
7. Less costly or more effective alternate methods of reasonably meeting identified health service needs.
8. The immediate and long-term financial feasibility of the project.
9. The relationship of the project to the existing health care system of the area in which the project is proposed.
10. The availability of resources for the project.

11. The organizational relationship of the project to necessary ancillary and support services.

12. The relationship of the project to the clinical needs of health professional training programs in the area in which the project is proposed.

13. 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.

14. 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.

15. 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.

16. 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.

17. The costs and benefits of the construction associated with the proposed project.

18. 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.

19. Improvements or innovations in the financing and delivery of health services which foster competition and serve to promote quality assurance and cost effectiveness.

20. 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. REVIEW PROCESS.

§ 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.

§ 5.2. Application forms.

A. Letter of intent.

An applicant shall file a letter of intent with the commissioner to request appropriate application forms by the later of (i) 30 days prior to the submission of an application for a project included within a particular batch group or (ii) 10 days after the first letter of intent is filed for a project within a particular batch group to be located within the same health planning region as that of the applicant for the same or similar services and facilities which are proposed for the same planning district or medical service area. The letter shall identify the owner, the type of project for which an application is requested, and the proposed scope (size) and location of the proposed project. A copy of the 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 seven days of the receipt of the letter of intent. A letter of intent filed with the department shall be considered void one year after the date of receipt of such letter. See § 6.4 C.

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 1.0 % of the proposed capital expenditure for the project or \$ 5,000 10,000. No application will be deemed to be complete for review until the required application fee is paid. See § 6.4 C.

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. 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, and the application fee has been paid to the department. See § 5.4.)

§ 5.3. Review for completeness.

The applicant shall be notified by the department within 15 days following receipt of the application if additional

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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 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 shall be submitted to the department and the appropriate regional health planning agency at least five days prior to the 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. See § 5.4.)

§ 5.4. One hundred twenty-day review cycle.

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 hospitals/ Obstetrical Services/ Neonatal Special Care Services	Feb. 10	June 10	
		Aug. 10	Dec. 8	
B	Open Heart Surgery/Cardiac Catheterization/Ambulatory Surgery Centers/ Operating Room Additions/Transplant Services	Mar. 10	July 8	
		Sep. 10	Jan. 8	
C	Psychiatric Facilities/ Substance Abuse Treatment/ Mental Retardation Facilities	Apr. 10	Aug. 8	
		Oct. 10	Feb. 7	
D	Diagnostic Imaging Facilities/ Services	May 10	Sep. 7	
		Nov. 10	Mar. 10	
E	Medical Rehabilitation Beds/ Services	June 10	Oct. 8	
		Dec. 10	Apr. 9	
F	Selected Therapeutic Facilities/ Services	July 10	Nov. 7	
		Jan. 10	May 9	
G	Nursing Home Beds/Services	Planning Districts 6, 11 & 22	Feb. 10	June 10
			Apr. 10	Aug. 8
		Planning Districts 1, 9, 13 & 20	June 10	Oct. 8
			Planning Districts 3, 8, 14 & 16	June 10
Planning Districts				

5, 17, 18 & 19	Aug. 10	Dec. 8
Planning Districts 2, 10 & 15	Oct. 10	Feb. 7
Planning Districts 4, 7, 12 & 21	Dec. 10	Apr. 9

Batch Group A includes:

1. The establishment of a general hospital.
2. An increase in the total number of general acute care beds in an existing or authorized general hospital.
3. The relocation at the same site of 10 general hospital beds or 10% of the general hospital beds of a medical care facility, whichever is less, from one existing physical facility to any other in any two-year period.
4. The introduction into an existing medical care facility of any new neonatal special care or obstetrical services which the facility has not provided in the previous 12 months.
5. Any capital expenditure of \$1 million or more, not defined as a project category included in Batch Groups B through G, by or in behalf of a general hospital.

Batch Group B includes:

1. The establishment of a specialized center, clinic, or portion of a physician's office developed for the provision of outpatient or ambulatory surgery or cardiac catheterization services.
2. An increase in the total number of operating rooms in an existing medical care facility or establishment of operating rooms in a new facility.
3. The introduction into an existing medical care facility of any new cardiac catheterization, open heart surgery, or organ or tissue transplant services which the facility has not provided in the previous 12 months.
4. The addition or replacement by an existing medical care facility of any medical equipment for the provision of cardiac catheterization services.
5. Any capital expenditure of \$1 million or more, not defined as a project category in Batch Group A or Batch Groups C through G, by or in behalf of a specialized center, clinic, or portion of a physician's office developed for the provision of outpatient or ambulatory surgery or cardiac catheterization services.
6. Any capital expenditure of \$1 million or more, not defined as a project category in Batch Group A or

Batch Groups C through G, by or in behalf of a medical care facility, which is primarily related to the provision of surgery, cardiac catheterization, open heart surgery, or organ or tissue transplant services.

Batch Group C includes:

1. The establishment of a mental hospital, psychiatric hospital, intermediate care facility established primarily for the medical, psychiatric or psychological treatment and rehabilitation of alcoholics or drug addicts, or mental retardation facility.
2. A increase in the total number of beds in an existing or authorized mental hospital, psychiatric hospital, intermediate care facility established primarily for the medical, psychiatric or psychological treatment and rehabilitation of alcoholics or drug addicts, or mental retardation facility.
3. An increase in the total number of mental hospital, psychiatric hospital, substance abuse treatment and rehabilitation, or mental retardation beds in an existing or authorized medical care facility which is not a dedicated mental hospital, psychiatric hospital, intermediate care facility established primarily for the medical, psychiatric or psychological treatment and rehabilitation of alcoholics or drug addicts, or mental retardation facility which increases the total number of beds in the existing or authorized medical care facility .
4. The relocation at the same site of 10 mental hospital, psychiatric hospital, substance abuse treatment and rehabilitation, or mental retardation beds or 10% of the mental hospital, psychiatric hospital, substance abuse treatment and rehabilitation, 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 psychiatric or substance abuse treatment service which the facility has not provided in the previous 12 months.
6. Any capital expenditure of \$1 million or more, not defined as a project category in Batch Groups A and B or Batch Groups D through G, by or in behalf of a mental hospital, psychiatric hospital, intermediate care facility established primarily for the medical, psychiatric or psychological treatment and rehabilitation of alcoholics or drug addicts, or mental retardation facilities.
7. Any capital expenditure of \$1 million or more, not defined as a project category in Batch Groups A and B or Batch Groups D through G, by or in behalf of a medical care facility, which is primarily related to the provision of mental health, psychiatric, substance abuse treatment or rehabilitation, or mental

retardation services.

Batch Group D includes:

1. The establishment of a specialized center, clinic, or that portion of a physician's office developed for the provision of computed tomographic (CT) scanning, magnetic resonance imaging (MRI), magnetic source imaging (MSI), positron emission tomographic (PET) scanning, or single photon emission computed tomography (SPECT).
2. The introduction into an existing medical care facility of any new computed tomography (CT), magnetic resonance imaging (MRI), magnetic source imaging (MSI), positron emission tomographic (PET) scanning, or single photon emission computed tomography (SPECT) services which the facility has not provided in the previous 12 months.
3. The addition or replacement by an existing medical care facility of any equipment for the provision of computed tomography (CT), magnetic resonance imaging (MRI), magnetic source imaging (MSI), positron emission tomographic (PET) scanning, or single photon emission computed tomography (SPECT).
4. Any capital expenditure of \$1 million or more, not defined as a project category in Batch Groups A through C or Batch Groups E through G, by or in behalf of a specialized center, clinic, or that portion of a physician's office developed for the provision of computed tomographic (CT) scanning, magnetic resonance imaging (MRI), magnetic source imaging (MSI), positron emission tomographic (PET) scanning, or single photon emission computed tomography (SPECT).
5. Any capital expenditure of \$1 million or more, not defined as a project category in Batch Groups A through C or Batch Groups E through G, by or in behalf of a medical care facility, which is primarily related to the provision of computed tomographic (CT) scanning, magnetic resonance imaging (MRI), magnetic source imaging (MSI), positron emission tomographic (PET) scanning, or single photon emission computed tomography (SPECT).

Batch Group E includes:

1. The establishment of a 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

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care facility .

4. The relocation at the same site 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 not provided in the previous 12 months.
6. Any capital expenditure of \$1 million or more, not defined as a project category in Batch Groups A through D or Batch Groups F and G, by or in behalf of a medical rehabilitation hospital.
7. Any capital expenditure of \$1 million or more, not defined as a project category in Batch Groups A through D or Batch Groups F and G, by or in behalf of a medical care facility, which is primarily related to the provision of medical rehabilitation services.

Batch Group F includes:

1. The establishment of a specialized center, clinic, or that portion of a physician's office developed for the provision of gamma knife surgery, lithotripsy, or radiation therapy.
2. Introduction into an existing medical care facility of any new gamma knife surgery, lithotripsy, or radiation therapy services which the facility has never provided or has not provided in the previous 12 months.
3. The addition or replacement by an existing medical care facility of any medical equipment for the provision of gamma knife surgery, lithotripsy, or radiation therapy.
4. Any capital expenditure of \$1 million or more, not defined as a project in Batch Groups A through E or Batch Group G, by or in behalf of a specialized center, clinic, or that portion of a physician's office developed for the provision of gamma knife surgery, lithotripsy, or radiation therapy.
5. Any capital expenditure of \$1 million or more, not defined as a project in Batch Groups A through E or Batch Group G, by or in behalf of a medical care facility, which is primarily related to the provision of gamma knife surgery, lithotripsy, or radiation therapy.

Batch Group G 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.
4. The relocation at the same site 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 of Virginia.
6. Any capital expenditure of \$1 million or more, not defined as a project category in Batch Groups A through F, by or in behalf of a nursing home, intermediate care facility, or extended care facility.
7. Any capital expenditure of \$1 million or more, not defined as a project category in Batch Groups A through F, by or in behalf of a medical care facility, which is primarily related to the provision of nursing home, intermediate care, or extended care services.

§ 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.

§ 5.6. Consideration of applications.

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 whether an application is competing and shall provide written notification to the competing applicants and the regional health planning agency. The commissioner may, upon the request of an applicant, waive the review schedule

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requirements of § 5.4 in the case of a documented emergency or in cases where, as of the deadline for filing a letter of intent for the otherwise applicable cycle, there are no competing applicants, and the applicant who has filed a letter of intent for a particular project proposes to combine the intended project with another related project for which an application will be filed in a subsequent batch group.

§ 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 with 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" means 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 this section, 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."

§ 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.

§ 5.9. 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 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 § 3.3 of the regulations.

§ 5.10. Withdrawal of an application.

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The applicant shall have the right to withdraw an application from consideration at any time, without prejudice by written notification to the commissioner.

§ 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 or State Medical Facilities Plan. 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 (i) on the agreement by the applicant to provide an acceptable level of free care or care at a reduced rate to indigents or, (ii) on the agreement of the applicant to provide care to persons with special needs, or (iii) upon the agreement of the applicant to facilitate the development and operation of primary medical care services in designated medically underserved areas of the applicant's service area. 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 of Virginia.

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 cycle unless an extension is agreed to by the applicant and an informal fact-finding conference described in § 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. EXPEDITED REVIEW PROCESS.

§ 6.1. Applicability.

Projects of medical care facilities that satisfy the criteria set forth below as determined by the State Health Commissioner shall be subject to an expedited review process:

1. Relocation at the same site of 10 beds or 10% of the beds, whichever is less, from an existing physical facility to another when the cost of such relocation is less than \$1 million.
2. The replacement at the same site by an existing medical care facility of any medical equipment for the provision of cardiac catheterization, computed tomography (CT), lithotripsy, magnetic resonance imaging (MRI), open heart surgery, positron emission tomographic scanning (PET), radiation therapy, or single photon emission computed tomography (SPECT) when the medical care facility meets applicable standards for replacement of such medical equipment which are set forth in the State Medical Facilities Plan.

§ 6.2. Application forms.

A. Obtaining application forms.

Application forms for an expedited review shall be available from the department upon the written request of the applicant. The request shall identify the owner, the type of project for which forms are requested and the location of the proposed project. A copy of this request shall also be submitted by the applicant to the appropriate regional health planning agency. The department shall transmit application forms to the applicant within seven days of receipt of such request.

B. Application fees.

The department shall collect application fees for applications submitted requesting a certificate of public need under the expedited review process. The fee required for an application is the lesser of 0.5 1.0% of the proposed capital expenditure for the project or \$ 5,000 10,000. No application will be reviewed until the required application fee is paid.

C. Filing application forms.

All requests for a certificate of public need in accordance with the expedited review process shall be

reviewed by the department and the regional health planning agency which shall each forward a recommendation to the commissioner within 40 days from the date the submitted application has been deemed complete. No application for expedited review shall be deemed to have been submitted until the application form has been received by the department and the appropriate regional health planning agency, has been deemed complete, and the application fee has been paid to the department.

§ 6.3. Participation by other persons.

Any person directly affected by the review of a project under the expedited review process may submit written opinions, data and other information to the appropriate regional health planning agency and to the commissioner prior to their final action.

§ 6.4. Action on application.

A. Decisions to approve any project under the expedited review process shall be rendered by the commissioner within 45 days of the receipt of such request. The commissioner shall approve and issue a certificate for any project which is determined to meet the criteria for expedited review set forth in § 6.1.

B. If the commissioner determines that a project does not meet the criteria for an expedited review set forth in § 6.1, the applicant will be notified in writing of such determination within 45 days of the receipt of such request. In such cases, the department will forward the appropriate forms to the project applicant for use in filing an application for review of a project in the appropriate review cycle in accordance with Part V of these regulations.

C. Any project which does not qualify for an expedited review in accordance with § 6.1, as determined by the commissioner, shall be exempted from the requirements of §§ 5.2 A and 5.2 B when such project is filed for consideration in accordance with Part V of these regulations.

PART VII. DURATION/EXTENSION/REVOCATION OF CERTIFICATES.

§ 7.1. 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. 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 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 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 § 3.3 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.

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.

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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. 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. Revocation of certificate.

A. Lack of progress.

Failure of any project to meet the progress requirements stated in § 7.4 shall be cause for certificate revocation, unless the commissioner determines sufficient justification exists to permit variance, considering factors enumerated in § 7.3.

B. Failure to report progress.

Failure of an applicant to file progress reports on an approved project in accordance with § 7.3 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 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 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 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. 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

This section 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. SANCTIONS.

§ 9.1. 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. 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. OTHER.

§ 10.1. 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 in which nursing facility or

extended care services are provided from the effective date of the regulations through June 30, 1994 1995. 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 facility.

2. The conversion on site of existing licensed beds of a medical care facility other than a nursing facility or 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 a 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 an adult care residence licensed pursuant to Chapter 9 (§ 63.1-172 et seq.) of Title 63.1 of the Code of Virginia 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 adult care residence; (ii) the home for adults facility adult care residence 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 adult care residence further commits to admit such patients once the nursing facility beds are certified and operational; and (iv) the licensed home for adults facility adult care residence 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

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in which *nursing facility or 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 the Code of Virginia, 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~~ *an adult care residence* licensed pursuant to Chapter 9 (§ 63.1-172 et seq.) of Title 63.1 of the Code of Virginia 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 meeting the requirements of § 38.1-4905 of the Code of Virginia. No application for a certificate of public need for the creation or addition of nursing *facility or 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 States Social Security Act. Further, if a certificate is approved, pursuant to this section, to increase the number of nursing *facility or 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 of the Code of Virginia.

5. Notwithstanding the foregoing and other provisions of Article 1.1 (§ 32.1-102.1 et seq.) of Chapter 4 of Title 32.1 of the Code of Virginia, 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.

6. The development of a project in an existing nursing facility owned and operated by the governing body of a county when (i) the total number of new beds to be added by construction does not exceed the lesser of 30 beds or 25% of the existing nursing ~~home facility~~ beds in the facility; (ii) the facility has demonstrated that the nursing *facility home* beds are needed specifically to serve a specialty heavy care patient population, such as dementia, ventilator-dependent, and AIDS patients; and (iii) the facility has executed an agreement with a state-supported medical college to provide training in geriatric nursing.

7. The development of a nursing facility project located in ~~Albemarle County~~ *the City of Staunton* when (i) the total number of new beds to be constructed does not exceed 30 beds; (ii) the facility

is owned by and will be operated as a nonprofit entity; (iii) the project was under construction on February 1, 1992; and (iv) the facility will be ready for occupancy by November 1, 1992 and (iii) the project is proposed as a part of a retirement community that is a continuing care provider registered with the State Corporation Commission pursuant to Chapter 49 (§ 38.2-4900 et seq.) of Title 38.2.

8. The issuance of a certificate of public need for 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 any continuing care provider registered with the State Corporation Commission pursuant to Chapter 49 (§ 38.2-4900 et seq.) of Title 38.2, if (i) the total number of new or additional nursing home beds plus any existing nursing home beds operated by the provider does not exceed twenty percent of the continuing care provider's total existing or planned independent living and adult care residence population when the beds are to be added by new construction, or twenty-five beds when the beds are to be added by conversion on site of existing beds in an adult care residence licensed pursuant to Chapter 9 (§ 63.1-172 et seq.) of Title 63.1; (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 meeting the requirements of § 38.2-4905; (iii) the provider agrees in writing 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 States Social Security Act; (iv) the provider agrees in writing to obtain, prior to admission of every resident of the continuing care facility, the resident's written acknowledgment that the provider does not serve recipients of medical assistance services and that, in the event such resident becomes a medical assistance services recipient who is eligible for nursing facility placement, such resident shall not be eligible for placement in the provider's nursing facility unit; and (v) the provider agrees in writing that only continuing care contract holders will be admitted to the nursing home beds after the first three years of operation.

Further, if a certificate is approved pursuant to this subsection, admissions to such new or additional beds shall be restricted for the first three years of operation to patients for whose care, pursuant to an agreement between the facility and the individual financially responsible for the patient, private payment will be made or persons who have entered into an agreement with the facility for continuing care contracts meeting the requirements of § 38.2-4905.

9. The issuance of a certificate of public need for

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nursing facility project associated with a continuing care provider which did not operate a nursing home on January 1, 1993, and was registered as of January 1, 1993, with the State Corporation Commission pursuant to Chapter 49 (§ 38.2-4900 et seq.) of Title 38.2 if (i) the total number of new beds to be constructed does not exceed sixty beds; (ii) the facility is owned by and will be operated as a nonprofit entity; (iii) after the first three years of operation, the facility will admit only retired officers of the United States uniformed forces and their surviving spouses; (iv) the provider agrees in writing not to seek certification for the use of such beds by persons eligible to receive medical assistance services pursuant to Title XIX of the United States Social Security Act; and (v) the provider agrees in writing to obtain, prior to admission of every resident of the continuing care facility, the written acknowledgement that the provider does not serve recipients of medical assistance services and that, in the event such resident becomes a medical assistance services recipient who is eligible for nursing facility placement, such resident shall not be eligible for placement in the provider's nursing facility unit. Further, if a certificate is approved, pursuant to this subsection, admissions to such beds shall be restricted to persons for whose care, pursuant to an agreement with the facility, private payment will be made or persons who have entered into an agreement with the facility for continuing care contracts meeting the requirements of § 38.2-4905.

10. The issuance of a certificate of public need for a nursing facility project located in the city of Norfolk if (i) the total number of beds to be constructed does not exceed 120 beds; (ii) the facility will replace an existing facility in the City of Chesapeake; (iii) the construction of the facility has been delayed by environmental contamination caused by leaking underground storage tanks; and (iv) the total capital costs of the facility will not exceed \$4,387,000.

§ 10.2. Extension of the schedule of completion for nursing home projects approved prior to January 1, 1991

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 nine months upon determining that (i) substantial and continuing progress has been made toward completion of the project; (ii) the project owner had agreed in writing prior to February 13, 1991, to delay the project to facilitate cost savings for the Commonwealth; and (iii) construction of the project was initiated on or be extension of a schedule for completion for an additional six months to project owners who did not agree in writing prior to February 13, 1991, to delay their projects upon determining that (i)

substantial and continuing progress has been made toward completion of the project and (ii) construction of the project was initiated on or before April 15, 1992. 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, which in no case shall be later than March 31, 1993, shall be revoked. However, the commissioner shall not revoke the certificate of public need for:

1. Any nursing home bed project for 60 beds proposed as part of a retirement community that is not a continuing care provider as defined in § 38.2-4900 of the Code of Virginia if (i) the certificate of public need was issued after May 1, 1988, and was in force on November 1, 1991, (ii) construction of the nursing home bed project is initiated by June 30, 1992, and (iii) the facility is completed by June 30, 1993.

2. Any nursing home bed project to add 40 beds to an existing facility if (i) the project owner had agreed to delay the project to facilitate cost savings for the Commonwealth prior to February 13, 1991, (ii) the owner was seeking funding from the Department of Housing and Urban Development prior to February 13, 1992, (iii) the facility receives a feasibility approval for such funding from the Department of Housing and Urban Development by May 1, 1992, and (iv) the facility is completed by June 30, 1993, and (v) the facility is completed by October 31, 1993.

3. Any nursing home bed project for less than 30 beds proposed as part of a retirement community that is not a continuing care provider as defined in § 38.2-4900 of the Code of Virginia if (i) the certificate of public need was issued after May 1, 1988, and was in force on November 1, 1991, (ii) construction of the nursing home bed project was initiated before December 1, 1991, (iii) the owner of the nursing home bed project agrees in writing prior to July 1, 1992, to restrict use of the nursing home beds to residents of such retirement community, (iv) construction on the nursing home bed project that was not completed by August 27, 1991, is resumed by August 1, 1993, and (v) the nursing home bed project is completed by July 31, 1994.

V.A.R. Doc. No. R93-658; Filed June 29, 1993, 3:58 p.m.

* * * * *

Title of Regulation: VR 355-32-500. Rules and Regulations Governing Emergency Medical Services Do Not Resuscitate Program.

Statutory Authority: §§ 32.1-151, 32.1-153, and 54.1-2987.1 of the Code of Virginia.

Emergency Regulations

Effective Dates: July 1, 1993, through June 30, 1994.

Preamble:

Nature of emergency - On July 1, 1992 a new statute to authorize qualified Emergency Medical Services personnel to follow Do Not Resuscitate Orders for certain adult terminally ill patients became effective (Section 54.1-2987.1 and Sections 32.1-151 and 153 of the Code of Virginia). The law required the Board of Health to promulgate regulations which prescribe the procedures, including the requirements for forms, to implement this new provision and which prescribe the qualifications necessary for authorization to follow EMS/DNR orders pursuant to Section 54.1-2987.1. Emergency Regulations became effective July 1, 1992.

The process to promulgate permanent regulations was underway when the new Administrative Process Act (APA) amendments were approved. It was not immediately clear how the APA amendments would impact regulations under development. When it was determined that any regulations not finally adopted by July 1, 1993 would have to begin review and adoption process anew, it became clear that there would be a significant gap during which there would be no regulations governing this important program. For this reason it is important that emergency regulations be adopted to be in effect during the promulgation of permanent regulations in accordance with the new provisions of the APA.

Purpose - To adopt Rules and Regulations Governing the EMS Do Not Resuscitate Program so that compliance with the law is possible after July 1, 1993.

VR 355-32-500. Rules and Regulations Governing Emergency Medical Services Do Not Resuscitate Program.

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:

"Agent" means an adult appointed by a competent adult patient under an advance directive, executed or made in accordance with the provisions of Section 54.1-2983 of the Code of Virginia, to make health care decisions for him.

"Attending physician" means the primary physician who has responsibility for the treatment and care of the patient.

"Authorized decision maker" means, in order of priority, designated agent, guardian or committee, spouse, adult child, parent, adult brother or sister, other relative in

descending order of blood relationship, provided, however, that when two or more persons in the same class with equal decision-making priority are in disagreement, a majority authorization shall be controlling.

"Board" means the State Board of Health.

"Cardiac arrest" means the cessation of a functional heartbeat.

"Cardiopulmonary resuscitation" means medical procedures including cardiac compression, endotracheal intubation and other advanced airway management, artificial ventilation, and defibrillation, administration of cardiac resuscitation medications and related procedures.

"Commissioner" means the State Health Commissioner.

"Emergency Medical Services (EMS)" means the services utilized in responding to the perceived individual needs for immediate medical care in order to prevent loss of life, aggravation of physiological or psychological illness or injury including any or all services which could be described as first response, basic life support, advanced life support, specialized life support, patient transportation, medical control, and rescue.

"Emergency Medical Services Agency (EMS Agency)" means any person, firm, corporation, or organization licensed by the Board, which is properly engaged in the business, service, or regular activity of providing emergency medical care to persons who are sick, injured, wounded or otherwise incapacitated or helpless.

"Emergency Medical Services Do Not Resuscitate Order" ("EMS/DNR Order") means a written physician's order in a form approved by the Board which authorizes qualified emergency medical services personnel to withhold or withdraw cardiopulmonary resuscitation from a particular patient in the event of cardiac or respiratory arrest.

"Emergency medical services personnel" ("EMS personnel") means persons responsible for the direct provision of emergency medical services in a given medical emergency including any or all persons who could be described as a first responder, attendant, attendant-in-charge, or operator.

"Qualified emergency medical services personnel" means EMS personnel who are authorized to follow EMS/DNR Orders. This shall include any person (i) holding current certification to provide emergency medical patient care or treatment by the Department of Health, including those certified as EMS First Responders, Emergency Medical Technicians (EMT), EMT-Shock/Trauma, EMT-Cardiac, and EMT-Paramedic and (ii) acting in accordance with EMS/DNR Order Implementation Protocols.

"Respiratory arrest" means cessation of breathing.

"Terminal condition" means a condition caused by injury, disease or illness from which, to a reasonable degree of medical probability, a patient cannot recover and (i) the patient's death is imminent or (ii) the patient is in a persistent vegetative state, as defined in Section 54.1-2982 of the Code of Virginia.

PART II. PURPOSE AND APPLICABILITY

2.1 Authority for Regulation

Section 54.1-2987.1 of the Code of Virginia (1950), as amended, vests authority for the regulation of EMS/DNR Orders in the Board. Section 32.1-151 of the Code directs the Board to prescribe by regulation the procedures, including the requirements for forms, to authorize qualified EMS personnel to follow EMS/DNR Orders pursuant to Section 54.1-2987.1. Section 32.1-153 further states that the Board shall prescribe those qualifications necessary for authorization to follow EMS/DNR Orders pursuant to Section 54.1-2987.1. Section 32.1-12 provides broad authority to the Board to promulgate regulations necessary to carry out the provisions of the Health Title, Title 32.1 of the Code.

2.2 Purpose of Regulations

The Board has promulgated these emergency regulations in order to ensure timely and appropriate implementation and application of the EMS/DNR Order Statute, effective July 1, 1992.

2.3 Administration of Regulations

These regulations shall be administered by the following:

A. *The Board* - The Board shall have the responsibility to promulgate and amend, as appropriate, regulations governing EMS/DNR Orders;

B. *Commissioner* - The Commissioner, pursuant to his authority under Section 32.1-20, shall administer these regulations.

2.4 Application of Regulations

These regulations shall have general application throughout the Commonwealth.

2.5 Effective Date of Regulations

These regulations shall become effective July 1, 1992.

PART III. REQUIREMENTS AND PROVISIONS

Article 1. General Provisions

3.1 The Emergency Medical Services Do Not Resuscitate

Order Form

The EMS/DNR Order Form shall be a unique document printed on distinctive security paper and sequentially numbered, as approved by the Board, and consistent with these regulations. The following requirements and provisions shall apply to the approved EMS/DNR Order Form.

A. *Content of the Form* - A valid EMS/DNR Order Form shall include (i) the attending physician's signed statement regarding the patient's terminal condition and his Do Not Resuscitate determination as set forth in the Order Form, (ii) the patient's signed directives, or (iii) a designated agent's or authorized decision maker's signature, if applicable.

B. *Effective Period for a Signed EMS/DNR Order Form* - A signed EMS/DNR Order shall be effective for no more than one year from the date the order is written. If the patient is still living at the end of that time, a new EMS/DNR Order Form may be executed and issued by the attending physician.

C. *Original EMS/DNR Order Form* - Only an original EMS/DNR Order Form, or an unaltered EMS/DNR Order Bracelet, as provided for in Section 3.2 of these regulations, shall be valid for purposes of withholding or withdrawing cardiopulmonary resuscitation by qualified EMS personnel in the event of cardiac or respiratory arrest. The original form shall be maintained and displayed at the patient's home in one of the places designated on the form or shall accompany the patient, if traveling. Copies of the EMS/DNR Order Form may be given to other providers or persons for information, with the express consent of the patient or the patient's designated agent or authorized decision maker.

D. *Revocation of an EMS/DNR Order* - An EMS/DNR Order may be revoked at any time by the patient (i) by physical cancellation or destruction of the EMS/DNR Order Form and bracelet by the patient or another in his presence and at his direction; or (ii) by oral expression of intent to revoke, or by the patient's attending physician, or the designated agent or authorized decision maker for the patient.

E. *Distribution of EMS/DNR Order Forms* - Approved, sequentially numbered EMS/DNR Forms, with instructions, shall be available to physicians through local Health Department offices and local hospitals, and to private physicians, on request. Other distribution points may be approved by the Commissioner to meet identified needs.

3.2 The EMS/DNR Order Bracelet

An EMS/DNR Order Bracelet, as approved by the Board, shall be issued with the EMS/DNR Order. Such EMS/DNR Order Bracelet shall be a uniquely designed, easily identifiable plastic identification bracelet containing the patient's name, Social Security Number, attending

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physician's name and telephone number, number of the EMS/DNR Order, and date of issuance and expiration of the Order. An intact, unaltered, current EMS/DNR Bracelet may be honored by qualified EMS personnel in lieu of an original EMS/DNR Order Form.

PART IV. IMPLEMENTATION PROCEDURES

4.1 Issuance of an EMS/DNR Order

An EMS Do Not Resuscitate Order may only be issued by an attending physician for a patient who has been diagnosed as having a terminal condition. The physician shall explain to the patient or, if pertinent, his agent or his family the alternatives available, including issuance of an EMS/DNR Order. If the option of an EMS/DNR Order is agreed upon, the attending physician shall have the following responsibilities.

A. Obtain the signature of the patient or designated agent or authorized decision maker or the spokesman for a majority of the highest class of decision makers.

B. Execute and date the Physician Order on the EMS/DNR Order Form.

C. Issue the original EMS/DNR Order Form and Bracelet and place Bracelet on patient.

D. Explain how and by whom the EMS/DNR Order may be revoked.

4.2 EMS Do Not Resuscitate Implementation Procedures

Qualified Emergency Medical Services personnel shall conform with the following general procedures and published State EMS/DNR Order Implementation Protocols when responding to a patient who is in cardiac or respiratory arrest and who is known or suspected to have an EMS/DNR Order in effect.

A. Initial Assessment and Intervention

Perform routine patient assessment and resuscitation or intervention until EMS/DNR Order status is confirmed, as follows.

1. Determine that EMS/DNR Order Bracelet is intact and not defaced or that the original EMS/DNR Order Form is present and current.

2. Verify, through Driver's License or other identification with photograph and signature or by positive identification by a family member or other person that knows patient, that the patient in question is the one for whom the EMS/DNR Order was issued.

3. If no EMS/DNR Order Bracelet is found, ask family member or other person to look for the original

EMS/DNR Order Form.

4. If the EMS/DNR Order Bracelet is not attached or has been defaced, and if no valid EMS/DNR Order Form is produced, consider the EMS/DNR Order to be invalid.

B. Resuscitative Measures to be Withheld or Withdrawn

In the event of cardiac or respiratory arrest of a patient with a valid EMS/DNR Order under the criteria set forth above, the following procedures should be withheld or withdrawn by qualified EMS personnel, unless otherwise directed by the attending physician.

1. Cardiopulmonary Resuscitation (CPR)

2. Endotracheal Intubation or other advanced airway management

3. Artificial Ventilation

4. Defibrillation

5. Cardiac resuscitation medications

6. Related procedures, as defined by attending physician or medical protocols.

C. Procedures to Provide Comfort Care or to Alleviate Pain

In order to provide comfort care or to alleviate pain for a patient with a valid EMS/DNR Order, the following interventions may be provided, depending on the needs of the particular patient.

1. Airway (excluding intubation or advanced airway management)

2. Suction

3. Oxygen

4. Pain medications (Advanced Life Support personnel only)

5. Control bleeding

6. Make patient comfortable

7. Be supportive to patient and family

D. Revocation

The patient, the attending physician, or the patient's designated agent or authorized decision maker may revoke the EMS/DNR Order at any time, as provided in Section 3.1 D. of these Regulations. If an EMS/DNR Order is revoked by one of these authorized persons, EMS personnel shall resume full resuscitation and treatment.

Emergency Regulations

the patient.

E. Documentation

When following an EMS/DNR Order for a particular patient, EMS personnel shall document the response in the following way.

1. Use a standard prehospital patient care report form.
2. Describe assessment of patient's status.
3. Document which identification (EMS/DNR Order Form or Bracelet) was used to confirm EMS/DNR status and that it was intact, not defaced, not canceled, or not officially revoked.
4. Record actual EMS/DNR Order Number as well as name of patient's attending physician.
5. If transporting the patient, keep original EMS/DNR Order Form with the patient.

F. General Considerations

The following general principles shall apply to implementation of EMS Do Not Resuscitate Orders.

1. If there is misunderstanding with family members or others present at the scene or if there are other concerns about following the EMS/DNR Orders, contact the attending physician or EMS medical control for guidance.
2. If there is any question about the validity of an EMS/DNR Order, resuscitate.
3. An EMS/DNR Order does not mean do not treat otherwise or do not provide appropriate care. Provide all possible comfort care and treat patient and family with care and concern.

Pursuant to the authority vested in me by the Virginia Code Section 32.1-20, I find that the foregoing regulations, VR 355-32-500:e, Rules and Regulations Governing Emergency Medical Services Do Not Resuscitate Program, are necessitated by an emergency situation as set out in the preamble (summary). Pursuant to §§ 32.1-151 and 153, § 54.1-2987.1, and subsection C 5 of § 9-6.14:4.1, I hereby adopt the foregoing regulations.

/s/ Robert S. Stroube, MD, MPH
State Health Commissioner
Date: June 29, 1993

CONCURRENCES:

/s/ Howard M. Cullum
Secretary of Health and Human Resources
Date: June 25, 1993

AUTHORIZATION:

/s/ Lawrence Douglas Wilder
Governor
Date: June 25, 1993

FILED:

/s/ Joan W. Smith
Registrar of Regulations
Date: June 29, 1993

VA.R. Doc. No. R93-655; Filed June 29, 1993, 4:05 p.m.



Order # 000001

Date Order Written _____
 (Expires one year from this date)

**VIRGINIA EMERGENCY MEDICAL SERVICES
 DO NOT RESUSCITATE ORDER**

Patient's Full Legal Name _____

ATTENDING PHYSICIAN'S ORDER

I, the undersigned, state that I am the attending physician of the patient named above. I have diagnosed and certified in the patient's medical record that he/she is in a terminal condition. Terminal condition means a condition caused by injury, disease or illness from which, to a reasonable degree of medical probability a patient cannot recover and (i) the patient's death is imminent or (ii) the patient is in a persistent vegetative state.

I further certify: {must check 1 or 2}

- 1. The patient is **CAPABLE** of making an informed decision about providing, withholding or withdrawing a specific medical treatment or course of treatment. (Signature of patient is required, see reverse).
- 2. The patient is **INCAPABLE** of making an informed decision about providing, withholding or withdrawing a specific medical treatment because he/she is unable to understand the nature, extent or probable consequences of the proposed medical decision, or to make a rational evaluation of the risks and benefits of alternatives to that decision.

If you checked 2 above, (patient is **INCAPABLE** of making an informed decision), check 1, 2, or 3 below:

- 1. The patient has executed a written advance directive which directs that life-prolonging procedures be withheld or withdrawn in the event he/she is diagnosed as being in a terminal condition.
- 2. The patient has executed a written advance directive which appoints an agent to make health care decisions on his/her behalf and provides that agent with authority to direct that life-prolonging procedures be withheld or withdrawn in the event he/she is diagnosed as being in a terminal condition. (Signature of agent is required, see reverse).
- 3. The patient has **NOT** executed a written advance directive (living will or durable power of attorney for health care). (Signature of guardian or committee, if one has been appointed, or authorized family member is required, see reverse).

I hereby direct any and all qualified Emergency Medical Services Personnel, commencing on the effective date noted above and expiring one year from that date, to withhold cardiopulmonary resuscitation (cardiac compression, endotracheal intubation, and other advanced airway management, artificial ventilation, and defibrillation and related procedures) from the patient in the event of the patient's cardiac or respiratory arrest. I further direct such personnel to provide to the patient other medical interventions, such as intravenous fluids, oxygen, or other therapies deemed necessary to provide comfort care or to alleviate pain.

Signature of Attending Physician _____ Telephone # (Emergencies) _____

Printed Name _____

Type in information, cut out, fold and insert in bracelet

Name _____ SSN # _____
 M.D. _____ Phone # _____
 DNR # _____ Effective: _____

DEMS-DMR 6-92

PATIENT'S SIGNATURE

I, the undersigned, hereby direct that in the event of my cardiac or respiratory arrest, efforts at cardiopulmonary resuscitation not be initiated. I understand that I may revoke these directions at any time by physical cancellation or destruction of this form and the accompanying bracelet, or by orally expressing a desire to be resuscitated to Emergency Medical Services (EMS) Personnel. I also understand that if EMS Personnel have any doubts about the applicability or validity of this order, they will begin cardiopulmonary resuscitation.

 Signature of Patient

**SIGNATURE OF DESIGNATED AGENT
 OR OTHER AUTHORIZED DECISION MAKER**

I, the undersigned, hereby certify that I am authorized to provide consent on the patient's behalf by virtue of my relationship to the patient as _____ (in order of priority: designated agent, guardian or committee, spouse, adult child, parent, adult brother or sister, other relative in descending order of blood relationship). In that capacity, I hereby direct that in the event of the patient's cardiac or respiratory arrest, efforts at cardiopulmonary resuscitation not be initiated. I understand that I may revoke these directions at any time by physical cancellation or destruction of this form and the accompanying bracelet. I also understand that if EMS Personnel have any doubts about the applicability or validity of this order, they will begin cardiopulmonary resuscitation of the patient.

 Signature of Authorized
 Decision Maker

EMS PERSONNEL WILL LOOK FOR THIS ORDER IN THE FOLLOWING PLACES:

- ON THE BACK OF THE DOOR LEADING TO THE PATIENT'S BEDROOM.
- ON THE BEDSIDE TABLE, BESIDE THE PATIENT'S BED.
- ON THE REFRIGERATOR, OR
- IN THE PATIENT'S WALLET

Emergency Regulations

VIRGINIA HEALTH SERVICES COST REVIEW COUNCIL

Title of Regulation: VR 370-01-001. Rules and Regulations of the Virginia Health Services Cost Review Council.

Statutory Authority: §§ 9-161.1 and 9-164 of the Code of Virginia.

Effective Dates: July 1, 1993, through June 30, 1993.

Preamble:

The Commission on Health Care for All Virginians proposed that legislation be introduced in the 1992 Session of the Virginia General Assembly effectuating a number of significant changes regarding the operations of the Virginia Health Services Cost Review Council. A significant part of Senate Bill 518 contained the requirement that the Council develop a new methodology for the measurement of efficiency and productivity of hospitals and nursing homes and implement it by January 1, 1993.

In late spring of 1992 the VHSCRC contracted with the Williamson Institute of Medical College of Virginia/Virginia Commonwealth University to assist it in developing this new methodology. In addition, the Council also contracted with McManis Associates, Inc., a consulting firm from Washington, D.C., to provide its expertise in reviewing recommendations set forth by the Williamson Institute from a consumer perspective. Also, the Council established several work groups to develop different methodologies for nursing homes and for hospitals. Finally, the work groups, constituents, and Council staff have, on a large number of occasions, met and talked with outside constituency groups, including hospital and nursing home trade groups, to seek their input and comment during the development of this methodology.

The proposed new methodology seeks to stimulate competition in the market for hospitals, nursing homes, and ambulatory surgery centers by improving the availability of information to various groups of consumers regarding "efficiency and productivity." A ratio analysis methodology will be used to identify efficient and productive providers.

The changes to these generic regulations will make them conform to the new methodology being adopted by the Council. These changes are identical to the changes adopted by the Council at its November 23, 1992 meeting on an emergency basis. The governor approved these emergency regulations on December 24, 1992. They are identical to proposed regulations published in the Virginia Register on May 22, 1993.

These regulations have been re-adopted on an emergency basis on June 22, 1993 because they go hand-in-hand with the VHSCRC regulations to establish a new methodology to measure efficiency

and productivity (VR 370-01-002). Those regulations were also readopted on an emergency basis by the Council on June 22, 1993.

VR 370-01-001. Rules and Regulations of the Virginia Health Services Cost Review Council.

PART I. DEFINITIONS.

§ 1.1. Definitions.

The following words and terms, when used in these regulations, shall have the following meaning:

"Adjusted patient days" means inpatient days divided by the percentage of inpatient revenues to total patient revenues.

"Aggregate cost" means the total financial requirements of an institution which shall be equal to the sum of:

1. The institution's ~~reasonable~~ current operating costs, including ~~reasonable~~ expenses for operating and maintenance of approved services and facilities, ~~reasonable~~ direct and indirect expenses for patient care services, working capital needs and taxes, if any;
2. Financial requirements for allowable capital purposes, including price level depreciation for depreciable assets and ~~reasonable~~ accumulation of funds for approved capital projects;
3. For investor-owned institutions, after tax return on equity at the percentage equal to two times the average of the rates of interest on special issues of public debt obligations issued to the Federal Hospital Insurance Trust Fund for the months in a provider's reporting period, but not less, after taxes, than the rate or weighted average of rates of interest borne by the individual institution's outstanding capital indebtedness. The base to which the rate of return determined shall be applied is the total net assets, adjusted by paragraph 2 of this section, without deduction of outstanding capital indebtedness of the individual institution for assets required in providing institutional health care services;
4. For investor-owned institutions organized as proprietorships, partnerships, or S-corporations an imputed income tax, for fiscal years ending July 1, 1989, or later, at a combined federal and state income tax rate equal to the maximum tax rates for federal and state income taxes. The combined rate for 1989 is equal to 34% for individuals and 40% for corporations. Such tax computation shall be exclusive of net operating loss carry forwards prior to July 1, 1989. Operating losses incurred after July 1, 1989, may be carried forward no more than five years but may not be carried back prior years. The schedule of imputed income taxes shall be reported as a note to

Emergency Regulations

the financial statements or as a supplemental schedule of the certified audited financial statements submitted to the Virginia Health Services Cost Review Council by the institution.

"Certified nursing facility" means any skilled nursing facility, skilled care facility, intermediate care facility, nursing or nursing care facility, or nursing home, whether freestanding or a portion of a freestanding medical care facility, that is certified as a Medicare or Medicaid provider, or both, pursuant to § 32.1-137.

"Council" means the Virginia Health Services Cost Review Council.

"Consumer" means any person (i) whose occupation is other than the administration of health activities or the provision of health services (ii) who has no fiduciary obligation to a health care institution or other health agency or to any organization, public or private, whose principal activity is an adjunct to the provision of health services, or (iii) who has no material financial interest in the rendering of health services.

"Health care institution" means (i) a general hospital, ordinary hospital, or outpatient surgical hospital, nursing home or certified nursing facility licensed or certified pursuant to Article 1 (§ 32.1-123 et seq.) of Chapter 5 of Title 32.1, (ii) a mental or psychiatric hospital licensed pursuant to Chapter 8 (§ 37.1-179 et seq.) of Title 37.1 and (iii) a hospital operated by the University of Virginia or Virginia Commonwealth University. In no event shall such term be construed to include any physician's office, nursing care facility of a religious body which depends upon prayer alone for healing, independent laboratory or outpatient clinic.

"Hospital" means any facility licensed pursuant to §§ 32.1-123, et seq. or 37.1-179 et seq. of the Code of Virginia.

"Late charge" means a fee that is assessed a health care institution that files its budget, annual report, or charge schedule with the council past the due date.

"Nursing home" means any facility or any identifiable component of any facility licensed pursuant to Article 1 (§ 32.1-123 et seq.) of Chapter 5 of Title 32.1, in which the primary function is the provision, on a continuing basis, of nursing services and health-related services for the treatment and inpatient care of two or more nonrelated individuals, including facilities known by varying nomenclature or designation such as convalescent homes, skilled nursing facilities or skilled care facilities, intermediate care facilities, extended care facilities and nursing or nursing care facilities.

"Voluntary cost review organization" means a nonprofit association or other nonprofit entity which has as its function the review of health care institutions' costs and charges but which does not provide reimbursement to any health care institution or participate in the administration

of any review process under Chapter 4 of Title 32.1 of the Code of Virginia.

"Patient day" means a unit of measure denoting lodging facilities provided and services rendered to one inpatient, between census-taking-hour on two successive days. The day of admission but not the day of discharge or death is counted a patient day. If both admission and discharge or death occur on the same day, the day is considered a day of admission and counts as one patient day. For purposes of filing fees to the council, newborn patient days would be added. For a medical facility, such as an ambulatory surgery center, which does not provide inpatient services, each patient undergoing surgery during any one 24-hour period will be the equivalent to one patient day.

PART II. GENERAL INFORMATION.

§ 2.1. Authority for regulations.

The Virginia Health Services Cost Review Council, created by §§ 9-156 through 9-166 of the Code of Virginia, is required to collect, analyze and make public certain financial data and findings relating to hospitals which operate within the Commonwealth of Virginia. Section 9-164 of the Code of Virginia directs the council from time to time to make such rules and regulations as may be necessary to carry out its responsibilities as prescribed in the Code of Virginia.

§ 2.2. Purpose of rules and regulations.

The council has promulgated these rules and regulations to set forth an orderly administrative process by which the council may govern its own affairs and require compliance with the provisions of §§ 9-156 through 9-166 of the Code of Virginia.

§ 2.3. Administration of rules and regulations.

These rules and regulations are administered by the Virginia Health Services Cost Review Council.

§ 2.4. Application of rules and regulations.

These rules and regulations have general applicability throughout the Commonwealth. The requirements of the Virginia Administrative Process Act, codified as § 9-6.14:1, et seq. of the Code of Virginia applied to their promulgation.

§ 2.5. Effective date of rules and regulations.

These rules and regulations or any subsequent amendment, modification, or deletion in connection with these rules and regulations shall become effective 30 days after the final regulation is published in the Virginia Register.

§ 2.6. Powers and procedures of regulations not exclusive.

The council reserves the right to authorize any procedure for the enforcement of these regulations that is not inconsistent with the provision set forth herein and the provisions of § 9-156 et seq. of the Code of Virginia.

PART III. COUNCIL PURPOSE AND ORGANIZATION.

§ 3.1. Statement of mission.

The council is charged with the responsibility to promote the economic delivery of high quality and effective institutional health care services to the people of the Commonwealth and to create an assurance that the charges are reasonably related to costs.

The council recognizes that health care institutional costs are of vital concern to the people of the Commonwealth and that it is essential for an effective cost monitoring program to be established which will assist health care institutions in controlling their costs while assuring their financial viability. In pursuance of this policy, it is the council's purpose to provide for uniform measures on a statewide basis to assist in monitoring the costs of health care institutions without sacrifice of quality of health care services and to analyze the same to determine if charges and costs are reasonable.

The council has adopted a mission statement that it will promote cost containment within Virginia's health care institutions by collecting, analyzing, and disseminating information to the public.

§ 3.2. Council chairman.

The council shall annually elect one of its consumer members to serve as chairman. The chairman shall preside at all meetings of the council and shall be responsible for convening the council.

§ 3.3. Vice-chairman.

The council shall annually elect from its membership a vice-chairman who shall assume the duties of the chairman in his absence or temporary inability to serve.

§ 3.4. Expense reimbursement.

Members of the council shall be entitled to be reimbursed in accordance with state regulations for necessary and proper expenses incurred in the performance of their duties on behalf of the council.

§ 3.5. Additional powers and duties.

The council shall exercise such additional powers and duties as may be specified in the Code of Virginia.

PART IV. VOLUNTARY COST REVIEW ORGANIZATIONS.

§ 4.1. Application.

Any organization desiring approval as a voluntary rate review organization may apply for approval by using the following procedure:

1. Open application period. A voluntary cost review organization may apply for designation as an approved voluntary cost review organization to be granted such duties as are prescribed in § 9-162 of the Code of Virginia:

2. Contents of application. An application for approval shall include:

a. Documentation sufficient to show that the applicant complies with the requirements to be a voluntary cost review organization, including evidence of its nonprofit status. Full financial reports for the one year preceding its application must also be forwarded. If no financial reports are available, a statement of the projected cost of the applicant's operation with supporting data must be forwarded;

b. If any of the organization's directors or officers have or would have a potential conflict of interests affecting the development of an effective cost monitoring program for the council, statements must be submitted with the application to fully detail the extent of the other conflicting interest;

c. A detailed statement of the type of reports and administrative procedures proposed for use by the applicant;

d. A statement of the number of employees of the applicant including details of their classification; and

e. Any additional statements or information which is necessary to ensure that the proposed reporting and review procedures of the applicant are satisfactory to the council.

§ 4.2. Review of application.

A. Designation.

Within 45 calendar days of the receipt of an application for designation as a voluntary cost review organization, the council shall issue its decision of approval or disapproval. Approval by the council shall take effect immediately.

B. Disapproval.

The council may disapprove any application for the reason that the applicant has failed to comply with application requirements, or that the applicant fails to meet the definition of a cost review organization, or fails to meet the specifications cited in paragraph A above concerning application contents or that the cost and quality

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of the institutional reporting system proposed by the applicant are unsatisfactory.

C. Reapplication.

An organization whose application has been disapproved by the council may submit a new or amended application to the council within 15 calendar days after disapproval of the initial application. An organization may only reapply for approval on one occasion during any consecutive 12-month period.

§ 4.3. Annual review of applicant.

A. By March 31 of each year, any approved voluntary cost review organization for the calendar year then in progress which desires to continue its designation shall submit an annual review statement of its reporting and review procedures.

B. The annual review statement shall include:

1. Attestation by the applicant that no amendments or modifications of practice contrary to the initially approved application have occurred; or

2. Details of any amendments or modifications to the initially approved application, which shall include justifications for these amendments or modifications.

C. The council may require additional information from the applicant supporting that the applicant's reports and procedures are satisfactory to the council.

§ 4.4. Revocation of approval.

The council may revoke its approval of any cost review organization's approval when the review procedures of that organization are no longer satisfactory to the council or for the reason that the voluntary cost review organization could be disapproved under § 4.2 B of these regulations.

§ 4.5. Confidentiality.

A voluntary cost review organization approved as such by the council shall maintain the total confidentiality of all filings made with it required by these regulations or law. The contents of filings or reports summaries and recommendations generated in consequence of the council's regulations may be disseminated only to members of the council, the council's staff and the individual health care institution which has made the filings or which is the subject of a particular report.

PART V. CONTRACT WITH VOLUNTARY COST REVIEW ORGANIZATION.

§ 5.1. Purpose.

It is the intention of the council to exercise the

authority and directive of § 9-163 of the Code of Virginia whereby the council is required to contract with any voluntary cost review organization for services necessary to carry out the council's activities where this will promote economy and efficiency, avoid duplication of effort, and make best use of available expertise.

§ 5.2. Eligibility.

In order for a voluntary cost review organization to be eligible to contract with the council, it shall have met all other requirements of §§ 4.1 and 4.5 of these regulations relating to voluntary cost review organization and have been approved as such an organization.

§ 5.3. Contents of contract.

The written agreement between the council and any voluntary cost review organization shall contain such provisions which are not inconsistent with these regulations or law as may be agreed to by the parties. Any such contract shall be for a period not to exceed five years.

PART VI IV . FILING REQUIREMENTS AND FEE STRUCTURE.

§ 6.1. § 4.1. Each individual health care institution shall file an annual report of revenues, expenses, other income, other outlays, assets and liabilities, units of service, and related statistics as prescribed in § 9-158 of the Code of Virginia on forms provided by the council together with the certified audited financial statements (or equivalents) as prescribed in § 9-159 of the Code of Virginia. The annual report and the certified audited financial statement shall be received by the council no later than 120 days after the end of the respective applicable health care institution's fiscal year. Extensions of filing times for the annual report or the certified audited financial statement may be granted for extenuating circumstances upon a health care institution's written application for a 30-day extension. Such request for extension shall be filed no later than 120 days after the end of a health care institution's fiscal year. The requirement for the filing of an annual report and a certified audited financial statement may be waived if a health care institution can show that an extenuating circumstance exists. Examples of an extenuating circumstance include, but are not limited to, involvement by the institution in a bankruptcy proceeding, closure of the institution, change of ownership of the institution, or the institution is a new facility that has recently opened.

Each health care institution with licensed nursing home beds or certified nursing facility beds shall exclude all revenues, expenses, other income, other outlays, assets and liabilities, units of service and related statistics directly associated with a hospital, continuing care retirement community, or with home for adult beds in the annual report filed with the council. For those health care institutions that participate in either the Medicare or Medicaid program, the cost allocation methodology

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required by the Virginia Department of Medical Assistance Services and Medicare for cost reports submitted to it shall be utilized for filings submitted to the council. Any health care institution that does not participate in the Medicare or Medicaid program may develop and utilize an alternative methodology to determine the nursing home portion of its costs if it chooses not to utilize the cost allocation methodology used by the Department of Medical Assistance Services and Medicare. That methodology shall then be approved by the council and the health care institution must continue to utilize that methodology for all subsequent filings unless a subsequent change is approved by the council.

~~§ 6-2.~~ § 4.2. Each individual health care institution shall file annually a projection (budget) of annual revenues and expenditures as prescribed in ~~§ 9-161 B~~ § 9-160 B of the Code of Virginia on forms provided by the council. The institution's projection (budget) shall be received by the council no later than ~~60~~ 30 days before the beginning of its respective applicable fiscal year. An institution's budget for a given fiscal year will not be accepted ~~for review~~ unless the institution has already filed its annual report and certified audited financial statement for the previous fiscal year. This regulation shall be applicable to nursing homes or certified nursing facilities for each fiscal year starting on or after June 30, 1990. Each health care institution with licensed nursing home beds or certified nursing facility beds shall exclude all revenues, expenses, other income, other outlays, assets and liabilities, units of service and related statistics directly associated with a hospital, continuing care retirement community, or with home for adult beds in the budget filed with the council. For those health care institutions that participate in either the Medicare or Medicaid program, the cost allocation methodology required by the Virginia Department of Medical Assistance Services and Medicare for cost reports submitted to it shall be utilized for filings submitted to the council. Any health care institution that does not participate in the Medicare or Medicaid program may develop and utilize an alternative methodology to determine the nursing home portion of its costs if it chooses not to utilize the cost allocation methodology used by the Department of Medical Assistance Services and Medicare. That methodology shall then be approved by the council and the health care institution must continue to utilize that methodology for all subsequent filings unless a subsequent change is approved by the council.

~~§ 6-2.~~ § 4.3. Each health care institution shall file annually a schedule of charges to be in effect on the first day of such fiscal year, as prescribed in ~~§ 9-161 D~~ § 9-159 A 4 of the Code of Virginia. The institution's schedule of charges shall be received by the council within 10 days after the beginning of its respective applicable fiscal year ~~or within 15 days of being notified by the council of its approval of the charges, whichever is later.~~

Any subsequent amendment or modification to the annually filed schedule of charges shall be filed at least ~~60~~ 30 days in advance of its effective date ; together with

supporting data justifying the need for the amendment . An institution's proposed amendment or modification to its annually filed schedule of charges shall not be accepted ~~for review~~ unless the institution has complied with all prior filing requirements contained in §§ ~~6-1 and 6-2~~ 4.1 and 4.2 for previous fiscal years. Changes in charges which will have a minimal impact on revenues are exempt from this requirement. Any change in an institution's charges or cumulative changes in charges that will increase or decrease ~~council-approved~~ budgeted gross patient services revenue by less than 1.0% of annual revenue for the remaining portion of the budgeted fiscal year are considered minimal and need not be reported. All other changes must be reported.

~~§ 6-2-1.~~ § 4.3:1. Each health care institution shall file annually a survey of rates charged. For hospitals, the survey shall consist of up to 30 select charges, including semi-private and private room rates. The survey shall also consist of charges of the most frequently occurring diagnoses or procedures for inpatient and outpatient treatment. The charges shall be calculated by taking an average for one month of all patient bills where the requested CPT or ICD-9 code numbers are indicated as the principal diagnosis or procedure. This information shall be received by the council from each hospital no later than April 30 of each year.

The annual charge survey for nursing homes shall include up to 30 select charges, including semi-private and private room rates. The select charges shall reflect the rates in effect as of the first day of a sample month to be chosen by the council. This information shall be provided to the council no later than March 31 of each year.

~~§ 6-2-2.~~ § 4.3:2. Each health care institution or any corporation that controls a health care institution shall respond to a survey conducted by the council to determine the extent of commercial diversification by such health care institutions in the Commonwealth. The survey shall be in a form and manner prescribed by the council and shall request the information specified in subdivisions a through j below for each affiliate of such health care institution or corporation, if any:

- a. The name and principal activity;
- b. The date of the affiliation;
- c. The nature of the affiliation;
- d. The method by which each affiliate was acquired or created;
- e. The tax status of each affiliate and, if tax-exempt, its Internal Revenue tax exemption code number;
- f. The total assets;
- g. The total revenues;

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h. The net profit after taxes, or if not-for-profit, its excess revenues;

i. The net quality, or if not-for-profit, its fund balance; and

j. Information regarding related party transactions.

~~§ 6.3.3.~~ ~~§ 4.3.3.~~ The information specified in ~~§ 6.3.2~~ ~~§ 4.3.2.~~ shall relate to any legal controls that exist as of the 1st of July of each calendar year in which the survey is required to be submitted. The response to the survey shall include the required information for all affiliates in which the health care institution or any corporation which controls a health care institution has a 25% or greater interest. Information regarding affiliates or organizations that do not have corporate headquarters in Virginia and that do no business in Virginia need not be provided.

~~§ 6.3.4.~~ ~~§ 4.3.4.~~ For fiscal years ending on or before June 30, 1992, each health care institution or any corporation that controls a health care institution and that is required to respond to the survey specified in ~~§ 6.3.2~~ ~~§ 4.3.2.~~ shall complete and return the survey to the council by the 31st day of August of 1992.

~~§ 6.3.5.~~ ~~§ 4.3.5.~~ For fiscal years ending on or before June 30, 1992, each hospital that reports to the council or any corporation which controls a hospital that reports to the council shall submit an audited consolidated financial statement to the council which includes a balance sheet detailing its total assets, liabilities and net worth and a statement of income and expenses and includes information on all such corporation's affiliates.

For fiscal years ending on or before June 30, 1992, each nursing home that reports to the council or any corporation which controls a nursing home that reports to the council shall submit either a certified audited financial statement or an audited consolidated financial statement to the council which includes a balance sheet detailing its total assets, liabilities and net worth and a statement of income and expenses and includes information on all such corporation's affiliates.

The filings required by this section shall be submitted to the council by the 31st day of August of 1992 or 120 days after the health care institution's fiscal year end, whichever is later.

~~§ 6.3.6~~ ~~§ 4.3.6.~~ For fiscal years ending on or after July 1, 1992, each health care institution that reports to the council or any corporation which controls a health care institution that reports to the council shall submit audited consolidated financial statements and consolidating financial schedules to the council which include its total assets, liabilities, revenues, expenses, and net worth.

~~§ 6.3.7~~ ~~§ 4.3.7.~~ For fiscal years beginning on or after July 1, 1992, the information required in ~~§§ 6.3.2, 6.3.3 and 6.3.6~~ ~~4.3.2, 4.3.3, and 4.3.6~~ shall be due 120 days after the

end of the health care institution's fiscal year end.

~~§ 6.3.8~~ ~~§ 4.3.8.~~ Each health care institution that reports to the council, any corporation controlling any such health care institution, and each affiliate of the health care institution or corporation shall submit the health care institution, corporation, or affiliate as an organization exempt from taxes pursuant to § 501(C)(3) of the Internal Revenue Code, a copy of the most recent federal information return (Form 990) which was filed on behalf of the institution, corporation, or affiliate together with all accompanying schedules that are required to be made available to the public by the Internal Revenue Service. Information regarding not-for-profit and for-profit affiliates which do no business in Virginia need not be submitted.

~~§ 6.3.9~~ ~~§ 4.3.9.~~ For fiscal years beginning on or after July 1, 1992, the information required in ~~§ 6.3.8~~ ~~4.3.8~~ shall be due 120 days after the completion of the health care institution's fiscal year end.

~~§ 6.4.~~ ~~§ 4.4.~~ All filings prescribed in ~~§§ 6.1, 6.2 and 6.3.2~~ ~~§§ 4.1, 4.2 and 4.3.2~~ of these regulations will be made to the council for its transmittal to any approved voluntary cost review organization described in Part IV of these regulations.

~~§ 6.5.~~ ~~§ 4.5.~~ A filing fee based on an adjusted patient days rate shall be set by the council, based on the needs to meet annual council expenses. The fee shall be established and reviewed at least annually and reviewed for its sufficiency at least annually by the council. All fees shall be paid directly to the council. The filing fee shall be no more than 11 cents per adjusted patient day for each health care institution filing. Prior to the beginning of each new fiscal year, the council shall determine a filing fee for hospitals and a filing fee for nursing homes based upon the council's proportionate costs of operation for review of hospital and nursing home filings in the current fiscal year, as well as the anticipated costs for such review in the upcoming year.

~~§ 6.6.~~ ~~§ 4.6.~~ Fifty percent of the filing fee shall be paid to the council at the same time that the health care institution files its budget under the provisions of ~~§ 6.2~~ ~~§ 4.2~~ of these regulations. The balance of the filing fee shall be paid to the council at the same time the health care institution files its annual report under the provisions of ~~§ 6.1~~ ~~§ 4.1~~ of these regulations. When the council grants the health care institution an extension, the balance of the filing fee shall be paid to the council no later than 120 days after the end of the respective applicable health care institution's fiscal year. During the year of July 1, 1989, through June 30, 1990, each nursing home and certified nursing facility shall pay a fee of 7 cents per adjusted patient day when it files its annual report in order to comply with subdivisions A1 and A2 of § 9-159 of the Code of Virginia. Following June 30, 1990, all nursing homes and certified nursing facilities shall submit payment of the filing fees in the amount and manner as all other health care institutions.

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§ 6-7. § 4.7. A late charge of \$10 per working day shall be paid to the council by a health care institution that files its budget, annual report or certified audited financial statement past the due date. The late charge may be waived if a health care institution can show that an extenuating circumstance exists. Examples of extenuating circumstance include, but are not limited to, involvement by the institution in a bankruptcy proceeding, closure of the institution, change of ownership of the institution, or the institution is a new facility that has recently opened.

§ 6-8. § 4.8. A late charge of \$50 shall be paid to the council by the health care institution that files the charge schedule past the due date.

§ 6-9. § 4.9. A late charge of \$25 per working day shall be paid to the council by the reporting entity required to complete the survey required in § 6-3-2 § 4.3.2 or file the audited consolidated financial statement required by § 6-3-5 § 4.3.5 or both.

§ 6-10. § 4.10. A late charge of \$25 per working day shall be paid to the council by the reporting entity required to complete the survey required in § 6-3-1 § 4.3.1.

§ 6-11. § 4.11. A late charge of \$25 per working day shall be paid to the council by the reporting entity required to submit the Form 990s as provided §§ 6-3-8 4.3.8 and 6-3-9 4.3.9.

PART VIII V. WORK FLOW AND ANALYSIS.

§ 7-1. § 5.1. The annual report data filed by health care institutions as prescribed in § 6-1 § 4.1 of these regulations shall be analyzed as directed by the council. Hospitals that are part of a hospital system will be analyzed on a systemwide basis. Summarized analyses and comments shall be reviewed by the council at a scheduled council meeting within approximately 75 days after receipt of properly filed data, after which these summaries and comments, including council recommendations, may be published and disseminated as determined by the council. The health care institution which is the subject of any summary, report, recommendation or comment shall receive a copy of same at least 10 days prior to the meeting at which the same is to be considered by the council.

§ 7-2. § 5.2. The annual schedule of charges and projections (budget) of revenues and expenditures filed by health care institutions as prescribed in § 6-2 § 4.2 of these regulations shall be analyzed as directed by the council. Hospitals that are part of a hospital chain may have their filings reviewed on a consolidated basis. Summarized analyses and comments shall be reviewed by the council at a scheduled council meeting within approximately 75 days after receipt of properly filed data, after which these summaries and comments, including council recommendations will be published and disseminated by the council. Amendments or modifications

to the annually filed schedule of charges shall be processed in a like manner and reviewed by the council no later than 50 days after receipt of properly filed amendments or modifications. Any health care institution which is the subject of summaries and findings of the council shall be given upon request an opportunity to be heard before the council.

PART VIII VI. PUBLICATION AND DISSEMINATION OF INFORMATION RELATED TO HEALTH CARE INSTITUTIONS.

§ 8-1. § 6.1. The staff findings and recommendations and related council decisions on individual health care institutions' annual historical data findings will be kept on file at the council office for public inspection. However, the detailed annual historical data filed by the individual health care institutions will be excluded from public inspection in accordance with § 9-159 B, of the Code of Virginia.

§ 8-2. § 6.2. Periodically, but at least annually, the council will publish the rates charged by each health care institution in Virginia for up to 30 of the most frequently used services in Virginia, including each institution's average semiprivate and private room rates. The data will be summarized by geographic area in Virginia, and will be kept on file at the council office for public inspection and made available to the news media. In addition, annual charge schedules and subsequent amendments to these schedules filed under the provisions of § 6-3 § 4.3 of these rules and regulations will be kept on file at the council office for public inspection. Staff findings and recommendations and related council decisions on changes to health care institutions' rates and charges will also be kept on file at the council office for public inspection and available to the news media.

§ 8-3. § 6.3. Periodically, but at least annually, the council will publish an annual report which will include, but not be limited to the following: cost per admission comparison, cost per patient day comparison, percentage increase in cost per patient day, budget and historical reports reviewed, interim rate changes, excess operating expenses, revenue reduction recommendations, operating profits and losses, deductions from revenue (contractuals, bad debts, and charity care) and hospital utilization.

§ 8-3-1. § 6.3.1. The council will also periodically publish and disseminate information which will allow consumers to compare costs and services of hospitals, nursing homes and certified nursing facilities.

§ 8-4. § 6.4. The staff findings and recommendations and related council decisions on individual health care institutions' annual budget and related rate filings will be kept on file at the council office for public inspection. However, the Detailed annual budget data filed by the individual health care institutions will be excluded from public inspection.

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§ 8.5. § 6.5. The council may *shall* release historical financial and statistical data reported by health care institutions to state or federal commissions or agencies based on individual, specific requests, and the merit of such requests. Requests must list the purpose for which the requested data is to be used to permit the council to reach a valid decision on whether or not the data requested will fit the need and should, therefore, be made available pursuant to § 9-159 B of the Code of Virginia. Under no circumstances will data be released which contains "personal information" as defined in § 2.1-379(2) of the Code of Virginia.

§ 8.6. § 6.6. Pursuant to § 9-159 B, the council shall not release prospective (budgeted) financial and statistical data reported by health care institutions to anyone, except for the staff findings and recommendations as provided for in § 8.4 of these regulations.

§ 8.7. No data, beyond that specified in §§ 8.1 through 8.4 of these regulations will be released to other nongovernmental organizations and entities, except that data deemed pertinent by the council in negotiations with third-party payors such as Blue Cross/Blue Shield, commercial insurers, etc. Such pertinent data may be released and used on an exception, as needed, basis.

§ 8.8. Except for data specified in §§ 8.1 through 8.4 of these regulations available to anyone, the council shall have a right to furnish data, or refuse to furnish data, based on merit of the request and ability to furnish data based on data and staff time availability. The council may levy a reasonable charge to cover costs incurred in furnishing any of the data described in this section of the rules and regulations.

/s/ John A. Rupp
Executive Director
Virginia Health Services Cost Review Council
Date: June 22, 1993

STATEMENT OF ASSURANCE ON ALTERNATIVES TO REGULATIONS

On June 23, 1993, John A. Rupp, Executive Director of the Virginia Health Services Cost Review Council and I met and discussed the Rules and Regulations of the Virginia Health Services Cost Review Council, which are numbered VR 370-01-001. These changes are identical to those which were adopted on an emergency basis by the Council at its November, 1992 meeting and approved by the Governor on December 5, 1992. These changes will make the regulations conform to the new methodology adopted by the Council.

I concur that the regulations are reasonable, necessary, and, in my discretion, absolutely essential to achieve the required objective.

/s/ Howard M. Cullum
Secretary of Health and Human Resources

AUTHORIZATION

I have taken the following action regarding the proposed emergency Rules and Regulations of the Virginia Health Services Cost Review Council, which are numbered VR 370-01-001.

Approved

/s/ Lawrence Douglas Wilder
Governor
Date: June 24, 1993

Filed with the Registrar of Regulations on June 29, 1993.

VA.R. Doc. No. R93-663; Filed June 29, 1993, 12:50 p.m.

* * * * *

Title of Regulation: VR 370-01-002. Methodology to Measure the Efficiency and Productivity of Health Care Institutions.

Statutory Authority: §§ 9-161.1 and 9-164 of the Code of Virginia.

Effective Dates: July 1, 1993, through June 30, 1994.

Preamble:

The Commission on Health Care for All Virginians proposed that legislation be introduced in the 1992 Session of the Virginia General Assembly effectuating a number of significant changes regarding the operations of the Virginia Health Services Cost Review Council. A significant part of Senate Bill 518 contained the requirement that the Council develop a new methodology for the measurement of efficiency and productivity of hospitals and nursing homes and implement it by January 1, 1993.

In late spring of this year the VHSCRC contracted with the Williamson Institute of Medical College of Virginia/Virginia Commonwealth University to assist it in developing this new methodology. In addition, the Council also contracted with McManis Associates, Inc., a consulting firm from Washington, D.C., to provide its expertise in reviewing recommendations set forth by the Williamson Institute from a consumer perspective. Also, the Council established several work groups to develop different methodologies for nursing homes and for hospitals. Finally, the work groups, constituents, and Council staff have, on a large number of occasions, met and talked with outside constituency groups, including hospital and nursing home trade groups, to seek their input and comment during the development of this methodology.

The proposed new methodology seeks to stimulate competition in the market for hospitals, nursing

homes, and ambulatory surgery centers by improving the availability of information to various groups of consumers regarding "efficiency and productivity." A ratio analysis methodology will be used to identify efficient and productive providers.

This set of regulations was adopted by the Council on an emergency basis at its November 23, 1992 meeting and approved by the Governor on December 4. Proposed regulations were published in the Virginia Register on March 22, 1993. There are minor changes in these regulations from those approved on an emergency basis.

Because of new legislative changes made to Virginia's Administrative Process Act, effective July 1, 1993, it is necessary to re-adopt these regulations on an emergency basis, effective July 1, 1993.

VR 370-01-002. Methodology to Measure the Efficiency and Productivity of Health Care Institutions.

PART I GENERAL INFORMATION

§ 1.1. Authority for Regulations – Section 9-161.1 of the Code of Virginia directs the Virginia Health Services Cost Review Council ("the Council") to develop and adopt a methodology for the review and measurement of the efficiency and productivity of health care institutions.

§ 1.2. Intent of Regulations – These regulations set forth the method of analysis to be used by the Council.

§ 1.3. Administration Regulations – These regulations are administered by the Council.

§ 1.4. Application of Regulations – These regulations have general applicability throughout the Commonwealth.

§ 1.5. Effective Date of Regulations – These regulations shall become effective January 1, 1993. At that time, all other prior methodologies, forms, and policies used by the Council are superseded by these regulations.

PART II GENERAL APPROACH

§ 2.1:1. Purpose – The methodology set forth in these regulations is market-oriented. Consumers and buyers of health care will receive information from the Council that will allow them to make prudent health care decisions.

§ 2.1:2. Limitations – Nothing in these regulations or the actions taken by the Council pursuant to any of their provisions shall be construed as constituting approval by the Commonwealth or any of its agencies or officers of the reasonableness of any charges made or costs incurred by any health care institution.

§ 2.2. Activities – The Council will collect, analyze, and

publish information on health care institutional provider practices relating to efficiency and productivity.

PART III DATA SYSTEM

§ 3.1. Filing – Each Health Care Institution will submit the following filings:

1. Annual Budget Summary Filing – Each health care institution will submit an Annual Budget Summary Filing as prescribed in § 9-160(B) of the Code of Virginia. This filing will provide financial and statistical information to assist purchasers, state policy makers, and other consumers develop projections of future charges and costs. The Budget Filing shall be received by the Council at least 30 days prior to the beginning of the health care institution's fiscal year.

2. Annual Historical Performance Filing – Each health care institution will submit an Annual Historical Performance Filing as prescribed in § 9-158 of the Code of Virginia. This filing will be used to collect audited financial information and other information for all of the categories listed in § 3.2 below. It will provide the basis for the evaluation of the Council. The Annual Historical Performance Filing shall be received by the Council within 120 days after the close of the health care institution's fiscal year.

3. Quarterly Historical Performance Filings – Only hospitals will submit Quarterly Historical Performance Filings. All other health care institutions are provisionally exempt from this requirement. Quarterly information will be incorporated into a Council data bank so that purchasers may seek current information. The Quarterly Historical Performance Filing shall be received by the Council within 45 days after the end of each hospital's fiscal year quarter.

§ 3.2. Categories of Information – Information concerning charges, elements of costs, resource utilization, financial viability, and community support services will be assembled from the filings made pursuant to these regulations.

§ 3.3. Efficiency and Productivity Indicators – Individual data elements from the general categories identified in § 3.2 above will be used to form ratio indicators. These indicators will be used to evaluate health care institutions and rank health care institutions in relation to their peers.

1. Case Mix Index - Acute care hospitals shall provide the Council with a case mix index for all inpatients when it submits its Annual Historical Performance filing. The Medicare DRG grouper process shall be utilized by the Council.

2. Freestanding (i.e., non-system) hospitals with fewer than 100 licensed beds may apply to the Council for

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an exemption to § 3.3(1) for calendar year 1993. All hospitals must comply with § 3.3(1) in calendar year 1994.

3. Each nursing facility that has received a Patient Intensity Rating System (PIRS) Service Intensity Index (SII) number from the Virginia Department of Medical Assistance Services shall report the four quarterly PIRS SII scores associated with its fiscal year. These scores are to be reported on the institution's Annual Historical Performance Filing.

§ 3.4. Quality Indicators – The Health Care Financing Administration's ("HCFA's") most recent mortality index for each hospital will be included in the institution's Annual Historical Performance Filing. This measure will not be used to measure the relative efficiency and productivity of a hospital in 1993.

§ 3.5. Electronic Submission of Data – In a manner approved by the Council, information may be submitted electronically, in machine-readable form on computer diskette, or through modem during 1993.

§ 3.6. Public Access to Data – The Council will publish an Annual Report which will incorporate the data collected and analysis of the data including, but not limited to, an evaluation of the relative efficiency and productivity of health care institutions. An electronic data base will be available to the public in 1994.

PART IV EVALUATION OF EFFICIENCY AND PRODUCTIVITY

§ 4.1. Initial Measurement – The performance of each health care institution will be measured using the indicators referenced in § 3.3 above.

§ 4.2. Ranking – Unless exempted as provided for in § 4.4, each health care institution will be subject to a ranking procedure.

1. Regional Peer Grouping – Similar types of health care institutions (i.e., all hospitals or all nursing homes) will be grouped into geographical peer groups and ranked in relation to other institutions within their peer group.

2. Ranking Procedure – Each health care institution will be ranked on each indicator and given a quartile score on each indicator. Each quartile represents 25 percent of institutions within the peer group. Each institution will be given a score of 1, 2, 3, or 4 on each indicator depending upon the quartile in which they fall. A quartile score of 1 on an indicator means that an institution ranked in the top quartile (top 25 percent) on that indicator. Quartile scores are summed over all indicators. The total is divided by the number of indicators to get an average quartile score. The top performers will be selected by using the average quartile score and identifying the top 25%

of institutions within each peer group.

§ 4.3. Other Peer Groupings – Health care institutions may be sorted into other peer groupings (i.e., bed size, urban/rural, system/nonsystem) for purposes of analysis.

§ 4.4. Exemptions from the Ranking Procedure – During calendar year 1993, some institutions will be exempt from the ranking procedure as described below:

1. Small Hospitals – Freestanding (i.e., non-system) hospitals with fewer than 100 licensed beds that are exempt pursuant to § 3.3(2).
2. Psychiatric Hospitals.
3. Rehabilitation Hospitals.
4. Ambulatory Surgery Hospitals.
5. Continuing Care Retirement Communities.

All facilities will be subject to the ranking procedure based upon 1994 calendar year data.

/s/ John A. Rupp, Executive Director
Virginia Health Services Cost Review Council
Date: June 22, 1993

STATEMENT OF ASSURANCE ON ALTERNATIVES TO REGULATIONS

On June 23, 1993, John A. Rupp, Executive Director of the Virginia Health Services Cost Review Council and I met and discussed the new Regulations of the Virginia Health Services Cost Review Council, which are numbered VR 370-01-002.

I concur that the regulations are reasonable, necessary, and, in my discretion, absolutely essential to achieve the required objective.

/s/ Howard M. Cullum
Secretary of Health and Human Resources

AUTHORIZATION

I have taken the following action regarding the proposed emergency Regulations of the Virginia Health Services Cost Review Council, which are numbered VR 370-01-002.

APPROVED

/s/ Lawrence Douglas Wilder
Governor
Date: June 24, 1993

NOTICE: The forms used in administering the Virginia Health Services Cost Review Council Regulations are not being published due to the large number; however, the name of each form is listed below. The forms are

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available for public inspection at the Virginia Health Services Cost Review Council, 805 E. Broad Street, 6th Floor, Richmond, Virginia, or at the Office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Room 262, Richmond, Virginia.

Hospital Annual Historical Filing (03-01-693), rev. 6/14/93
Hospital Annual Budget Filing (01-01-393), rev. 3/4/93
Hospital Quarterly Filing (02-01-693), rev. 6/14/93
Indicator Definitions - Hospitals, rev. 3/25/93
1993 Virginia Hospital Productivity
Ambulatory Surgery Hospital Annual Historical Filing (03-02-693), rev. 6/14/93
Ambulatory Surgical Hospital Annual Budget Filing (01-02-393), rev. 3/4/93
Ambulatory Surgical Hospital Quarterly Filing (02-02-693), rev. 6/14/93
Indicator Definitions - Ambulatory Surgery Hospitals, rev. 3/24/93
Rehabilitation Hospital Annual Historical Filing (03-06-693), rev. 6/11/93
Hospital and Nursing Home Reconciliation Worksheet (04-04-393), rev. 2/17/93
Rehabilitation Hospital Annual Budget Filing (01-06-693), rev. 6/14/93
Rehabilitation Hospital Quarterly Filing (02-06-693), rev. 6/14/93
Indicator Definitions - Rehabilitation Hospitals, rev. 4/27/93
Psychiatric Hospital Annual Historical Filing (03-05-693), rev. 6/11/93
Psychiatric Hospital Annual Budget Filing (01-05-693), rev. 6/14/93
Psychiatric Hospital Quarterly Filing (02-05-693), rev. 6/14/93
Indicator Definitions - Psychiatric Hospitals, rev. 5/11/93
Nursing Home Annual Historical Filing (03-03-693), rev. 6/14/93
Nursing Home Annual Budget Filing (01-03-393), rev. 3/4/93
Indicator Definitions - Nursing Homes, rev. 3/25/93

V.A.R. Doc. No. R93-664; Filed June 29, 1993, 12:55 p.m.

* * * * *

Title of Regulation: VR 370-01-003. Regulations of the Virginia Health Services Cost Review Council Patient Level Data System.

Statutory Authority: §§ 9-164 and 9-166.5 of the Code of Virginia.

Effective Dates: July 1, 1993, through June 30, 1994.

Preamble:

The Joint Commission on Health Care for All Virginians introduced legislation in the 1993 Session

of the Virginia General Assembly to establish a patient level data base system in Virginia. The legislation required that the Executive Director of the VHSCRC contract with a nonprofit, tax-exempt health data organization which will compile, store, analyze, and evaluate patient level data. The legislation further requires that the VHSCRC adopt reasonable fees for the filing of patient level data and regulations which will require hospitals to submit patient level data either to the VHSCRC or to the nonprofit, tax-exempt organization.

Recently, a nonprofit, tax-exempt health data organization has been incorporated in Virginia by the name of Virginia Health Information, Corporation (VHI). Many of the members of that Board attended a retreat held last fall by Howard M. Cullum, Secretary of Health and Human Resources, to lay the ground work for the establishment of a patient level data base system in Virginia.

The Executive Director of the VHSCRC has determined that pursuant to § 9-166.4 he will contract with VHI to have that organization compile, store, analyze, and evaluate patient level data.

Because of the effective date of this legislation, it is necessary to enact these regulations as emergency regulations so that hospitals will start compiling data for all inpatient discharges on or after July 1, 1993.

VR 370-01-003. Regulations of the Virginia Health Services Cost Review Council Patient Level Data System.

PART I GENERAL INFORMATION

§ 1.1. Purpose of Regulations.

Section 9-166.1 et seq. of the Code of Virginia creates the Virginia Patient Level Data System. Its purpose is for the establishment and administration of an integrated system for collection and analysis of data which shall be used by consumers, employers, providers, and purchasers of health care and by state government to continuously assess and improve the quality, appropriateness, and accessibility of health care in the Commonwealth and to enhance their ability to make cost-effective health care decisions.

§ 1.2. Authority for Regulations.

Section 9-166.5 of the Code directs the Council to prescribe fees for hospitals submitting patient level data on an annual basis; to allow hospitals to submit the data to the Council, to a nonprofit, tax-exempt health data organization established for the compilation, storage, analysis, and evaluation of patient level data that the Executive Director of the Council has contracted with, or to submit processed, verified data; and to allow reductions or waive such fees upon a determination by the nonprofit

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organization that a hospital has submitted processed, verified data. Section 9-164(2) states that the Council may make rules and regulations as may be necessary to carry out its responsibilities.

§ 1.3. Contract Between the Executive Director of the Council and Nonprofit Organization.

Section 9-166.4 of the Code of Virginia requires that the Executive Director of the Council shall contract with a nonprofit, tax-exempt health data organization for the compilation, storage, analysis, and evaluation of patient level data. The Executive Director has entered into such a contract with the Virginia Health Information (VHI), which is a Virginia nonstock corporation organized for the purpose of operating as a nonprofit, tax exempt health data organization.

§ 1.4. Administration of Regulations.

These regulations are administered by the Council. They are intended to allow the Council to assist VHI to fulfill the requirements of a non-profit, tax-exempt organization which are contained in the legislation creating the patient level data base system in Virginia and which are contained in the contract referenced in § 1.3.

§ 1.5. Application of Regulations.

These regulations have general applicability throughout the Commonwealth.

§ 1.6. Effective Date of Regulations.

These rules and regulations shall become effective July 1, 1993. Inpatient hospitals shall submit patient level data for inpatient discharges which occur on or after July 1, 1993 as provided for in these regulations.

PART II DEFINITIONS

The following words and terms, when used in these regulations, shall have the following meanings:

"Council" means the Virginia Health Services Cost Review Council.

"Complete filing" means that patient level data of at least 99 percent of a hospital's inpatient discharges for a calendar year quarter are submitted.

"Inpatient hospital" means a hospital providing inpatient care and licensed pursuant to Article 1 (§ 32.1-123 et seq.) of Chapter 5 of Title 32.1, a hospital licensed pursuant to Chapter 8 (§ 37.1-179 et seq.) of Title 37.1, or a hospital operated by the University of Virginia or Virginia Commonwealth University.

"Nonprofit organization" means a nonprofit, tax-exempt health data organization with expertise and capacity to

execute the powers and duties set forth for such entity in this chapter.

"Processed, verified data" means data on inpatient records which have been subjected to edits. These edits shall be applied to data elements which are on the UB-82 Billing Form (or a successor Billing Form adopted by the Virginia Uniform Billing Committee for use by inpatient hospitals in Virginia). The edits shall have been agreed to by the Executive Director of the Council and VHI. Inpatient records containing invalid UB-82 codes or all blank fields for any of the data elements subjected to edits shall be designated as error records. At least 98 percent of a complete filing of all records which are submitted by an inpatient hospitals in aggregate per calendar year quarter and which are subjected to these edits must be free of error for data to be considered processed and verified.

"System" means the Virginia Patient Level Data System.

PART III PATIENT LEVEL DATA ELEMENTS

§ 3.1. Reporting Requirements For Patient Level Data Elements.

Every inpatient hospital shall submit each patient level data element listed below for each hospital inpatient, including a separate record for each infant, if applicable. Most of these data elements are currently collected from a UB-82 Billing Form. The column for a "Form Locator" indicates where the data element is located on the UB-82. For those elements, a column for the "Page Number" from the Uniform Billing Manual (UB-82), Revised on July, 1989, (which has been prepared for Virginia Hospitals by the Virginia Uniform Billing Committee), is also provided which details a field description and any special instructions pertaining to that element. An asterisk (*) indicates when the required data element is either not on the UB-82 or in the Uniform Billing Manual. The instructions provided under that particular data element should then be followed. If a successor Billing Form to the UB-82 form is adopted by the Virginia Uniform Billing Committee for use by inpatient hospitals in Virginia, information pertaining to the data elements listed below should be derived from that successor billing form.

	Form Locator	Page Number
1. Hospital identifier	1	10
2. Attending physician identifier Enter the six digit nationally assigned Uniform Physician Identification Number (UPIN) for the physician assigned as the attending physician for an inpatient.	92	*
3. Operating physician identifier	93	*

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Enter the six digit nationally assigned UPIN for the physician identified as the operation physician for each inpatient procedure reported for up to six procedures.

4. Payor identifier 57 119-124

5. Employer identifier 73 148

6. Patient identifier * *
 Enter the 9 digit social security number of the patient. If a social security number has not been assigned, (i.e., for an infant) leave blank.

7a. Patient sex 13 29

7b. Race Code * *
 If an inpatient hospital collects information regarding the choices listed below, the appropriate 1 digit code reflecting the race of the patient should be entered. If a hospital only collects information for categories 0, 1, or 2, then the appropriate code should be entered from those three selections.

- 0 = White
- 1 = Black
- 2 = Other
- 3 = Asian
- 4 = American Indian
- 5 = White Hispanic
- 6 = Black Hispanic

7c. Date of Birth 12 28

7d. Century Indicator 35, 36, 37, 38, 39-17 28

7e. Zip Code 11 27

7f. Patient relationship to insured 67A, B, C 135-137

7g. Employment status code 72 146-147

7h. Discharge (i.e., Patient) Status 21 38

7i. Birth weight (for infants) * *
 Enter the birth weight in grams of newborns.

8a. Admission type 17 33

8b. Admission Source 18 35

8c. Admission Date 15 31

8d. Admission Hour 16 32

8e. Admission Diagnosis 27 44

9. Discharge Date 22 39
 Only enter date of discharge.

10. Principal Diagnosis 77 152

Enter Secondary Diagnoses 78, 79, 80, 81 153
 (up to 8)

In addition, include diagnoses recorded in the comments section for DX6-DX9.

11. External cause of injury * *

Record all external cause of injury codes in secondary diagnoses position after recording all treated secondary diagnoses.

12. Principal Procedure 84 156-157

Enter Other Procedures and dates 83 155
 (up to 5). In addition,

include procedures recorded in the comments section for PX4-PX6.

13. Revenue Center Code (up to 23) 51 80-114
 Revenue Center Units (up to 23) 52 115
 Revenue Center Charges (up to 23) 53 116

14. Total Charges 53 116
 (R.C. Code 001 is for total charges.
 See page 81.)

PART IV FILING FORMAT

§ 4.1. Options for Filing Format.

Inpatient hospitals of 100 beds or larger that submit patient level data directly to the Council or VHI shall submit it in an electronic data format. Hospitals of less than 100 beds that submit patient level data directly to the Council or VHI may directly submit it in electronic data format or in hard copy. If hard copy is utilized the hospital shall submit, for each inpatient discharged, a copy of the UB-82 and an addendum sheet for those data elements not collected on the UB-82 or defined in the Uniform Billing Manual. These hospitals must submit all patient level data in electronic data format by January 1, 1995.

If a hospital submits processed, verified data directly to VHI, it shall be in electronic format.

PART V SUBMISSION PROCEDURE

§ 5.1. Options for Submission.

Each inpatient hospital shall submit the patient level data to the Council for processing and verification. If data is submitted in this fashion, the Council will transmit it to VHI along with any fees submitted by the hospital to the Council for the processing and verification of such data.

As an alternative to submitting the patient level data to the Council, an inpatient hospital may submit the patient level data to the office of VHI for processing and verification. If this alternative is chosen data shall be submitted to the following address:

Virginia Health Information Corporation

Post Office Box 8727

Richmond, Virginia 23226

If a hospital chooses this alternative it shall notify the Council and the VHI of its intent to follow this procedure by September 30, 1993.

In lieu of submitting the patient level data to the Council or to VHI, an inpatient hospital may submit already processed, verified data to VHI. If an inpatient hospital chooses this alternative for submission of patient

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level data, it shall notify the Council and the VHI of its intent to utilize this procedure by September 30, 1993.

If an inpatient hospital decides to change the option it has chosen after September 30, 1993, it shall notify the Council of its decision 30 days prior to the due date for the next submission of patient level data.

§ 5.2. Contact Person.

Each hospital shall notify in writing the Council and VHI of the name, address, telephone number and fax number of a contact person by September 30, 1993. If a hospital's contact person changes, the Council and VHI shall be notified in writing as soon as possible of the name of the new person who shall be the contact person for that hospital.

§ 5.3. Frequency of Submission.

A. Inpatient hospitals shall submit patient level data for inpatients at least on a calendar year quarterly basis. If the data is submitted to the Council or to VHI for processing and verification, it shall be received at the Office of the Council or the Office of VHI within 45 days after the end of each calendar year quarter.

B. If inpatient hospitals choose to submit processed, verified data directly to VHI, it shall be received at the Office of the VHI within 120 days after the end of each calendar year quarter.

PART VI FILING FEES

§ 6.1. Establishment of Annual Fee.

The Council shall prescribe a reasonable fee not to exceed one dollar per discharge for each inpatient hospital submitting patient level data pursuant to these regulations to cover the cost of the reasonable expenses in processing and verifying such data. The fee shall be established and reviewed annually by the Council. Payment of the fee by a hospital shall be at the time quarterly inpatient data is submitted.

§ 6.2. Payment of Fee to Nonprofit Organization

If an inpatient hospital chooses to submit its patient level data directly to VHI, that hospital may pay the fee described in § 6.1 to VHI at the time it submits its quarterly data. If a hospital pays its fee directly to VHI, the requirements of a fee to be paid to the Council, as described in § 6.1, shall be waived by the Council.

§ 6.3. Waiver or Reduction of Fee.

If a hospital submits processed, verified patient level data to VHI, VHI may, in its discretion, grant a waiver or reduction of the fee if it determines that the hospital has submitted properly processed, verified data.

§ 6.4. Late Charge.

A late charge of \$25.00 per working day shall be paid to the Council by an inpatient hospital that does not submit, in aggregate, a complete filing of the patient level data required in Section III for all inpatients discharged in a calendar year quarter pursuant to the times established in § 5.3. This requirement may be waived by the Council if an inpatient hospital can show that an extenuating circumstance exists. Examples of extenuating circumstance include, but are not limited to the installation of a new computerized billing system, a bankruptcy proceeding, closure of the institution, change of ownership in the institution, or the institution is a new facility that has recently opened.

/s/ John A. Rupp
Executive Director
Virginia Health Services Cost Review Council

STATEMENT OF ASSURANCE ON ALTERNATIVES TO REGULATIONS

On June 23, 1993, John A. Rupp, Executive Director of the Virginia Health Services Cost Review Council and I met and discussed the new Regulations of the Virginia Health Services Cost Review Council, Patient Level Data Base System, which are numbered VR 370-01-003.

I concur that the regulations are reasonable, necessary and, in my discretion, absolutely essential to achieve the required objective.

/s/ Howard M. Cullum
Secretary of Health and Human Resources

AUTHORIZATION

I have taken the following action regarding the proposed emergency Regulations of the Virginia Health Services Cost Review Council, Patient Level Data Base System, which are numbered VR 370-01-003.

APPROVED

/s/ Lawrence Douglas Wilder
Governor
Date: June 24, 1993

Filed with Registrar of Regulations on June 29, 1993.

VA.R. Doc. No. R93-666; Filed June 29, 1993, 12:55 p.m.

DEPARTMENT OF LABOR AND INDUSTRY

Title of Regulation: VR 425-01-81. Regulations Governing the Employment of Minors on Farms, in Gardens and in Orchards.

Statutory Authority: §§ 40.1-6(3), 40.1-100 A 9 and 40.1-114 of the Code of Virginia.

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Effective Dates: June 30, 1993, through June 29, 1994.

Summary:

Chapter 551 of the 1991 Acts of Assembly (HB 1794) amended §§ 40.1-78 through 40.1-79 of the Code of Virginia by removing the exemption for the employment of minors on farms, in gardens and in orchards. Pursuant to §§ 40.1-6(3), 40.1-100 A 9, and 40.1-114, the Commissioner of the Department of Labor and Industry has the authority and duty, effective July 1, 1991, to regulate children working in agriculture.

As the effective date of the enabling legislation did not allow sufficient time to comply with the provisions of the Administrative Process Act (APA), an emergency regulation was adopted effective July 1, 1991 to provide sufficient time for the Department to promulgate regulations in compliance with the requirements of the APA.

Final regulation Governing the Employment of Minors on Farms, in Gardens and in Orchards, VR 425-01-81, was promulgated with an effective date of July 1, 1992.

Basis of Emergency:

Based on the public comments received following the regulation's final adoption, the Commissioner determined that the regulation would have a seriously negative impact on the traditional available labor supply.

The promulgation process under the APA to make, review and reissue new regulations requires slightly less than a year. To assure that current regulation does not negatively impact the upcoming growing season, and to accommodate the statutory changes to the Administrative Process Act becoming effective July 1, 1993, the re-approval of this emergency regulation for a twelve month period is necessary at this time.

The attached emergency regulation is identical to existing federal regulations found at 29 CFR §§ 570.70 (Definitions), 570.113 (Definitions), 570.71 (Hazardous Occupations in Agriculture, 570.72 (Exemptions); and 516 (Recordkeeping).

During the twelve month term of this emergency regulation, the Department of Labor and Industry will promulgate a new permanent regulation following the APA as revised by the 1993 General Assembly and the Department's Public Participation Guidelines.

This emergency regulation is designated as VR 425-01-81 of the Department of Labor and Industry. The regulation shall become effective on filing with the Registrar of Regulations and expires on June 29,

1994 or upon the effective date of the permanent regulation, whichever occurs first. This emergency regulation will supersede the existing emergency regulation on this subject that became effective January 15, 1993.

The Department will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision to this emergency regulation.

IT IS SO ORDERED BY:

/s/ Carol Amato, Commissioner
Department of Labor and Industry
Date: June 24, 1993

APPROVED BY:

/s/ Cathleen A. Magennis
Secretary of Commerce and Trade
Date: June 14, 1993

APPROVED BY:

/s/ Lawrence Douglas Wilder
Governor
Date: June 15, 1993

FILED WITH:

/s/ Joan W. Smith
Registrar of Regulations
Date: June 28, 1993

VR 425-01-81. Regulations Governing the Employment of Minors on Farms, in Gardens and in Orchards.

§ 1. Definitions.

The following terms, when used in this regulation, shall have the following meanings unless the context clearly indicates otherwise:

"Agriculture" includes farming in all its branches and among other things includes the cultivation and tillage of soil, dairying, the production, cultivation, growing, and harvesting of any agricultural or horticultural commodities (including commodities defined as agricultural commodities in section 15(g) of the Federal Agricultural Marketing Act, as amended), the raising of livestock, bees, fur-bearing animals, or poultry, and any practices (including any forestry or lumbering operations) performed by a farmer or on a farm as an incident to or in conjunction with such farming operations, including preparation for market, delivery to storage or to market or to carriers for transportation to market.

"Employ" includes to suffer or permit to work. The nature of an employer-employee relationship is ordinarily to be determined not solely on the basis of the

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contractual relationship between the parties but also in the light of all the facts and circumstances. Moreover, the terms "employer" and "employ" are broader than the common-law concept of employment and must be interpreted broadly in the light of the mischief to be corrected. Thus, neither the technical relationship between the parties nor the fact that the minor is unsupervised or receives no compensation is controlling in determining whether an employer-employee relationship exists. However, these are matters which should be considered along with all other facts and circumstances surrounding the relationship of the parties in arriving at such determination. The words "suffer or permit to work" include those who suffer by a failure to hinder and those who permit by acquiescence in addition to those who employ by oral or written contract. A typical illustration of employment of oppressive child labor by suffering or permitting an under-aged minor to work is that of an employer who knows that his employee is utilizing the services of such a minor as a helper or substitute in performing his employer's work. If the employer acquiesces in the practice or fails to exercise his power to hinder it, he is himself suffering or permitting the helper to work and is, therefore, employing him.

§ 2. Hazardous occupations.

This section identifies the occupations on farms, in gardens, and in orchards which are particularly hazardous for minors under 16 years of age. No employer shall employ, suffer, or permit a minor under 16 years of age to work in any of the following occupations, deemed to be particularly hazardous, except as provided in § 3 of this regulation:

A. Operating a tractor of over 20 PTO horsepower, or connecting or disconnecting an implement or any of its parts to or from such a tractor.

B. Operating or assisting to operate (including starting, stopping, adjusting, feeding, or any other activity involving physical contact associated with the operation) any of the following machines:

1. Corn picker, cotton picker, grain combine, hay mower, forage harvester, hay baler, potato digger, or mobile pea viner;
2. Feed grinder, crop dryer, forage blower, auger conveyor, or the unloading mechanism of a nongravity-type self-unloading wagon or trailer; or
3. Power post-hole digger, power post driver, or nonwalking type rotary tiller.

C. Operating or assisting to operate (including starting, stopping, adjusting, feeding, or any other activity involving physical contact associated with the operation) any of the following machines:

1. Trencher or earthmoving equipment;

2. Fork lift;

3. Potato combine; or

4. Power-driven circular, band, or chain saw.

D. Working on a farm in a yard, pen, or stall occupied by:

1. A bull, boar, or stud horse maintained for breeding purposes; or

2. A sow with suckling pigs, or cow with newborn calf (with umbilical cord present)

E. Felling, bucking, skidding, loading, or unloading timber with butt diameter of more than 6 inches.

F. Working from a ladder or scaffold (painting, repairing, or building structures, pruning trees, picking fruit, etc.) at a height of over 20 feet.

G. Driving a bus, truck, or automobile when transporting passengers, or riding on a tractor as a passenger or helper.

H. Working inside:

1. A fruit, forage, or grain storage designed to retain an oxygen deficient or toxic atmosphere;

2. An upright silo within 2 weeks after silage has been added or when a top unloading device is in operating position;

3. A manure pit; or

4. A horizontal silo while operating a tractor for packing purposes.

I. Handling or applying (including cleaning or decontaminating equipment, disposal or return of empty containers, or serving as a flagman for aircraft applying) agricultural chemicals classified under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 135 et seq.) as Category I of toxicity, identified by the word "poison" and the "skull and crossbones" on the label; or Category II of toxicity, identified by the word "warning" on the label;

J. Handling or using a blasting agent, including but not limited to, dynamite, black powder, sensitized ammonium nitrate, blasting caps, and primer cord; or

K. Transporting, transferring, or applying anhydrous ammonia.

§ 3. Exemptions to hazardous occupations.

This section provides exemptions to the restrictions on hazardous occupations on farms, in gardens and i.

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orchards set forth in § 2 of this regulation.

A. Section 2 shall not apply to the employment of a child below the age of 16 by his parent or by a person standing in the place of his parent on a farm owned or operated by such parent or person.

B. Student Learners. Minors 14 and 15 years of age are exempted from the occupations listed in subsections A through F of § 2 when each of the following requirements are met:

1. A student-learner is enrolled in a vocational education training program in agriculture under a recognized State or local educational authority, or in a substantially similar program conducted by a private school;

2. Such student-learner is employed under a written agreement which provides:

a. That the work of the student-learner is incidental to his training;

b. That such work shall be intermittent, for short periods of time, and under the direct and close supervision of a qualified and experienced person;

c. That safety instruction shall be given by the school and correlated by the employer with on-the-job training; and

d. That a schedule of organized and progressive work processes to be performed on the job have been prepared;

3. Such written agreement contains the name of the student-learner, and is signed by the employer and by a person authorized to represent the educational authority or school; and

4. Copies of each such agreement are kept on file by both the educational authority or school and by the employer.

C. Federal Extension Service. Section 2 shall not apply to the employment of a child under 16 years of age in those occupations in which he has successfully completed one or more training programs described in paragraph C.1., C.2., and C.3. of this section provided he has been instructed by his employer on safe and proper operation of the specific equipment he is to use; is continuously and closely supervised by the employer where feasible; or, where not feasible, in work such as cultivating, his safety is checked by the employer at least at midmorning, noon, and midafternoon.

1. 4-H Tractor Operation Program. The child is qualified to be employed in an occupation described in Section 2.A. provided:

a. He is a 4-H member;

b. He is 14 years of age, or older;

c. He is familiar with the normal working hazards in agriculture;

d. He has completed a 10-hour training program which includes the following units from the manuals of the 4-H tractor program conducted by, or in accordance with the requirements of, the Cooperative Extension Service of a land grant university:

(1) First-year Manual:

(a) Unit 1 - Learning How to be Safe;

(b) Unit 4 - The Instrument Panel;

(c) Unit 5 - Controls for Your Tractor;

(d) Unit 6 - Daily Maintenance and Safety Check; and

(e) Unit 7 - Starting and Stopping Your Tractor;

(2) Second-year Manual:

(a) Unit 1 - Tractor Safety on the Farm;

(3) Third-year Manual:

(a) Unit 1 - Tractor Safety on the Highway;

(b) Unit 3 - Hitches, Power-take-off, and Hydraulic Controls;

e. He has passed a written examination on tractor safety and has demonstrated his ability to operate a tractor safely with a two-wheeled trailed implement on a course similar to one of the 4-H Tractor Operator's Contest Courses; and

f. His employer has on file with the child's records kept pursuant to Section 4 of this regulation (basically, name, address, and date of birth) a copy of a certificate acceptable by the Department, signed by the volunteer leader who conducted the training program and by an Extension Agent of the Cooperative Extension Service of a land grant university to the effect that the child has completed all the requirements specified in paragraphs C.1.a., C.1.b., C.1.c., C.1.d., and C.1.e. of this section.

2. 4-H Machine Operation Program. The child is qualified to be employed in an occupation described in Section 2.B. providing:

a. He satisfies all the requirements specified in paragraphs C.2.b., C.2.c., and C.2.d. of this section;

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b. He has completed an additional 10-hour training program on farm machinery safety, including 4-H Fourth-Year Manual, Unit 1, Safe Use of Farm Machinery;

c. He has passed a written and practical examination on safe machinery operation; and

d. His employer has on file with the child's records kept pursuant to Section 4 of this regulation (basically, name, address, and date of birth) a copy of a certificate acceptable to the Department, signed by the leader who conducted the training program and by an Extension Agent of the Cooperative Extension Service of a land grant university, to the effect that the child has completed all of the requirements specified in paragraphs C.2.a., C.2.b., and C.2.c. of this section.

3. Tractor and Machine Operation Program. The child is qualified to be employed in an occupation described in Section 2.A. and 2.B. providing:

a. He is 14 years of age, or older.

b. He has completed a 4-hour orientation course familiarizing him with the normal working hazards in agriculture.

c. He has completed a 20-hour training program on safe operation of tractors and farm machinery, which covers all material specified in paragraphs C.1.d. and C.2.b. of this section.

d. He has passed a written examination on tractor and farm machinery safety, and has demonstrated his ability to operate a tractor with a two-wheeled trailed implement on a course similar to a 4-H Tractor Operator's Contest Course, and to operate farm machinery safely.

e. His employer has on file with the child's records kept pursuant to Section 4 of this regulation (basically, name, address and date of birth) a copy of a certificate acceptable to the Department, signed by the volunteer leader who conducted the training program and by an Extension agent of the Cooperative Extension Service of a land grant university, to the effect that all of the requirements of paragraphs C.3.a., C.3.b., C.3.c., and C.3.d. of this section have been met.

D. Vocational Agriculture Training. Section 2 of this regulation shall not apply to the employment of a vocational agriculture student under 16 years of age in those occupations in which he has successfully completed one or more training programs described in paragraph D.1. or D.2. of this section and who has been instructed by his employer in the safe and proper operation of the specific equipment he is to use, who is continuously and closely supervised by his employer where feasible or,

where not feasible, in work such as cultivating, whose safety is checked by the employer at least at midmorning, noon, and midafternoon, and who also satisfies whichever of the following program requirements are pertinent:

1. Tractor Operation Program. The student is qualified to be employed in an occupation described in Section 2.A. provided:

a. He is 14 years of age, or older;

b. He is familiar with the normal working hazards in agriculture;

c. He has completed a 15-hour training program which includes the required units specified in the Vocational Agriculture Training Program in Safe Tractor Operation, outlined by the Office of Education, U.S. Department of Health, Education, and Welfare and acceptable by the U.S. Department of Labor. The training program is outlined in Special Paper No. 8, April 1969, prepared at Michigan State University, East Lansing, Mich., for the Office of Education. Copies of this training program outline are available for examination in the Regional Offices of the Wage and Hour Division, U.S. Department of Labor, and a copy may be obtained from the Office of Education, U.S. Department of Health, Education, and Welfare, Washington, D.C. 20202;

d. He has passed both a written test and a practical test on tractor safety including a demonstration of his ability to operate safely a tractor with a two-wheeled trailed implement on a test course similar to that described in the Vocational Agriculture Training Program in Safe Tractor Operation, outlined by the Office of Education, U.S. Department of Health, Education, and Welfare; and

e. His employer has on file with the child's records kept pursuant to Section 4 of this regulation (basically, name, address, and date of birth) a copy of a certificate acceptable to the Department, signed by the Vocational Agriculture teacher who conducted the program to the effect that the student has completed all the requirements specified in paragraphs D.1.a., D.1.b. D.1.c., and D.1.d. of this section.

2. Machinery Operation Program. The student is qualified to be employed in an occupation described in Section 2.B. provided he has completed the Tractor Operation Program described in paragraph D. 1. of this section and:

a. He has completed an additional 10-hour training program which includes the required units specified in the Vocational Agriculture Training Program in Safe Farm Machinery Operation, outlined by th

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Office of Education, U.S. Department of Health, Education, and Welfare and approved by the U.S. Department of Labor;

b. He has passed both a written test and a practical test on safe machinery operation similar to that described in the Vocational Agriculture Training Program in Safe Farm Machinery Operation, outlined by the Office of Education, U.S. Department of Health, Education, and Welfare; and

c. His employer has on file with the child's records kept pursuant to Section 4 of this regulation (basically, name, address and date of birth) a copy of a certificate acceptable to the Department, signed by the Vocational Agriculture teacher who conducted the program to the effect that student has completed all the requirements specified in paragraphs D.2.a. and D.2.b. of this section.

§ 4. Record-keeping requirements.

Every employer (other than parents or guardians standing in the place of parents employing their own child or a child in their custody) who employs in agriculture any minor under 18 years of age on days when school is in session or on any day if the minor is employed in a hazardous occupation shall maintain and preserve records containing the following data with respect to each and every such minor so employed:

A. Name in full.

B. Place where minor lives while employed. If the minor's permanent address is elsewhere, give both addresses.

C. Date of birth.

IT IS SO ORDERED BY:

/s/ Carol Amato, Commissioner
Department of Labor and Industry
Date: June 24, 1993

APPROVED BY:

/s/ Cathleen A. Magennis
Secretary of Commerce and Trade
Date: June 14, 1993

APPROVED BY:

/s/ Lawrence Douglas Wilder
Governor
Date: June 15, 1993

FILED WITH:

/s/ Joan W. Smith
Registrar of Regulations

Date: June 28, 1993

V.A.R. Doc. No. R93-611; Filed June 28, 1993, 1:06 p.m.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

Title of Regulation: Emergency Regulation Relating to Organ Transplantation.

VR 460-03-3.1100. Amount, Duration and Scope of Services.

VR 460-02-3.1500. Standards for the Coverage of Organ Transplant Services.

Statutory Authority: § 32.1-325 of the Code of Virginia.

Effective Dates: July 19, 1993, through July 18, 1994.

Summary:

1. REQUEST: The Governor's approval is hereby requested to approve this agency's adoption of the regulation under § 32.1-325 for Coverage of Organ Transplantation. This regulation will provide the agency with the regulatory authority to reimburse for these services and receive federal matching dollars.

2. RECOMMENDATION: Recommend approval of the Department's request to adopt this regulation under § 32.1-325 of the Code for Coverage of Organ Transplantation.

/s/ Bruce U. Kozlowski, Director
Date: July 13, 1993

3. CONCURRENCES:

/s/ Howard M. Cullum
Secretary of Health and Human Resources
Date: July 13, 1993

4. GOVERNOR'S ACTION:

/s/ Lawrence Douglas Wilder
Governor
Date: July 19, 1993

5. FILED WITH:

/s/ Joan W. Smith
Registrar of Regulations
Date: July 19, 1993

6. BACKGROUND: The sections of the State Plan for Medical Assistance which are affected by this action are the Amount, Duration, and Scope of Services (Supplement 1 to Attachment 3.1 A&B) and Standards for the Coverage of Organ Transplant Services (Attachment 3.1 E).

Medicaid's current policy limits coverage to cornea and

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kidney transplantation only. This policy became effective February 1989 following an extensive study by the Board of Medical Assistance Services (BMAS) of transplantation issues.

In March 1992, BMAS at the request of the Secretary of Health and Human Services, undertook a study of coverage of transplantation services by the Virginia Medicaid program. Transplantation is a rapidly transforming area of medicine, in which the efficacy of procedures, as well as the procedures themselves, are continually evolving. The Board periodically reviews transplant coverage to ensure that medically appropriate care is available and accessible to Medicaid recipients.

In conducting its study, BMAS reviewed current literature to evaluate the status of organ and tissue transplantation for end stage renal, liver, lung, heart, and other diseases. Its inquiry included consideration of medical effectiveness, outcomes and survival rates, organ procurement, costs and financing, and ethical and social issues. It also examined the practices among other third party payers in terms of coverage and reimbursement.

BMAS also invited experts knowledgeable about transplantation issues to testify before it. Those making presentations included bio-medical ethicists, the director of the federal office of organ transplantation, organ procurement specialists, policy experts in the field of transplantation and its coverage, and physicians specializing in transplant procedures. Additionally, BMAS contacted all of the Commonwealth's medical facilities that perform organ transplants to solicit their input. These facilities were extremely responsive in meeting with BMAS and providing information and recommendations. In August 1992, BMAS conducted four public hearings throughout the Commonwealth for the purpose of giving the public the opportunity to comment regarding Medicaid coverage of transplantation. Sixteen people made presentations at these hearings.

Additionally, on June 24, 1993, the decision in *Pereira v. Kozlowski* (CA-92-255) (4th Circuit, 1993) required the Virginia Medicaid program to provide coverage of transplantation services for children under 21 according to the requirements of the Early Periodic Screening, Diagnosis, and Treatment Program.

On July 9, 1993, BMAS acted to adopt the recommendations of its study which would amend the present coverage policy. Coverage of transplantation will be continued for cornea and kidney. Coverage will be expanded, for children (under age 21) only, to liver, heart, and bone marrow (both autologous and allogeneic) transplantation and any other medically necessary transplant procedure that is not experimental or investigational.

Federal law requires that, in order to receive federal matching funds, states specify in their Medicaid State Plans any transplant procedures that are covered. Criteria

for patient and facility selection for transplantation procedures must also be incorporated in the State Plan.

7. AUTHORITY TO ACT: The Code of Virginia (1950) as amended, § 32.1-324, grants to the Director of the Department of Medical Assistance Services the authority to administer and amend the Plan for Medical Assistance in lieu of Board action pursuant to the Board's requirements. Section 32.1-325 A of the Code of Virginia states that "in order to enable the Commonwealth to continue to receive federal grants or reimbursement for medical assistance or related services, the Board, subject to the approval of the Governor, may adopt, regardless of any other provision of this chapter, such amendments to the state plan for medical assistance services as may be necessary to conform such plan with amendments to the United States Social Security Act or other relevant federal law and their implementing regulations or constructions of these laws and regulations by courts of competent jurisdiction or the United States Secretary of Health and Human Services."

In order to continue to receive federal matching funds for these services, DMAS must adopt conforming amendments to the State Plan. Pursuant to the Code of Virginia § 32.1-325 (A) provision, DMAS is not required to comply with the requirements of Article 2 (§ 9-6.14:7.1 et seq.) and shall comply with the requirements of § 9-6.14:4.1 by notifying the Registrar that this amendment is necessary to comply with federal law and with the Court's decision in the case of *Pereira v. Kozlowski*.

8. FISCAL/BUDGETARY IMPACT: DMAS is issuing these regulations to comply with the order of the Fourth Circuit Court in the case of *Pereira v. Kozlowski* (CA-92-255). There is no funding in the current appropriation for coverage of these expanded services.

The annual cost in the first year for expanding coverage of liver, heart, and bone marrow transplantation is projected to be from \$2.26 million GF to \$5.32 GF. This range recognizes the small number of procedures and the potential variability in cost depending on several factors including the patient's condition and the outcome of the transplant surgery. This estimate assumes that up to approximately 34 procedures are likely to be performed in the first year.

No new providers are expected to enroll as Medicaid providers as a result of this change. However, providers will be reimbursed for an expanded range of services as a result of this coverage change. Additionally, by expanding coverage of these procedures demand is likely to increase in the Commonwealth for these services.

9. RECOMMENDATION: Recommend approval of this request to adopt this regulation (VR 460-03-3.1100 460-02-3.1500) to become effective upon its adoption and filing with the Registrar of Regulations.

VR 460-03-3.1100. Amount, Duration and Scope of Services (pages 2a and 7).

Emergency Regulations

Page 2a

I. For purposes of organ transplantation, all similarly situated individuals will be treated alike. ~~Coverage of transplant services for all eligible persons is limited to transplants of kidneys and corneas.~~ Transplant services for kidneys and corneas shall be covered for all eligible persons. Transplant services for liver, heart, and bone marrow transplantation and any other medically necessary transplantation procedures that are determined to not be experimental or investigational shall be limited to children (under 21 years of age). Kidney, liver, heart, and bone marrow transplants and any other medically necessary transplantation procedures that are determined to not be experimental or investigational require preauthorization. Cornea transplants do not require preauthorization. The patient must be considered acceptable for coverage and treatment. The treating facility and transplant staff must be recognized as being capable of providing high quality care in the performance of the requested transplant. ~~The amount of reimbursement for covered kidney transplant services is negotiable with the providers on an individual case basis.~~ Reimbursement for covered liver, heart, and bone marrow transplant services and any other medically necessary transplantation procedures that are determined to not be experimental or investigational shall be based upon a rate negotiated with providers on an individual case basis, or a flat rate by procedure, or by procedure and facility. Reimbursement for covered kidney and cornea transplants is at the allowed Medicaid rate. Standards for coverage of organ transplant services are in Attachment 3.1 E.

J. The Department may exempt portions or all of the utilization review documentation requirements of subsections (A), (D), (E), (F) as it pertains to recipients under age 21, (G), or (H) in writing for specific hospitals from time to time as part of their ongoing hospital utilization review performance evaluation. These exemptions are based on utilization review performance and review edit criteria which determine an individual hospital's review status as specified in the hospital provider manual. In compliance with federal regulations at 42 CFR 441.200, Subparts E and F, claims for hospitalization in which sterilization, hysterectomy or abortion procedures were performed, shall be subject to medical documentation requirements.

K. Hospitals qualifying for an exemption of all documentation requirements except as described in J above shall be granted "delegated review status" and shall, while the exemption remains in effect, not be required to submit medical documentation to support pended claims on a prepayment hospital utilization review basis to the extent allowed by federal or state law or regulation. The following audit conditions apply to delegated review status for hospitals:

1. The Department shall conduct periodic on-site post payment audits of qualifying hospitals using a statistically valid sampling of paid claims for the

purpose of reviewing the medical necessity of inpatient stays.

2. The hospital shall make all medical records of which medical reviews will be necessary available upon request, and shall provide an appropriate place for the Department's auditors to conduct such review.

3. The qualifying hospital will immediately refund to the Department in accordance with § 32.1-325.1 A and B of the Code of Virginia the full amount of any initial overpayment identified during such audit.

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K. For purposes of organ transplantation, all similarly situated individuals will be treated alike. ~~Coverage of transplant services for all eligible persons is limited to transplants of kidneys and corneas.~~ Transplant services for kidneys and corneas shall be covered for all eligible persons. Transplant services for liver, heart, and bone marrow and any other medically necessary transplantation procedures that are determined to not be experimental or investigational shall be limited to children (under 21 years of age). Kidney, liver, heart, and bone marrow transplants and any other medically necessary transplantation procedures that are determined to not be experimental or investigational require preauthorization. Cornea transplants do not require preauthorization. The patient must be considered acceptable for coverage and treatment. The treating facility and transplant staff must be recognized as being capable of providing high quality care in the performance of the requested transplant. ~~The amount of reimbursement for covered kidney transplant services is negotiable with the providers on an individual case basis.~~ Reimbursement for covered liver, heart, and bone marrow transplant services and any other medically necessary transplantation procedures that are determined to not be experimental or investigational shall be based upon a rate negotiated with providers on an individual case basis, or a flat rate by procedure, or by procedure and facility. Reimbursement for covered kidney and cornea transplants is at the allowed Medicaid rate. Standards for coverage of organ transplant services are in Attachment 3.1 E.

6. Medical care by other licensed practitioners within the scope of their practice as defined by State Law.

A. Podiatrists' Services.

1. Covered Podiatry services are defined as reasonable and necessary diagnostic, medical, or surgical treatment of disease, injury, or defects of the human foot. These services must be within the scope of the license of the podiatrists' profession and defined by State law.

2. The following services are not covered: preventive health care, including routine foot care; treatment of structural misalignment not requiring surgery; cutting or removal of corns, warts, or calluses; experimental

Emergency Regulations

procedures; acupuncture.

3. The Program may place appropriate limits on a service based on medical necessity and/or for utilization control.

B. Optometrists' Services.

1. Diagnostic examination and optometric treatment procedures and services by ophthalmologists, optometrists, and opticians, as allowed by the Code of Virginia and by regulations of the Boards of Medicine and Optometry, are covered for all recipients. Routine refractions are limited to once in 24 months except as may be authorized by the agency.

C. Chiropractors' Services.

1. Not provided.

VR 460-02-3.1500. Standards for the Coverage of Organ Transplant Services.

The following criteria will be used to evaluate specific organ transplant requests.

§ 1.1 Patient Selection Criteria for Provision of Kidney Transplantation (KT).

A. Transplantation of the kidney is a surgical treatment whereby a diseased kidney is replaced by a healthy organ. Pre-authorization is required. The following patient selection criteria shall apply for the consideration of all approvals for coverage and reimbursement for kidney transplantation.

1. Current medical therapy has failed and patient has failed to respond to appropriate conservative management;

2. The patient does not have other systemic disease including but not limited to the following:

- a. reversible renal conditions;
- b. major extra-renal complications (malignancy, systemic disease, cerebral cardio-arterial disease);
- c. active infection;
- d. severe malnutrition; or
- e. pancytopenia.

3. The patient is not in both an irreversible terminal state and on a life support system;

4. Adequate supervision will be provided to assure there will be strict adherence to the medical regimen which is required;

5. The KT is likely to prolong life and restore a range of physical and social function suited to activities of daily living;

6. A facility with appropriate expertise has evaluated the patient, and has indicated willingness to undertake the procedure;

7. The patient does not have multiple uncorrectable severe major system congenital anomalies;

8. Failure to meet (1) through (7) above shall result in denial of pre-authorization and coverage for the requested kidney transplant procedures.

§ 1.2 Facility Selection Criteria for Kidney Transplantation (KT).

A. For medical facility to qualify as an approved Virginia Medicaid provider for performing kidney transplants, the following conditions must be met:

1. The facility has available expertise in immunology, infectious disease, pathology, pharmacology, and anesthesiology;

2. The KT program staff has extensive experience and expertise in the medical and surgical treatment of renal disease;

3. Transplant surgeons on the staff have been trained in the KT technique at an institution with a well established KT program;

4. The transplantation program has adequate services to provide specialized psychosocial and social support for patients and families;

5. Adequate blood bank support services are present and available;

6. Satisfactory arrangements exist for donor procurement services;

7. The institution is committed to a program of at least 25 KTs a year;

8. The center has a consistent, equitable, and practical protocol for selection of patients (at a minimum, the DMAS Patient Selection Criteria must be met and adhered to);

9. The center has the capacity and commitment to conduct a systematic evaluation of outcome and cost;

10. In addition to hospital administration and medical staff endorsement, hospital staff support also exists for such a program;

11. The hospital has an active, ongoing renal dialysis service;

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12. The hospital has access to staff with extensive skills in tissue typing, immunological and immunosuppressive techniques;

13. Initial approval as KT center requires performance of 25 KTs within the most recent 12 months, with a one year survival rate of at least 90%. Centers that fail to meet this requirement during the first year will be given a one-year conditional approval. Failure to meet the volume requirement following the conditional approval will result in loss of approval.

§ 2.1 Patient Selection Criteria for Provision of Corneal Transplantation (CT).

A. Transplantation of the cornea is a surgical treatment whereby a diseased cornea is replaced by a healthy organ. While pre-authorization is not required, the following patient selection criteria shall apply for the consideration of all approvals for reimbursement for cornea transplantation.

1. Current medical therapy has failed and will not prevent progressive disability;
2. The patient is suffering from one of the following conditions:
 - a. Post-cataract surgical decompensation,
 - b. Corneal dystrophy,
 - c. Post-traumatic scarring,
 - d. Keratoconus, or,
 - e. Aphakia Bullous Keratopathy;
3. Adequate supervision will be provided to assure there will be strict adherence by the patient to the long term medical regimen which is required;
4. The CT is likely to restore a range of physical and social function suited to activities of daily living;
5. The patient is not in both an irreversible terminal state and on a life support system;
6. The patient does not have untreatable cancer, bacterial, fungal, or viral infection;
7. The patient does not have the following eye conditions:
 - a. Trichiasis,
 - b. Abnormal lid brush and/or function,
 - c. Tear film deficiency,
 - d. Raised transocular pressure,

e. Intensive inflammation, and

f. Extensive neo-vascularization.

§ 2.2 Facility Selection Criteria for Cornea Transplantation (CT).

A. For medical facility to qualify as an approved Medicaid provider for performing cornea transplants, the following conditions must be met:

1. The facility has available expertise in immunology, infectious disease, pathology, pharmacology, and anesthesiology;
2. The CT program staff has extensive experience and expertise in the medical and surgical treatment of eye disease;
3. Transplant surgeons on the staff have been trained in the CT technique at an institution with a well established CT program;
4. The transplantation program has adequate services to provide social support for patients and families;
5. Satisfactory arrangements exist for donor procurement services;
6. The institution is committed to a program of eye surgery;
7. The center has a consistent, equitable, and practical protocol for selection of patients (at a minimum, the DMAS Patient Selection Criteria must be met and adhered to);
8. The center has the capacity and commitment to conduct a systematic evaluation of outcome and cost;
9. In addition to hospital administration and medical staff endorsement, hospital staff support also exists for such a program;
10. Initial approval as CT center requires performance of corneal transplant surgery, with a one year graft survival rate of at least 75%. Centers that fail to meet this requirement during the first year will be given a one-year conditional approval. Failure to meet this requirement following the conditional approval will result in loss of approval.

§ 3.1 Patient Selection Criteria for Provision of Liver, Heart, Allogeneic and Autologous Bone Marrow Transplantation and Any Other Medically Necessary Transplantation Procedures That Are Determined to Not be Experimental or Investigational

A. General. The following general conditions shall apply to these services:

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1. Coverage shall not be provided for procedures that are provided on an investigational or experimental basis.

2. There must be no effective alternative medical or surgical therapies available with outcomes that are at least comparable.

3. The transplant procedure and application of the procedure in treatment of the specific condition for which it is proposed have been clearly demonstrated to be medically effective and not experimental or investigational.

4. Prior authorization by the Department of Medical Assistance Services (DMAS) is required. The prior authorization request must contain the information and documentation as required by DMAS.

B. The following patient selection criteria shall apply for the consideration of authorization and coverage and reimbursement:

1. The patient must be under 21 years of age at time of surgery.

2. The patient selection criteria of the transplant center where the surgery is to be performed shall be used in determining whether the patient is appropriate for selection for the procedure. Transplant procedures will be pre-authorized only if the selection of the patient adheres to the transplant center's patient selection criteria, based upon review by DMAS of information submitted by the transplant team or center.

a. The recipient's medical condition shall be reviewed by the transplant team or program according to the transplant facility's patient selection criteria for that procedure and the recipient shall be determined by the team to be an appropriate transplant candidate. Patient selection criteria used by the transplant center shall include, but not necessarily be limited to, the following:

1. Current medical therapy has failed and the patient has failed to respond to appropriate therapeutic management;

2. The patient is not in an irreversible terminal state; and

3. The transplant is likely to prolong life and restore a range of physical and social function suited to activities of daily living.

3.2. Facility Selection Criteria for Liver, Heart, Allogeneic and Autologous Bone Marrow Transplantation and Any Other Medically Necessary Transplantation Procedures That Are Determined to Not be Experimental or Investigational

A. General. The following general conditions shall apply:

1. Procedures may be performed out of state only when the authorized transplant cannot be performed in the Commonwealth because the service is not available or, due to capacity limitations, the transplant can not be performed in the necessary time period.

2. Criteria applicable to transplantation services and centers in the Commonwealth also apply to out-of-state transplant services and facilities.

B. To qualify for coverage, the facility must meet, but not necessarily be limited to, the following criteria:

1. The transplant program staff has demonstrated expertise and experience in the medical and surgical treatment of the specific transplant procedure;

2. The transplant surgeons have been trained in the specific transplant technique at an institution with a well established transplant program for the specific procedure;

3. The facility has expertise in immunology, infectious disease, pathology, pharmacology, and anesthesiology;

4. The facility has staff or access to staff with expertise in tissue typing, immunological and immunosuppressive techniques;

5. Adequate blood bank support services are available;

6. Adequate arrangements exist for donor procurement services;

7. Current full membership in the United Network for Organ Sharing, for the facilities where solid organ transplants are performed;

8. Membership in a recognized bone marrow accrediting or registry program for bone marrow transplantation programs;

9. The transplant facility or center can demonstrate satisfactory transplantation outcomes for the procedure being considered;

10. Transplant volume at the facility is consistent with maintaining quality services;

11. The transplant center will provide adequate psychosocial and social support services for the transplant recipient and family.

V.A.R. Doc No. R93-726; Filed July 19, 1993, 3:47 p.m.

STATE CORPORATION COMMISSION

AT RICHMOND, JULY 2, 1993

COMMONWEALTH OF VIRGINIA

At the relation of the

STATE CORPORATION COMMISSION CASE NO. PUC920029

Ex Parte: In the matter of
evaluating the Experimental Plan for
Alternative Regulation of Virginia
Telephone Companies

ORDER FOR NOTICE AND HEARING

Pursuant to Paragraph 26 of the Commission's Experimental Plan for Alternative Regulation of Virginia Telephone Companies, on June 30, 1992 the companies participating in the Plan filed a report evaluating it. By order of October 27, 1992, we permitted comments by interested parties on the companies' report. A number of comments were received on December 11, 1992, from telecommunications industry participants, consumer representatives and others. The report and many of the comments suggested changes in the Plan.

In the Chesapeake and Potomac Telephone Company's Annual Informational Filing ("AIF") proceeding for 1989 (Case No. PUC900045), C&P has moved to make its 1989 rates permanent. The Commission, by order issued today, has ruled that certain issues raised in comments in that case may be the subject of this proceeding. Those issues constitute suggestions that the current terms of the Plan should be changed, and we will consider them here to determine whether prospective changes should be made in the Plan.

We will direct Staff to prepare an evaluation and analysis of the Plan. The Commission has previously stated that it might be appropriate to revisit the terms of the Plan requiring company earnings to be evaluated against authorized returns on equity between 12% and 14%. We will schedule a hearing on this issue and any others which properly require evidentiary hearing. Accordingly,

IT IS ORDERED:

(1) That Staff shall prepare an evaluation and analysis of the Plan and submit it for the record on or before September 17, 1993;

(2) That any interested party may respond to Staff's analysis on or before October 1, 1993, specifying any issue which is proposed for evidentiary hearing and summarizing the facts which would justify a hearing on that issue;

(3) That any participant may submit prepared testimony on any issues identified for evidentiary hearing on or before October 15, 1993;

(4) That a hearing shall be scheduled to begin in this case on November 3, 1993, at 10:00 a.m. in the Commission's Courtroom, second floor, Tyler Building, 1300 East Main Street, Richmond, Virginia, to consider the evidence developed on the return on equity range and on any other issue identified for hearing in accordance with this order; and

(5) That the Commission's Division of Communications shall forthwith cause a copy of the following notice to be published once in the Virginia Register and as classified advertising in major newspapers having general circulation in the Commonwealth:

NOTICE BY THE STATE CORPORATION COMMISSION OF ITS EVALUATION OF ITS EXPERIMENTAL PLAN FOR ALTERNATIVE REGULATION OF VIRGINIA TELEPHONE COMPANIES CASE NO. PUC920029

On January 1, 1989, the State Corporation Commission adopted its Experimental Plan For Alternative Regulation of Virginia Telephone Companies. Pursuant to paragraph 26 of the Plan, the participating telephone companies have filed a report evaluating the Plan and seeking changes in it. The Commission Staff will prepare an analysis of the Plan.

Staff's analysis will be available on September 17, 1993. Copies of the analysis may be obtained from the Commission's Division of Communications by calling (804) 371-9420. Any interested person may file a written response to Staff's analysis, on or before October 1, 1993, addressed to William J. Bridge, Clerk, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23216 and making reference to Case No. PUC920029.

A hearing has been scheduled, beginning on November 3, 1993, at 10:00 a.m. in the Commission's Courtroom, second floor, Tyler Building, 1300 East Main Street, Richmond, Virginia. Responses to Staff's analysis should identify any issues on which a hearing is requested and summarize the facts which would be proved at a hearing.

STATE CORPORATION COMMISSION

Commissioner Moore took no part in this matter.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to: each of Virginia's local exchange telephone companies as set out in Appendix A attached hereto; Virginia's certificated interexchange carriers as set out in Appendix B attached hereto; Warner F. Brundage, Jr., Esquire, C&P Telephone Company of Virginia, P.O. Box 27241, Richmond, Virginia 23261; Office of Attorney General, Division of Consumer Counsel, 101 North Eighth Street, 6th Floor, Richmond, Virginia 23219; Dellon E. Coker, U.S. Army Legal Service Agency, JALS-RL, 5611

State Corporation Commission

Columbia Park, Falls Church, Virginia 22041; Laura Burley, Cable & Wireless Communications, Inc., 1919 Gallows Road, Vienna, Virginia 22180; James W. Spradlin, III, Manager, and J. Thomas Brown, Vice President, Central Telephone Company of Virginia, P.O. Box 6788, Charlottesville, Virginia 22906; Jean Ann Fox, President, Virginia Citizens Consumer Council, 114 Coachman Drive, Yorktown, Virginia 23602; Ronald B. Mallard, Director, County of Fairfax, 12000 Government Center Parkway, Fairfax, Virginia 22035; Charles R. Smith, HELLO, Inc., 2315 West Broad Street, Richmond, Virginia 23220; Andrew D. Lipman, Esquire, and Russell M. Blau, Esquire, David Systems, Inc., 3000 K Street, N.W., 3rd Floor, Washington, D.C. 20007; Stephen C. Spencer, Contel of Virginia, Inc., 1108 East Main Street, Suite 1108, Richmond, Virginia 23219; Martin Bocock, Jr., Director, United Telephone Company, 1108 East Main Street, Richmond, Virginia 23219; N. L. Farmer, Director, GTE South, P.O. Box 1412, Durham, North Carolina 27702; Richard Gabel, Virginia Citizens Consumer Council, 3401 South Utah Street, Arlington, Virginia 22206; Christopher E. French, President, Shenandoah Telephone Company, P.O. Box 459, Edinburg, Virginia 22824; Raymond L. Eckels, Manager, P.O. Box 76, Amelia, Virginia 23002; Sue B. Moss, President, Burke's Garden Telephone Exchange, P.O. Box 428, Burke's Garden, Virginia 24608; Allen Layman, President, Roanoke & Botetourt Telephone Company, P.O. Box 174, Daleville, Virginia 24083; Joseph E. Hicks, President, Amelia Telephone Corporation, P.O. Box 158, Leesburg, Alabama 35983; M. Dale Tetterton, Jr., Manager, Buggs Island Telephone Cooperative, P.O. Box 129, Bracey, Virginia 23919; James R. Newell, Manager, Citizens Telephone Cooperative, P.O. Box 137, Floyd, Virginia 24091; Thomas R. Parker, Esquire, GTE South, P.O. Box 110, Mail Code 7, Tampa, Florida 33601-0110; Elmer E. Halterman, Manager, Highland Telephone Cooperative, P.O. Box 340, Monterey, Virginia 24465; W. Richard Fleming, Manager, North River Telephone Cooperative, P.O. Box 8, Dayton, Virginia 22821; E. B. Fitzgerald, Jr., President, Peoples Mutual Telephone Company, P.O. Box 367, Gretna, Virginia 24557; William K. Smith, President, United Telephone Company, P.O. Box 699, Bristol, Tennessee 37620; L. Ronald Smith, President, Mountain Grove-Williamsville Telephone Company, P.O. Box 105, Williamsville, Virginia 24487; K. L. Chapman, Jr., President, New Hope Telephone Company, P.O. Box 38, New Hope, Virginia 24469; Stanley G. Cumbee, General Manager, Pembroke Telephone Cooperative, P.O. Box 549, Pembroke, Virginia 24136-0549; James W. McConnell, Manager, Scott County Telephone Cooperative, P.O. Box 487, Gate City, Virginia 24251; Dennis H. O'Hearn, President, Virginia Telephone Company, P.O. Box 699, Hot Springs, Virginia 24445; Jerome D. Scheer, President, Middle Atlantic Payphone Association, 10780-G Hanna Street, Beltsville, Maryland 20705; Gerald T. Kowasic, P.O. Box 642, Locust Grove, Virginia 22508; the Commission's Office of General Counsel; and the Commission's Divisions of Communications, Public Utility Accounting, and Economics and Finance.

APPENDIX A

TELEPHONE COMPANIES IN VIRGINIA

Amelia Telephone Corporation
Mr. Bruce H. Mottern, Director
State Regulatory Affairs
P.O. Box 22995
Knoxville, Tennessee 37933-0995

Amelia Telephone Corporation
Mr. Raymond L. Eckels, Manager
P. O. Box 76
Amelia, Virginia 23002

Buggs Island Telephone Cooperative
Mr. M. Dale Tetterton, Jr., Manager
P. O. Box 129
Bracey, Virginia 23919

Burke's Garden Telephone Exchange
Ms. Sue B. Moss, President
P. O. Box 428
Burke's Garden, Virginia 24608

Central Telephone Company of Virginia
Mr. Gregory L. Wells
Acting President - VA/NC
P. O. Box 6788
Charlottesville, Virginia 22906

Chesapeake & Potomac Telephone Company
Mr. Hugh R. Stallard, President
and Chief Executive Officer
600 East Main Street
P.O. Box 27241
Richmond, Virginia 23261

Citizens Telephone Cooperative
Mr. James R. Newell, Manager
Oxford Street
P. O. Box 137
Floyd, Virginia 24091

Clifton Forge-Waynesboro Telephone Company
Mr. James S. Quarforth, President
P. O. Box 1990
Waynesboro, Virginia 22980-1990

Contel of Virginia, Inc.
Mr. Edward J. Weise, President
9380 Walnut Grove Road
P. O. Box 900
Mechanicsville, Virginia 23111-0900

GTE South
Mr. J. M. Swatts
State Manager - External Affairs
300 Bland Street
Bluefield, West Virginia 24701

GTE South
Mr. Thomas R. Parker

State Corporation Commission

Associate General Counsel
Law Department
P.O. Box 110 - Mail Code: 7
Tampa, Florida 33601-0110

Highland Telephone Cooperative
Mr. Elmer E. Halterman, General Manager
P.O. Box 340
Monterey, Virginia 24465

Mountain Grove-Williamsville
Telephone Company
Mr. L. Ronald Smith
President/General Manager
P. O. Box 105
Williamsville, Virginia 24487

New Castle Telephone Company
Mr. Bruce H. Mottern, Director
State Regulatory Affairs
P.O. Box 22995
Knoxville, Tennessee 37933-0995

New Hope Telephone Company
Mr. K. L. Chapman, Jr., President
P. O. Box 38
New Hope, Virginia 24469

North River Telephone Cooperative
Mr. W. Richard Fleming, Manager
P. O. Box 236, Route 257
Mt. Crawford, Virginia 22841-0236

Pembroke Telephone Cooperative
Mr. Stanley G. Cumbee, General Manager
P. O. Box 549
Pembroke, Virginia 24136-0549

Peoples Mutual Telephone Company, Inc.
Mr. E. B. Fitzgerald, Jr.
President & General Manager
P. O. Box 367
Gretna, Virginia 24557

Roanoke & Botetourt Telephone Company
Mr. Allen Layman, President
Daleville, Virginia 24083

Scott County Telephone Cooperative
Mr. James W. McConnell, Manager
P. O. Box 487
Gate City, Virginia 24251

Shenandoah Telephone Company
Mr. Christopher E. French
President
P. O. Box 459
Edinburg, Virginia 22824

United Telephone-Southeast, Inc.
Mr. William K. Smith, President

112 Sixth Street, P. O. Box 699
Bristol, Tennessee 37620

Virginia Telephone Company
Mr. Bruce H. Mottern, Director
State Regulatory Affairs
P.O. Box 22995
Knoxville, Tennessee 37933-0995

APPENDIX B

INTER-EXCHANGE CARRIERS

AT&T Communications of Virginia
Mr. Terry Michael Banks, Vice President
Three Flint Hill
3201 Jermantown Road, Room 3B
Fairfax, Virginia 22030-2885

CF-W Network Inc.
Mr. James S. Quarforth, President
P. O. Box 1990
Waynesboro, Virginia 22980-1990

Central Telephone Company of Virginia
Mr. James W. Spradlin, III
Government & Industry Relations
P.O. Box 6788
Charlottesville, Virginia 22903

Citizens Telephone Cooperative
Mr. James R. Newell, Manager
Oxford Street
P.O. Box 137
Floyd, Virginia 24091

Metromedia Communications Corporation
Mr. Joseph Kahl, Manager
Regulatory Affairs
One Meadowlands Plaza
East Rutherford, New Jersey 07073

Contel of Virginia, Inc.
Mr. Stephen Spencer
1108 East Main Street, Suite 1108
Richmond, Virginia 23219

Institutional Communications Company - Virginia
Ms. Dee Kindel
8100 Boone Boulevard, Suite 500
Vienna, Virginia 22182

MCI Telecommunications Corp. of Virginia
Robert C. Lopardo
Senior Attorney
1150 17th Street, N.W., 8th Floor
Washington, D.C. 20036

R&B Network, Inc.
Mr. Allen Layman, Executive Vice President
P. O. Box 174

State Corporation Commission

Daleville, Virginia 24083

Scott County Telephone Cooperative
Mr. James W. McConnell, Manager
P.O. Box 487
Gate City, Virginia 24251

Shenandoah Telephone Company
Mr. Christopher E. French
President & General Manager
P. O. Box 459
Edinburg, Virginia 22824

SouthernNet of Va., Inc.
Peter H. Reynolds, Director
780 Douglas Road, Suite 800
Atlanta, Georgia 30342

TDX Systems, Inc.
Mr. Charles A. Tievsky, Manager
Legal and Regulatory Affairs
1919 Gallows Road
Vienna, Virginia 22180

Sprint Communications of Virginia, Inc.
Mr. Kenneth Prohoniak
Staff Director, Regulatory Affairs
1850 "M" Street, N.W. Suite 110
Washington, DC 20036

Wiltel of Virginia
Brad E. Mutschelknaus, Esquire
Wiley, Rein and Fielding
1776 K Street, N.W.
Washington, DC 20006

V.A.R. Doc. No. R93-720; Filed July 8, 1993, 10:52 a.m.

AT RICHMOND, JULY 7, 1993

COMMONWEALTH OF VIRGINIA

At the relation of the

STATE CORPORATION COMMISSION

Ex Parte: In the matter of
adopting rules implementing
the Pay Telephone Registration
Act

CASE NO. PUC930013

PROCEDURAL ORDER

During its 1993 Session, the General Assembly of Virginia enacted Title 56, Chapter 16.3, §§ 56-508.15 and 56-508.16 of the Virginia Code, entitled the Pay Telephone Registration Act ("Pay Telephone Act" or "Act"). This legislation was enacted in response to a growing number of complaints from the public over charges and service from privately owned coin telephones.

Section 56-508.15 of the Pay Telephone Act now requires registration with the State Corporation Commission ("Commission") of all persons engaged in the sale or resale of intrastate telephone service through pay telephone instruments. Section 56-508.16 authorizes the Commission to promulgate regulations necessary to implement the provisions of the Act.

Pursuant to Va. Code § 56-508.16, the Commission docketed the captioned proceeding and directed that public notice be given of the rules for pay telephone registration proposed by the Commission's Division of Communications ("the Staff"). Further, in its May 11, 1993 Order Prescribing Notice, the Commission invited the public to file written comments or requests for hearing on the proposed rules. The Commission subsequently extended the date on which interested persons could file comments to June 25, 1993.

The Commission has received numerous written comments on the Staff's proposed rules. Those comments are comprehensive and will aid us as we consider adoption of rules governing pay telephone registration. In addition to those comments, Capital Network System, Inc., Eastern Telecom Corporation, Atlantic Telco Corporation, and Public Access, Inc. have requested a hearing on the proposed rules so that they may orally present their objections to them. AT&T Communications of Virginia, Inc. and the Virginia Telephone Association have requested leave to be heard if a hearing is convened.

NOW, upon consideration of the proposed rules, the written comments filed herein, and the requests for hearing, the Commission is of the opinion and finds: (1) that, on or before July 28, 1993, the Staff should file with the Clerk of the Commission a report analyzing the comments filed herein and proposing any revisions to the proposed rules where appropriate; (2) that the Staff should mail a copy of its report to those who have filed comments with the Clerk of the Commission in this proceeding; and (3) that, on or before August 20, 1993, interested persons who have filed comments may file further comments which are responsive to the Staff's Report; (4) that a hearing examiner should be assigned to this matter; and (5) that an oral argument should be convened to provide an opportunity for Staff and those filing comments to present their views orally.

Accordingly, IT IS ORDERED:

(1) That, pursuant to Rule 7:1 of the Commission's Rules of Practice and Procedure, a hearing examiner shall be assigned to hear argument and prepare a report in this matter;

(2) That, on or before July 28, 1993, the Staff shall file with the Clerk of the Commission an original and fifteen (15) copies of a report which analyzes the comments received herein and which proposes revisions, where appropriate, to the rules under consideration. On or before July 28, 1993, the Staff shall mail a copy of that report to

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every person filing comments in this proceeding;

(3) That, on or before August 20, 1993, all persons filing comments herein who desire to file further comments in response to the Staff's report shall file an original and (15) fifteen copies of said comments with William J. Bridge, Clerk of the State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23209. These comments shall refer to Case No. PUC930013. Each commentator shall provide a copy of its comments to any other commentator upon receipt of a written request for same;

(4) That, on or before September 7, 1993, an oral argument on the proposed rules shall be convened at 10:00 a.m., before a hearing examiner in the Commission's courtroom, located on the second floor of the Tyler Building, 1300 East Main Street, Richmond, Virginia 23219;

(5) That each person filing comments who intends to participate in the oral argument shall file, on or before August 30, 1993, a written intent to participate in the argument, together with a summary of his intended argument with the Clerk of the Commission at the address specified in ordering paragraph (3) above; and

(6) That this matter is hereby continued.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to: Allen R. Staley, Esquire, Diamonstein & Staley, P.O. Box 12180, Newport News, Virginia 23612-2180; Kathleen Villacorta, Esquire, Wiggins & Villacorta, P.A., P.O. Drawer 1657, Tallahassee, Florida 32302; Brad E. Mutschelknaus, Esquire, Wiley, Rein & Fielding, 1776 K Street, N.W., Washington, D.C. 20006; Richard D. Gary, Esquire, Hunton & Williams, Riverfront Plaza, East Tower, 951 East Byrd Street, Richmond, Virginia 23219-4074; William S. Edwards, President, Public Access, Inc., 5000 Cox Road, Suite 120, Glen Allen, Virginia 23060; Karlyn D. Stanley, Esquire, AT&T Communications of Virginia, Inc., Room 3A2, 3201 Jermantown Road, Fairfax, Virginia 22030-2885; James B. Wright, Vice President - General Counsel and Secretary, United Telephone-Southeast, 112 Sixth Street, Bristol, Tennessee 37620; A. E. Hantwerker, Manager, Office of Investigations, State Division of Consumer Affairs, Department of Agriculture and Consumer Services, P.O. Box 1163, Richmond, Virginia 23209; Lesla Lehtonen, Esquire, Sprint Communications Company of Virginia, 1850 M Street, N.W., Suite 1110, Washington, D.C. 20036; Stephen D. Sinclair, Utilities Analyst, Department of Consumer Affairs, Fairfax County, 12000 Government Center Parkway, Suite 433, 4th Floor, Fairfax, Virginia 22035-0045; Joe W. Foster, Esquire, P.O. Box 110, MC 7, Tampa, Florida 33601; Warner F. Brundage, Jr., Vice President, General Counsel and Secretary, The Chesapeake and Potomac Telephone Company of Virginia, P.O. Box 27241, Richmond, Virginia 23261; Kenneth F. Melley, Jr., Director of Regulatory Affairs, U.S. Long Distance, Inc., 9311 San Pedro, Suite 300, San Antonio, Texas 78216; Tim Linger, Triple T Supply Company, P.O. Box 2261, Winchester, Virginia

22604; Thomas J. Christoffel, 607 Midland Avenue, Front Royal, Virginia 22630; Pamela Barefoot, President, Blue Crab Bay Company, P.O. Box 180, 108 Market Street, Onancock, Virginia 23417; Paul and Geneva Irby, Route 1, Box 203, Gladys, Virginia 24554; Darlene Isom, Box 223, Martinsville, Virginia 24112; Bettie M. Cooper, 7339 Barberry Lane, North Short Point, Norfolk, Virginia 23505-3001; Jon Neviasher, 905 Olympian Circle, S.W., Vienna, Virginia 22180-6447; Bettie Jo Scarpa, 833 Lipton Drive, Newport News, Virginia 23602; James Scheiman, 338 Ambler Court, Hampton, Virginia 23669-1719; Patricia Hailey, HCR Box 37, Red House, Virginia 23963; Charles R. Lingafelt, Plant Superintendent, Peoples Mutual Telephone Company, Inc., P.O. Box 367, Gretna, Virginia 24557; and the Commission's Office of General Counsel and Divisions of Communications, Public Utility Accounting, and Economics and Finance.

V.A.R. Doc. No. R93-721; Filed July 12, 1993, 9:54 a.m.

AT RICHMOND, JULY 1, 1993

COMMONWEALTH OF VIRGINIA

At the relation of the

STATE CORPORATION COMMISSION

Ex Parte, in re: Investigation CASE NO. PUE920067
into the promulgation of standards and
regulations for energy allocation
equipment

FINAL ORDER

On September 28, 1992, the State Corporation Commission entered an Order directing its Staff to conduct a general investigation into the standards and regulations for energy allocation equipment, pursuant to the directive of Code of Virginia § 56-245.3. The Staff's Report was filed on December 11, 1992.

Thereafter, on January 7, 1993, the Commission, by Order, directed the Staff to publish notice of the contents of its report, which proposed certain amendments and additions to the Commission's Rules for Submetering Electricity and Natural Gas, and established a period for the receipt of public comment and requests for hearing on the proposed rules amendments.

The Commission received comments from three parties - The National Utilities Allocation Association, the Apartment and Office Building Association of Metropolitan Washington, and the American Federation of State, County, and Municipal Employees - suggesting minor revisions to the rules proposed by the Commission Staff. No party asked for public hearing. As noted with particularity below, the Commission has decided to adopt a limited number of revisions, certain of which were proposed by the parties.

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In Section I, DEFINITIONS, Subsection 22, the definition of "Owner" has been expanded to include owners, operators, or managers of buildings in which energy allocation equipment is utilized.

In Section IX, BILLING, Subsection 1., the Commission will permit bills to be calculated and rendered no later than fifteen (15) days after receipt of the utility's bill, rather than the ten (10) day limitation proposed by the Staff.

Section IX, BILLING, Subsection 6.e., will be modified to read, in its entirety, "The name or address, or both, of the tenant to whom the bill is applicable."

Finally, Section IX, BILLING, Subsection 4, will be modified to read, in its entirety, "The owner shall render bills to the tenant in the same energy unit(s) as billed the owner by the utility."

In Section X, BILLING RECORDS, Subsection 1., records associated with the computation of charges to tenants must be maintained "for a minimum period of three (3) years," instead of the proposed period of five (5) years. Correspondingly, in Subsection 2. of that Section, owners shall maintain and make available for tenants' inspection those records designated in subparts a. - c., for "the current month and the thirty-six (36) preceding months," instead of the twenty-four (24) month period originally proposed.

Section XII, COMMISSION AUTHORITY, Subsection 1., is amended to place the burden of proof on any movant "to demonstrate, by clear and convincing evidence," rather than by clear and compelling evidence, why any requested exemption should be granted. Finally, Subsection 2., of that Section, is amended to read, in its entirety, as follows:

2. Nothing in the provisions of these rules shall preclude the Commission from investigating, formally or informally, a submetering or energy allocation activity. If the activity is found to be adverse to the public interest, the Commission may, by order, require the modification or elimination of the activity.

The Commission will also at this time correct certain typographical errors in the promulgation of the proposed rules. First, in Section I, DEFINITIONS, Subsection 5, the word "and" shall be corrected to read "an." In Section IX, BILLING, Subsection 8, Subpart "d." shall be corrected to read "c." Finally, in that same Section, Subsection 9, subpart c. is corrected to read, in its entirety, as follows:

c. The utility adjusts the owner's bill.

d. Or as detailed in Section IV - Submetering.

This last correction returns the original meaning to two subparts inadvertently garbled together in an earlier promulgation of these rules. In all other respects, the "Rules for Electricity and Natural Gas Submetering and

for Energy Allocation Equipment," as proposed by the Staff of the State Corporation Commission on December 11, 1992, are reasonable and appropriate.

Accordingly, IT IS ORDERED:

(1) That the rules appended hereto as Attachment I are hereby adopted;

(2) That the adopted rules, appended hereto as Attachment I, be published in the Virginia Register in accordance with Virginia Code § 9-6.18; and

(3) That there being nothing further to come before the Commission in this proceeding, this case shall be removed from the docket and the matter placed in the file for ended causes.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to: Edward L. Petrini, Esquire, Division of Consumer Counsel, Office of the Attorney General, 101 North 8th Street, 6th Floor, Richmond, Virginia 23219; Robert Freischlag, President, National Utilities Allocation Association, 4520 South 36th Street, Omaha, Nebraska 68107-1329; Martha Hewitt, Center for Energy and Urban Development, 510 First Avenue North, Suite 400, Minneapolis, Minnesota 55403; and the Commission's Division of Energy Regulation.

ATTACHMENT I

VIRGINIA STATE CORPORATION COMMISSION

RULES FOR ELECTRICITY AND NATURAL GAS SUBMETERING AND FOR ENERGY ALLOCATION EQUIPMENT

EFFECTIVE: JULY 1, 1993

TERMS AND CONDITIONS

I. DEFINITIONS

Certain words as used in these rules shall be understood to have the following meaning:

1. *Apartment House* - means a building or buildings with the primary purpose of residential occupancy containing more than two dwelling units all of which are rented primarily for nontransient use, with rental paid at intervals of one week or longer. Apartment house includes residential condominiums and cooperatives whether rented or owner occupied.

2. *Building* - means all of the individual units served through the same utility-owned meter within an apartment house, office building, or shopping center as defined in this section.

3. *Commission* - means the State Corporation Commission of Virginia.

4. *Dwelling Unit* - means a room or rooms suitable for occupancy as a residence containing kitchen and bathroom facilities.

5. *Energy allocation equipment* - means any device, other than submetering equipment, used to determine approximate electric or natural gas usage for any dwelling unit or nonresidential rental unit within an apartment house, office building, or shopping center.

6. *Energy Unit* - means the billing units for energy delivered to the master metered customer. For electricity, the units are generally kilowatt hours (Kwh). For natural gas, the units are generally therms, but may be dekatherms (Dth), cubic feet (cf), hundreds of cubic feet (Ccf), or thousands of cubic feet (Mcf).

7. *Master Meter* - means a meter used to measure for billing purposes, all electric or natural gas usage of an apartment house, office building, or shopping center including common areas, common facilities, and dwelling or rental units therein.

8. *Month or Monthly* - means the period between two consecutive meter readings, either actual or estimated, at approximately thirty (30) day intervals.

9. *Nonresidential rental unit* - means a room or rooms in which retail or commercial services, clerical work, or professional duties are carried out.

10. *Office Building* - means a building or buildings containing more than two rental units which are rented primarily for retail, commercial, or professional use, with rental paid at intervals of one month or longer.

11. *Owner* - means any owner, operator, or manager of an apartment house, office building, or shopping center engaged in electrical or natural gas submetering or the use of energy allocation equipment.

12. *Owner-paid areas* - means those areas for which the owner bears financial responsibility for energy costs which include but are not limited to areas outside individual residential or nonresidential units or in owner-occupied or -shared areas such as maintenance shops, vacant units, meeting units, meeting rooms, offices, swimming pools, laundry rooms, or model apartments.

13. *Shopping Center* - means a building or buildings containing more than two stores which are rented primarily for commercial, retail, or professional use.

14. *Submeter* - means electric energy or natural gas measurement device used in submetering.

15. *Submetering* - means dwelling or rental unit

electrical or natural gas direct remetering performed by the owner to measure the tenant's electrical or natural gas usage and to render a bill for such usage.

16. *Submetering Equipment* - means equipment used to measure actual electricity or natural gas usage in any dwelling unit or nonresidential rental unit when such equipment is not owned or controlled by the electric or natural gas utility serving the apartment house, office building, or shopping center in which the dwelling unit or nonresidential rental unit is located.

17. *Tenant* - means the occupant or occupants of a submetered dwelling or rental unit.

18. *Utility* - means the supplier of electric service or natural gas service to a master meter.

II. GENERAL REQUIREMENTS

1. Submetering or energy allocation equipment may not be used in any dwelling unit unless all dwelling units in the apartment house utilize such equipment to the extent permitted by the physical facilities.

2. Any individual nonresidential rental unit or store may utilize submetering or energy allocation equipment, provided the rental agreement or lease between the owner and the tenant clearly states that the nonresidential rental unit or store is or will be using submetering or energy allocation equipment.

3. All rental agreements and leases between the owner and the tenants shall clearly state that the dwelling unit or non-residential rental unit utilizes submetering or energy allocation equipment, that the basis of bills for electric or natural gas consumption will be rendered based on readings of such equipment, and that any disputes relating to the amount of the tenant's bill and the accuracy of the equipment will be between the tenant and the owner. The provisions of the Virginia Residential Landlord and Tenant Act will govern the landlord-tenant relationship concerning the use of submetering or energy allocation equipment on all related issues other than those covered by these rules.

4. Each owner shall be responsible for providing, installing, sealing (if necessary), and maintaining all submetering or energy allocation equipment necessary for the measurement or allocation of the costs for electrical energy or natural gas consumed by tenants.

5. Any electric submeter installed will be of a type and class to register properly the electrical consumption of the dwelling unit or nonresidential rental unit, and such meter will meet the standards of the latest edition of the American National Standards Institute, Inc., Standard C12 - Code for Electricity Metering (ANSI C12).

6. Any natural gas submeter installed will be of a type and class to register properly the natural gas consumption of the dwelling or nonresidential rental unit, and such

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meter will meet the standards of the latest edition of the American National Standard Institute Standards ANSI/ASC B109.1 and B109.2 for Diaphragm Type Gas Displacement Meters and ANSI/ASC B109.3 for Rotary Type Gas Displacement Meters (hereafter, ANSI B109).

7. Any energy allocation equipment installed will be of a type and class appropriate to the heating, ventilation, and air conditioning (HVAC) system of the apartment house, office building, or shopping center, and used in accordance with the manufacturer's installation specifications and procedures for such energy allocation equipment.

8. Any owner installing submetering or energy allocation equipment shall notify the Commission and the utility providing electric or natural gas service to the apartment house, office building, or shopping center in writing within 90 days of completion of such installation that the equipment has been installed and shall give the name of the apartment house, office building, or shopping center, number of dwelling units or nonresidential rental units in the project, location, mailing address of the owner, the approximate date of installation of the equipment, and the type(s), manufacturer(s), and model number(s) of such equipment.

9. No building or buildings which qualify as an apartment house, office building, or shopping center shall be excluded from these rules because the apartment house, office building, or shopping center contains a mixture of dwelling units and nonresidential rental units.

III. APPLICATION FOR ELECTRICITY OR NATURAL GAS

No owner shall utilize submetering or energy allocation equipment without first securing from a tenant, before any electricity or natural gas is delivered, an application or agreement, which may be part of the tenant's lease agreement, for the purchase of electricity or natural gas. Whether or not a written application or agreement is executed, the tenant, by accepting the electricity or natural gas, agrees to be bound by the applicable terms and conditions prescribed by the Commission for submetering or energy allocation equipment. Likewise, the owner, upon establishing a submetering or energy allocation practice, agrees to supply any and all tenants with electricity or natural gas and shall be bound by such terms and conditions in acting upon applications for electric service or natural gas service.

IV. SUBMETERING

1. When submeters are installed by the owners to measure the electricity or natural gas used by its tenants, all charges for electricity or natural gas used, except the allowed service charge, shall be calculated from the readings of such submeters.

2. Submeters in service may be tested by the owner, the Commission, or any other lawfully constituted authority having jurisdiction. When, as a result of such a test, a

submeter is found to be no more than 2% fast or slow, no adjustment will be made to the tenant's bill. If the submeter is found to be more than 2% fast or slow because of incorrect calibration, the owner will rebill the tenant for the correct amount as calculated for a period equal to one-half of the time elapsed since the last previous test, but in no case for a period in excess of twelve months or since occupancy by the existing tenant, whichever is less. The percentage registration of an electric submeter will be calculated by the "weighted average" of light load and full load which is calculated by giving a value of 1 to the light load and a value of 4 to the full load. The accuracy of a natural gas submeter will be measured at the check rate of flow, as defined in ANSI B109.

3. Whenever it is found that unmetered electricity or natural gas is being used as a result of tampering, the tenant will pay to the owner an amount estimated by the owner to be sufficient to cover the electricity or natural gas used but not recorded by the meter and not previously paid for by the tenant.

4. Whenever it is found that, for any reason other than calibration or tampering, the submetering apparatus has not registered the true amount of electricity or natural gas which has been used by the tenant, the electricity or natural gas used during the entire period of incorrect registration will be estimated based upon all known pertinent facts, and the amount of electricity or natural gas so estimated will be used in calculating the corrected bill. The owner will rebill the tenant for the adjusted amount for a period equal to one-half of the time elapsed since the last previous test of the submetering apparatus, but in no case for a period in excess of twelve months or since occupancy by the existing tenant, whichever is less.

V. ENERGY ALLOCATION

1. Energy allocation equipment may be used solely to allocate the cost of electric or natural gas service among tenants using the apartment house, office building, or shopping center.

2. Energy allocation systems should provide a reasonable determination of energy use and resulting costs for each dwelling unit or nonresidential rental unit. The energy allocation system should be appropriate for the HVAC system application. Components should be properly installed to assure correct measurements of allocation parameters. There should be proper calculation procedures in converting from measurement to allocation.

3. Energy allocation equipment in service may be tested by the owner, the Commission, or any other lawfully constituted authority having jurisdiction. Testable components of the energy allocation system should be accurate, consistent with manufacturer's specifications. The Commission may require that energy allocation equipment meet other independent, authoritative technical standards or operational guidelines, such as standards developed

under the auspices of the American Society of Heating, Refrigerating, and Air-Conditioning Engineers (ASHRAE).

VI. TESTING CAPABILITY AND METERING EQUIPMENT

Each owner shall engage a qualified expert or factory representative to perform the equipment tests required by these terms and conditions; such tests being performed with instruments, portable standards, reference manuals, and other equipment and facilities all of which shall comply with standards of ANSI C12 or ANSI B109 for submetering equipment, and with manufacturer's recommended practices for energy allocation equipment. All such practices shall be available at all reasonable times for inspection by the Commission's representatives.

VII. PERIODIC TESTS AND CHECKS

1. Each owner shall have a testing program the primary purpose of which is to maintain an acceptable degree of accuracy during the service life of the equipment. All submetering equipment shall be tested in accordance with the provisions of the latest edition of ANSI C12 or ANSI B109. All energy allocation equipment shall be tested in accordance with manufacturers' suggested testing procedures and practices for such equipment.

2. No submeter shall be placed in service until its percentage registration has been established. This may be accomplished either through the engagement of a qualified expert or by a certificate provided by the manufacturer. All submeters shall be adjusted as close as possible to the condition of 100% registration. No electric submeter that exceeds the test calibration limits for watt-hour meters as set forth by the latest edition of ANSI C12 shall be placed in service or left in service. No natural gas submeter that exceeds the test calibration limits for meters as set forth by the latest edition of ANSI B109 shall be placed in service or left in service.

3. Whenever a submeter is found to exceed these limits, it shall be adjusted.

4. Energy allocation equipment shall be adjusted to the manufacturer's specifications before being placed in service.

5. If any submetering or energy allocation equipment is removed from service or replaced by other equipment for any purpose whatsoever, it shall be properly tested and adjusted before being placed in service again.

6. The owner shall keep and maintain the following records:

a. A record of all submetering or energy allocation equipment, showing the equipment number and location (the tenant's address where installed or if in reserve) in the apartment house, office building, or shopping center.

b. The record of each test made shall show the identifying number of the equipment, the standard number and other necessary devices used, the date and kind of test made, by whom, the percentage registration at each load tested for submetering equipment, the accuracy level of the parameter measured by the energy allocation equipment, and sufficient data to permit verification of the calculations.

c. A record of all the portable standards and reference standards used to test equipment. Test equipment shall at all times be accompanied by a certified calibration card signed by the proper authority, giving the date when it was last certified and adjusted. Records of certifications and calibrations of all standards shall be kept on file in the office of the owner.

7. The aforementioned records for each dwelling or nonresidential rental unit shall be made available, upon request, to the tenant of that unit during reasonable business hours at the resident manager's office or, if there is no resident manager, at the dwelling or nonresidential rental unit of the tenant at the convenience of the owner and tenant. The owner of the building may impose and collect a reasonable charge for copying documents, reflecting the actual costs of materials and labor for copying, prior to providing copies of the records to the tenant.

8. All records shall be made available to the Commission upon request.

VIII. REQUEST TESTS

1. Upon request by a tenant, the owner will test the submetering or energy allocation equipment without charge to the tenant, provided that such test will not be made more frequently than once in 24 months for the same tenant. If testing of submetering or energy allocation equipment is requested by the tenant more frequently than once in 24 months, the owner may require a deposit. The amount of the deposit shall not exceed the out-of-pocket expenses associated with such a test. Said deposit will be refundable only if the percentage registration or accuracy of the equipment exceeds the limits established in Sections IV and V above.

2. The tenant, or his designated representative, may be present when the equipment is tested.

3. A written report of the results of the test will be made to the tenant within ten (10) working days after the completion of the test.

IX. BILLING

1. Bills shall be rendered for the same billing period as that of the utility, generally monthly, unless service is rendered for more or less than that period. Bills shall be

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calculated and rendered as promptly as possible following receipt by the owner of the bill from the utility, but no later than fifteen (15) days after receipt of the utility's bill. The submetering or energy allocation equipment shall be read within three (3) business days of the scheduled reading date of the utility's master meter.

2. For submetering, the unit of measurement shall be the energy unit as defined in Section I, subparagraph 6. For energy allocation equipment, the units of measurement shall be those characteristics monitored by the allocation equipment.

3. The energy billed to any tenant shall be only the energy consumed within that dwelling or nonresidential rental unit and so measured or monitored by the equipment. The cost of energy used in owner-paid areas may only be recovered by the owner as provided in this Section, subparagraph 10, and may not be billed to any tenant as part of the billings rendered pursuant to these Rules and may not be measured through the dwelling or nonresidential rental unit submetering or energy allocation equipment. Where tenant lease agreements have made such provision, energy costs for usage consumed within the dwelling unit or nonresidential rental unit, that are not allocated by energy allocation equipment, may be allocated by the owner among the various tenants in the same proportions as the leased space square footage. These costs shall be listed separately from energy billings based on energy allocation equipment, and appropriately marked on the monthly tenant bills.

4. The owner shall render bills to the tenant in the same energy unit(s) as billed the owner by the utility.

5. The tenant's bills shall be calculated in the following manner:

After receipt of the electric or natural gas bill from the utility, by the owner, said owner shall divide the "total current charges" by the total number of energy units billed by the utility to determine the average cost in cents per energy unit. The average energy unit cost shall be multiplied by each tenant's energy unit consumption to obtain the tenant's monthly charges.

For the purposes of computing the average cost per energy unit, the "total current charges" shall include/exclude the following, as applicable:

Include:

- a. Customer, demand, commodity, and energy charges.
- b. Fuel adjustment charge.
- c. Purchased gas adjustment.
- d. Local taxes.
- e. Surcharges; i.e. interim rate relief, unrecovered

deferred fuel, temporary energy surcharge.

f. Facilities charge.

Exclude:

- a. Miscellaneous charges, e.g. charges by the utility for late payments.
- b. Outdoor and security lighting charges.
- c. Merchandise charges.

The owner may impose a service charge in accordance with Section 56-245.3 of the Code of Virginia per dwelling or non-residential rental unit per month to offset the administrative cost of billing.

6. The tenant's bill shall show all of the following information:

- a. The dates and readings of the submetering or energy allocation equipment at the beginning and at the end of the period for which the bill is rendered and the billing date.
- b. The number of energy units consumed during the current billing period.
- c. The average cost in cents per energy unit used in computing the bill.
- d. The amount due for electricity or natural gas consumed, within the dwelling unit or nonresidential rental unit, the administrative service charge, if any, the balance forward, and the total amount due.
- e. The name or address, or both, of the tenant to whom the bill is applicable.
- f. The name of the firm rendering the tenant's bill and the name or title, address, and telephone number of the person(s) where payment can be made and, also, who to contact in the case of any questions or disputes concerning the bill.
- g. A precise statement that the bill is not from the utility providing service to the apartment house, office building, or shopping center.

7. Bills will be mailed or delivered to the tenant's premises within three (3) business days after the billing date.

8. Estimated bills shall not be rendered unless the meter or energy allocation equipment has been tampered with, is out of order, or access cannot be attained, and in such case, the bill shall be distinctly marked "estimated". Such estimates shall be based upon one of the following:

- a. on consumption for a similar billing period where

the information of previous consumption is available;
or

b. in the event that a tenant has not lived on the premises for one year and, therefore, consumption for a similar billing period is not available, the preceding billing period shall be used; or,

c. if available, the average of the preceding two billing periods shall be used as a basis for estimates.

9. Adjustment to the tenant's bills shall be made under any of the following conditions:

a. Any billing errors due to incorrect readings or improper billing calculations discovered by the owner on his own initiative or discovered as a result of an investigation because of a question or a dispute by a tenant.

b. It is determined that a cross-metering situation exists. The tenants involved will be rendered corrected bills to cover such period of time as the statute of limitations allows. If a tenant has been underbilled, he shall be allowed to make payment of the amount underbilled in equal monthly installments for as many months as the corrected bill covers, but for not more than ten months, the entire amount underbilled being due upon termination of tenancy. If a tenant has been overbilled and is due a credit, if he wishes a cash refund, it shall be made, otherwise such credit shall be posted to the tenant's account.

c. The utility adjusts the owner's bill.

d. Or as detailed in Section IV - Submetering.

10. Nothing contained in these rules shall prohibit the owner from recovery in periodic lease payments the tenant's fair share of electricity or natural gas cost attributable to owner-paid areas and costs incurred in establishing and maintaining the submetering system or energy allocation equipment.

X. BILLING RECORDS

1. All records associated with the computation of charges rendered to tenants for electric service or natural gas service shall be retained for a minimum period of three (3) years.

2. The owner shall maintain and make available for inspection by the tenant, upon request, the following records:

a. The billing from the utility to the owner for the current month and the thirty-six (36) preceding months.

b. The calculation of the average cost per energy unit for the current month and the thirty-six (36)

preceding months.

c. The tenant's submeter or energy allocation readings and billings for the current month and the thirty-six (36) preceding months or for the term of tenancy, whichever is less.

XI. INITIAL AND FINAL BILLS

1. Initial and final bills shall be rendered for the number of energy units actually consumed in the initial and final billing periods.

2. On the date possession is taken by a tenant of a dwelling or nonresidential rental unit, an initial reading will be taken from the submetering or energy allocation equipment serving such dwelling or nonresidential rental unit to commence service to that tenant. The initial reading will be subtracted from the next reading of the equipment taken on the regularly scheduled monthly reading dates on which other submetering or energy allocation equipment in the building is read, to determine the consumption during the initial billing period. The energy units consumed as determined in the above manner will be multiplied times the average energy unit cost which is determined for the computation of bills for all other tenants for the period ending with the regularly scheduled reading date of that month.

3. On the date a tenant gives up possession of a dwelling or nonresidential rental unit, a final reading will be taken from the submeter equipment serving such unit to terminate service to the tenant. The reading of the equipment taken on the last previous regularly scheduled monthly reading dates on which other submetering or energy allocation equipment in the building was last read will be subtracted from the final reading to determine the consumption during the final billing period. The energy units consumed or determined in the above manner will be multiplied times the average energy unit cost which is determined for the computation of bills for all other tenants for the regularly scheduled monthly reading date after the final reading. If the owner and tenant so agree in writing, the owner may use the average energy unit cost from the previous month when determining the amount due for the last month of tenancy.

XII. COMMISSION AUTHORITY

1. Upon a finding that the public interest so requires, the Commission may, upon motion, grant exemptions from any of the foregoing provisions. The burden of proof shall be upon the movant to demonstrate, by clear and convincing evidence, that such exemption is in the public interest.

2. Nothing in the provisions of these rules shall preclude the Commission from investigating, formally or informally, a submetering or energy allocation activity. If the activity is found to be adverse to the public interest, the Commission may, by order, require the modification or

State Corporation Commission

elimination of the activity.

V.A.R. Doc. No. R93-719; Filed July 8, 1993, 10:51 a.m.

ADMINISTRATIVE RULING 1606 BUREAU OF FINANCIAL INSTITUTIONS

CHARGING "ASSIGNMENT FEES" TO BORROWERS

Virginia Code § 6.1-330.70, subsection A, provides in relevant part that a lender may require a borrower to pay "...the reasonable and necessary charges in connection with making..." certain real estate-secured loans, notably first mortgage loans. (Emphasis added.) Such charges may include specifically the cost of title examination, title insurance, recording and filing fees, taxes, insurance, appraisals, credit reports, surveys, drawing of papers and closing the loan.

An "assignment fee", i.e., a fee charged a borrower by a lender to cover the cost of recording an assignment of a note and deed of trust to a purchaser of the loan, is not a charge incurred "in connection with making" the loan. Such fees are not incident to the relationship between lender and borrower, but rather arise out of the subsequent transfer of a loan from the lender to a third-party purchaser. It is concluded, accordingly, that such fees may not lawfully be charged, whether or not borrowers agree to pay them.

The charging of such an assignment fee, however denominated, will be cited as a violation of law during examinations of licensees under the Mortgage Lender and Broker Act. Violations of this law may be grounds for license revocation under Va. Code § 6.1-425, and may also be referred to the Attorney General, pursuant to Code § 6.1-430.

Issued by the Commissioner of Financial Institutions July 2, 1993. This ruling confirms a position taken in a memorandum to licensees from Assistant Commissioner E. J. Face, Jr., dated January 11, 1993, which is the effective date of the ruling.

Statute interpreted: Va. Code § 6.1-330.70

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 ENVIRONMENTAL QUALITY

† Notice to the Public

In compliance with federal regulations, the Department of Environmental Quality is submitting additions and updates of the following state laws and agency regulations to the Federal Office of Ocean and Coastal Resource Management (OCRM), National Oceanic and Atmospheric Administration, for its review and inclusion into the Virginia Coastal Resources Management Program.

1. Amendments to Virginia Code Title 28.2, Fisheries and Habitat of the Tidal Waters, addressing the Chapter 811 Acts of the 1990 Assembly.

Effective July 1, 1990, these amendments concerning the regulation of subaqueous lands, tidal wetlands and coastal primary sand dunes authorize the Circuit Court to impose civil penalties and the commission or local wetlands board to issue restoration orders and assess civil charges for violations of the applicable statutes.

2. Amendment to Virginia Code 62.1-444.15:5 regarding the statutory provision for the Virginia Water Protection Permit and its regulation VR 680-15-02.

Since the Water Protection Permit Regulation became effective May, 1992, this provision has been used to regulate certain federally-permitted activities which require state certification under § 401 of the Clean Water Act.

OCRM will review these changes to determine whether they constitute amendments to the Virginia Coastal Resources Management Program for purposes of ensuring federal consistency with that program.

In 1972, the United States Congress passed the Coastal Zone Management Act (CZMA). The Act's passage demonstrated the national interest in the effective management, protection, development, and beneficial use of the nation's coastal resources. One policy CZMA was to

encourage the states to adopt their own management programs in order to meet the goals of the Act. Consequently, the states were provided federal assistance to develop and administer their programs. The Commonwealth of Virginia, through the Council on the Environment, developed a coastal management program, which received federal approval in 1986.

Since the program's inception, Virginia has accepted federal assistance through grants awarded by the National Oceanic and Atmospheric Administration. To be eligible to receive those grants, states must abide by federal regulations.

One condition, found in 15 CFR 923.80-923.84, requires states to submit any amendments to their programs to OCRM so that it may determine if the program, after the change, is still approvable. Federal rules define amendments as "Substantial changes in, or substantial changes to enforceable policies or authorities related to: boundaries, uses subject to the management program; criteria or procedures for designating or managing areas for preservation or restoration; consideration of the national interest involved in the planning for and in the siting of facilities which are not necessary to meet requirements which are other than local in nature." (15 CFR 923.80(c)).

A state is not required to go through the amendment process if a change is a routine program implementation (RPI). An RPI is defined as "Further detailing of a state's program that is a result of implementing provisions approved as part of a state's approved management program that does not result in the type of action described in 15 CFR 923.80(c)" (above).

Based on the federal criteria, the Commonwealth of Virginia has determined that none of the changes listed in this notice constitutes an amendment to the Virginia Coastal Resources Management Program. All of the changes were made following extensive public notice and hearings and official enactment or formal adoption proceedings.

These changes will be submitted to OCRM in summary form, copies of which can be obtained from Jeannie Lewis Smith of the Office of Public and Intergovernmental Affairs, the Department of Environmental Quality, 202 North 9th Street, Suite 900, Richmond, Virginia 23219, or by calling (804) 786-4500.

The submittal date to OCRM will be August 9, 1993. The office has 30 days from that date for its review. Any comments on whether the change is a routine program

General Notices/Errata

implementation may be submitted to OCRM by August 30, 1993, at the following address:

Mr. Joshua Lott
NOAA/NOS
Coastal Programs Division
1305 East-West Highway
Silver Spring, MD 20910

VIRGINIA CODE COMMISSION NOTICE TO STATE AGENCIES

Mailing Address: Our mailing address is: Virginia Code Commission, 910 Capitol Street, General Assembly Building, 2nd Floor, Richmond, VA 23219. You may FAX in your notice; however, we ask that you 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.

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 AGRICULTURE AND CONSUMER SERVICES

Pesticide Control Board

Title of Regulation: VR 115-04-21. Public Participation Guidelines.

Publication: 9:21 VA.R. 3735-3738 July 12, 1993.

Correction to Emergency Regulation:

Page 3735, second column, in the paragraph beginning "According to House Document," line 1, "52" should read "51"

Page 3736, § 1, "Definitions," the defined term "Advisory" should read "Advisor"

Page 3737, § 5 C, line 2, "board's discretion" should read "board's direction"

STATE WATER CONTROL BOARD

Title of Regulation: VR 680-01-01. Fees for Permits and Certificates.

Publication: 9:18 VA.R. 3233-3240 May 31, 1993.

Correction to Final Regulation:

Page 3236, § 1.4 A 1, line 4, after "certificate as of" strike "the effective date of this regulation" and insert "July 1, 1993"

Page 3236, § 2.1 B, line 3, after "issued before" strike "the effective date of this regulation" and insert "July 1, 1993"

* * * * *

Title of Regulation: VR 680-14-13. Aboveground Storage Tanks Pollution Prevention Requirements.

Publication: 9:18 VA.R. 3240-3259 May 31, 1993.

Correction to Final Regulation:

Page 3243, § 6 A 1 a, line 27 should read, "for the variation. The testing method and schedule and results..."

Page 3247, § 6 B 1 c, line 2, after "evaluated" insert "or certified"

Page 3255, Appendix II, Section 1.0 - Facilities Required to Report, paragraph 1, line 4, after "at the facility and" insert "submit an annual report to the DEQ-Water Division, AST"

BOARD FOR WASTE MANAGEMENT FACILITY OPERATORS

Title of Regulation: VR 674-01-02. Waste Management

Facility Operators Regulations.

Publication: 9:21 V.A.R. 3720-3733, July 12, 1993.

Correction to Final Regulations:

Page 3724, § 4.3 B 4, line 2, after "training" strike "facility owner may obtain a letter from the facility owner to"

Page 3724, § 4.3 B 4, line 3, change "6.1 A 1' to "6.1 B"

Page 3724, § 4.3 B 4 c, line 2, change "clarification" to "classification"

Page 3724, § 4.3 B 4 7, line 4, after "contract with a" insert "facility owner mya obtain a letter from the facility owner to"

Page 3730, § 6.2 B 3, line 2, change "have" to "has"

Page 3730, § 6.2 B 3, line 4, after "job requirements," insert "and"

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

August 17, 1993 - 1 p.m. – Public Hearing
Department for the Aging, 700 East Franklin Street, 10th Floor, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department for the Aging intends to amend regulations entitled: **VR 110-01-02. Grants to the Area Agencies on Aging.** The purpose of the proposed amendments are to delete requirements for the operation of local ombudsman entities and make revisions to comply with the 1992 amendments to the Older Americans Act.

Statutory Authority: § 2.1-373 of the Code of Virginia.

Written comments may be submitted until August 14, 1993.

Contact: J. James Cotter, Division Director, Virginia Department for the Aging, 700 E. Franklin St., 10th Floor, Richmond, VA 23219-2327, telephone (804) 225-2271 or toll-free 1-800-552-4464.

Long-Term Care Ombudsman Program Advisory Council

† September 23, 1993 - 9 a.m. – Open Meeting

Virginia Association of Homes for Adults, Inc., Suite 101, United Way Building, 224 West Broad Street, Richmond, Virginia. ☒

Business will include further discussion on the goals and objectives for the Virginia Long-Term Care Ombudsman Program.

Contact: Etta V. Butler-Hopkins, Assistant Ombudsman, Virginia Department for the Aging, 700 E. Franklin St., 10th Floor, Richmond, VA 23219-2327, telephone (804) 225-2271 or toll-free 1-800-552-3402.

VIRGINIA AGRICULTURAL COUNCIL

August 23, 1993 - 9:15 a.m. – Open Meeting

Embassy Suites, 2925 Emerywood Parkway, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

This is the council's annual meeting whereby financial reports and project activities will be reviewed. The council will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs any accommodation in order to participate at the meeting should contact the assistant secretary of the Virginia Agricultural Council identified in this notice at least 10 days before the meeting date, so that suitable arrangements can be made for any appropriate accommodation.

Contact: Thomas R. Yates, Assistant Secretary, 1100 Bank St., Suite 203, Richmond, VA 23219, telephone (804) 786-6060.

STATE ADVISORY BOARD ON AIR POLLUTION

† August 18, 1993 - 9 a.m. – Open Meeting

James Monroe Building, Meeting Room B, Richmond, Virginia.

The board will discuss final reports on adverse impact, pollution prevention, and risk assessment.

Contact: Dr. Kathleen Sands, Policy Analyst, Department of Environmental Quality, Air Division, P.O. Box 10089, Richmond, VA 23240, telephone (804) 225-2722.

ALCOHOLIC BEVERAGE CONTROL BOARD

August 16, 1993 - 9:30 a.m. - Open Meeting
August 30, 1993 - 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.

GOVERNOR'S COUNCIL ON ALCOHOL AND DRUG ABUSE PROBLEMS

August 20, 1993 - 3 p.m. - Open Meeting
Embassy Suites, Alexandria, Virginia. ☒

A general meeting.

Contact: Marcella Burton, Staff Assistant, Governor's Drug Policy Office, 9th Street Office Bldg., 1st Floor, Richmond, VA 23219, telephone (804) 786-2211 or (804) 371-8015/TDD

VIRGINIA AQUACULTURE ADVISORY BOARD

† August 13, 1993 - 10:30 a.m. - Open Meeting
1100 Bank Street, Washington Building, 8th Floor Conference Room, Richmond, Virginia. ☒

The board will meet in regular session to discuss issues related to the Virginia aquaculture industry. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs any accommodation in order to participate at the meeting should contact the Virginia Aquaculture Advisory Board identified in this notice at least five days before the meeting date, so that suitable arrangements can be made for any appropriate accommodation.

Contact: T. Robins Buck, Secretary, Aquaculture Advisory Board, VDACS, P.O. Box 1163, Suite 1003, Richmond, VA 23209, telephone (804) 371-6094.

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

Board for Professional Engineers

† August 24, 1993 - 9 a.m. - Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☒

A meeting to (i) approve minutes from May 19, 1993,

(ii) review correspondence; (iii) review enforcement files; and (iv) review applications.

Contact: Willie Fobbs, III, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514.

AVIATION BOARD

August 25, 1993 - 9 a.m. - Open Meeting
August 27, 1993 - 9 a.m. - Open Meeting
Radisson Hotel Hampton, 700 Settlers Landing Road, Hampton, Virginia. ☒

A board meeting held in conjunction with Virginia Aviation Conference. The board will receive applications for state grants on August 25 and announce funding allocations on August 27.

Contact: Nancy Brent, 4508 S. Laburnum Ave., Richmond, VA 23231-2422, telephone (804) 786-6284 or fax (804) 786-3690.

Annual Virginia Aviation Conference

August 25, 1993 - 9 a.m. - Open Meeting
August 26, 1993 - 9 a.m. - Open Meeting
August 27, 1993 - 9 a.m. - Open Meeting
Radisson Hotel Hampton, 700 Settlers Landing Road, Hampton, Virginia. ☒

Speakers and panel discussions on matters of interest to the aviation community. Various aviation organizations also hold meetings during this conference.

Contact: Nancy Brent, Department of Aviation, 4508 S. Laburnum Ave., Richmond, VA 23231-2422, telephone (804) 786-6284 or fax (804) 786-3690.

BOARD FOR BARBERS

August 9, 1993 - 9 a.m. - Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, 5th Floor, Richmond, Virginia. ☒

A meeting to (i) review applications; (ii) review correspondence; (iii) review and disposition of enforcement cases; and (iv) conduct routine board business.

Contact: Roberta L. Banning, Assistant Director, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590.

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

† August 19, 1993 - 10 a.m. - Open Meeting

Calendar of Events

State Capitol, Senate Room 4, Capitol Square, Richmond, 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 taken early in the meeting. A tentative agenda will be available from the Chesapeake Bay Local Assistance Department by August 12, 1993.

Contact: Receptionist, Chesapeake Bay Local Assistance Department, 805 E. Broad St., Richmond, VA 23219, telephone (804) 225-3440, toll-free 1-800-243-7229 or toll-free 1-800-243-7229/TDD ☎

Central Area Review Committee

August 26, 1993 - 10 a.m. - Open Meeting

September 29, 1993 - 10 a.m. - Open Meeting

Chesapeake Bay Local Assistance Department, 805 East Broad Street, Suite 701, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

The review 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 meeting; however, written comments are welcome.

Contact: Receptionist, Chesapeake Bay Local Assistance Department, 805 E. Broad St., Richmond, VA 23219, telephone (804) 225-3440, toll-free 1-800-243-7229 or toll-free 1-800-243-7229/TDD ☎

Northern Area Review Committee

August 19, 1993 - 2 p.m. - Open Meeting

September 23, 1993 - 10 a.m. - Open Meeting

Chesapeake Bay Local Assistance Department, 805 East Broad Street, Suite 701, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

The review 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 meeting; however, written comments are welcome.

Contact: Receptionist, Chesapeake Bay Local Assistance Department, 805 E. Broad St., Richmond, VA 23219, telephone (804) 225-3440, toll-free 1-800-243-7229 or toll-free 1-800-243-7229/TDD ☎

Southern Area Review Committee

August 27, 1993 - 1 p.m. - Open Meeting

City of Hampton's Planning Office Conference Room, Harbor Center Building, 2 Eaton Street, 9th Floor, Hampton, Virginia. ☒ (Interpreter for the deaf provided upon request)

September 24, 1993 - 1 p.m. - Open Meeting

Chesapeake Bay Local Assistance Department, 805 East Broad Street, Suite 701, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

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

Contact: Receptionist, Chesapeake Bay Local Assistance Department, 805 E. Broad St., Richmond, VA 23219, telephone (804) 225-3440, toll-free 1-800-243-7229 or toll-free 1-800-243-7229/TDD ☎

COMPENSATION BOARD

September 1, 1993 - 1 p.m. - Open Meeting

Ninth Street Office Building, 202 North 9th Street, Room 913/913A, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

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 or (804) 786-3886/TDD ☎

BOARD OF CONSERVATION AND RECREATION

† **September 9, 1993 - 2 p.m. - Open Meeting**

Department of Environmental Quality, Water Division, Board Room, 4900 Cox Road, Innsbrook Corporate Center, Glen Allen, Virginia. ☒ (Interpreter for deaf provided upon request)

A meeting to receive views and comments and answer questions of the public concerning the intended regulatory action to amend VR 215-00-00, Regulatory Public Participation Guidelines.

The meetings are being held at public facilities believed to be accessible to persons with disabilities. Any person with questions on the accessibility of the facilities should contact Mr. App at the address below or telephone at (804) 786-4570 or (804) 786-2121/TDD. Persons needing interpreter services for the deaf must

notify Mr. App no later than Monday, August 23, 1993.

(804) 367-8561.

Contact: Leon E. App, Executive Assistant, Virginia Department of Conservation and Recreation, 203 Governor Street, Suite 302, Richmond, VA 23219, telephone (804) 786-4570, FAX (804) 786-6141 or (804) 786-2121/TDD ☎

Regulatory/Statutory Review Committee

† August 31, 1993 - 9 a.m. - Open Meeting
3600 West Broad Street, Conference Room 4A and B, Richmond, Virginia. ☒

DEPARTMENT OF CONSERVATION AND RECREATION

† September 9, 1993 - 2 p.m. - Open Meeting
Department of Environmental Quality, Water Division, Board Room, 4900 Cox Road, Innsbrook Corporate Center, Glen Allen, Virginia. ☒ (Interpreter for deaf provided upon request)

A meeting to determine needed changes/additions/revisions in procedures, requirements, and standards applicable to Class B and Class A licenses.

Contact: Florence R. Brassier, Assistant Director, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8557.

A meeting to receive views and comments and answer questions of the public concerning the intended regulatory action to amend VR 217-00-00, Regulatory Public Participation Guidelines.

BOARD OF CORRECTIONS

The meetings are being held at public facilities believed to be accessible to persons with disabilities. Any person with questions on the accessibility of the facilities should contact Mr. App at the address below or telephone at (804) 786-4570 or (804) 786-2121/TDD. Persons needing interpreter services for the deaf must notify Mr. App no later than Monday, August 23, 1993.

† August 18, 1993 - 10 a.m. - Open Meeting
6900 Atmore Drive, Board of Corrections Board Room, Richmond, Virginia. ☒

Regular monthly meeting to consider such matters as may be presented to the board.

Contact: Vivian Toler, Secretary to the Board, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3235.

Contact: Leon E. App, Executive Assistant, Virginia Department of Conservation and Recreation, 203 Governor Street, Suite 302, Richmond, VA 23219, telephone (804) 786-4570, FAX (804) 786-6141 or (804) 786-2121/TDD ☎

**DEPARTMENT OF CRIMINAL JUSTICE SERVICES
(CRIMINAL JUSTICE SERVICES BOARD)**

BOARD FOR CONTRACTORS

Complaints Committee

August 25, 1993 - 8 a.m. - Open Meeting
3600 West Broad Street, 4th Floor, Conference Room 1, Richmond, Virginia.

August 28, 1993 - Written comments may be submitted until this date.

A regular meeting.

Contact: A.R. Wade, Assistant Director, Board for Contractors, 3600 W. Broad St., 5th Floor, Richmond, VA 23230, telephone (804) 367-0136.

October 6, 1993 - 9 a.m. - Public Hearing
General Assembly Building, 910 Capitol Square, House Room D, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Criminal Justice Services Board intends to amend regulations entitled: **VR 240-01-5. Rules Relating to Compulsory Minimum Training Standards for Dispatchers.** The regulation mandates entry-level training requirements for dispatchers.

Recovery Fund Committee

September 22, 1993 - 9 a.m. - Open Meeting
3600 West Broad Street, Richmond, Virginia. ☒

Statutory Authority: § 9-170 (1) and (8) of the Code of Virginia.

A meeting to consider claims filed against the Virginia Contractor Transaction Recovery Fund. This meeting will be open to the public; however, a portion of the discuss may be conducted in executive session.

Contact: L. T. Eckenrode, Division Director, Department of Criminal Justice Services, 805 E. Broad St., Richmond, VA 23219, telephone (804) 786-4000.

* * * * *

Contact: Holly Erickson, Assistant Administrator, Recovery Fund, 3600 W. Broad St., Richmond, VA 23219, telephone

September 29, 1993 - 2 p.m. - Public Hearing
State Capitol, House Room 1, Richmond, Virginia.

September 24, 1993 - Written comments may be submitted

Calendar of Events

through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Criminal Justice Services Board intends to amend regulations entitled: **VR 240-02-1. Regulations Relating to Criminal History Record Information Use and Security.** The purpose of the proposed amendment is to permit use of nondedicated telecommunication lines to access criminal history record information in limited, but secure, circumstances. Exceptions to the current requirement for use of dedicated telecommunication lines for data transmission would be granted on an exceptional basis provided that documented policies and procedures ensure that access to criminal history record information is limited to authorized users.

Statutory Authority: §§ 9-170 and 9-184 through 9-196 of the Code of Virginia.

Contact: Paul F. Kolmetz, Ph.D., Director, Division of Information Systems, Department of Criminal Justice Services, 805 E. Broad St., Richmond, VA 23219, telephone (804) 371-7726.

BOARD OF DENTISTRY

August 13, 1993 - 8:30 a.m. – Open Meeting
Department of Health Professions, 6606 West Broad Street, Richmond, Virginia. ☐

Informal conferences.

Contact: Marcia J. Miller, Executive Director, 6606 W. Broad St., Richmond, VA 23230-1717, telephone (804) 662-9906.

STATE EDUCATION ASSISTANCE AUTHORITY

August 27, 1993 – Written comments may be submitted through this date.

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 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 of 1965 as Amended.** The purpose of the proposed amendments is to incorporate changes to federal statute and regulations, to reduce lender due diligence requirements and to respond to changes in federal interest payments for claims.

Statutory Authority: § 23-38.33:1 C 7 of the Code of Virginia.

Written comments may be submitted through August 27, 1993, to Marvin Ragland, Virginia Student Assistance

Authorities, 411 East Franklin Street, Richmond, Virginia, 23219.

Contact: Sherry Scott, Policy Analyst, 411 E. Franklin St., Richmond, VA 23219, telephone (804) 775-4000 or toll-free 1-800-792-5626.

LOCAL EMERGENCY PLANNING COMMITTEE - FAIRFAX COUNTY, CITY OF FAIRFAX, AND THE TOWNS OF HERNDON AND VIENNA

September 23, 1993 - 9:30 a.m. – Open Meeting
Fairfax County Government Center, 12000 Government Center Parkway, Conference Room 9, Fairfax, Virginia. ☐

A public hearing and LEPC meeting regarding 1993 HMER Plan.

Contact: Marysusan Giguere, Fire and Rescue Department, Management Analyst II, 4100 Chain Bridge Rd., Suite 400, Fairfax, VA 22030, telephone (703) 246-3991.

LOCAL EMERGENCY PLANNING COMMITTEE - PRINCE WILLIAM COUNTY, MANASSAS CITY, AND MANASSAS PARK CITY

† **September 26, 1993 - 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.

DEPARTMENT OF ENVIRONMENTAL QUALITY

August 17, 1993 - 10 a.m. – Open Meeting
Monroe Building, 101 North 14th Street, Conference Room C, Richmond, Virginia. ☐

The Waste Division of the Department of Environmental Quality will receive public comments on its Notice of Intended Regulatory Action proposing to amend VR 672-20-1, Financial Assurance Regulations of Solid Waste Facilities. The purpose is to amend existing regulations to incorporate requirements contained in EPA Guidelines for Municipal Solid Waste Facilities and EPA Financial Assurance Guidelines for local governments. Public comments will be received on the proposed amendment along with recommendations. Public comments will also be received on the costs and benefits of the regulation.

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amendments, any proposed alternatives to be recommended by the public, and the desirability of using an ad hoc committee or group or individuals in the development of the amendment.

Contact: William F. Gilley, Regulatory Service Manager, Department of Environmental Quality, 101 N. 14th St., 11th Floor, Richmond, VA 23219, telephone (804) 225-2966.

August 18, 1993 - 10 a.m. – Open Meeting
Department of Environmental Quality, Innsbrook, 4900 Cox Road, Board Room, Richmond, Virginia. ☒

A meeting to inform the public of the intent to promulgate a regulation entitled "Waste Tire End User Partial Reimbursement Regulation." The meeting will consist generally of an informative overview of the intended regulation followed by a public comment and question and answer session.

Contact: Allan Lassiter, Director, Waste Tire Program, Department of Environmental Quality, 101 N. 14th St., 11th Floor, Richmond, VA 23219, telephone (804) 225-2945.

August 25, 1993 - 10 a.m. – Open Meeting
Department of Environmental Quality, Innsbrook, 4900 Cox Road, Board Room, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

A public meeting to discuss and receive comments on the process to amend the Regulated Medical Waste Management Regulations on behalf of the Virginia Waste Management Board. The meeting is being held jointly with the Air Division on companion proposals for regulations. The meeting will include a discussion period of the possible changes and the public will be invited to submit written and oral comments.

Contact: William F. Gilley, Regulatory Service Manager, Department of Environmental Quality, Monroe Bldg., 101 N. 14th St., 11th Floor, Richmond, VA 23219, telephone (804) 225-2966 or (804) 371-8737/TDD ☎

VIRGINIA FIRE SERVICES BOARD

August 18, 1993 - 7:30 p.m. – Public Hearing
Howard Johnson Hotel, 100 Tower Drive, Danville, Virginia.

A public hearing to discuss fire training and policies. The hearing is open to the public for comments and input.

Contact: Anne J. Bales, Executive Secretary Senior, 2807 Parham Rd., Suite 200, Richmond, VA 23294, telephone (804) 527-4236.

August 20, 1993 - 9 a.m. – Open Meeting
Howard Johnson Hotel, 100 Tower Drive, Danville, Virginia.

A business meeting to discuss training and fire policies. The meeting is open to the public for comments and input.

Contact: Anne J. Bales, Executive Secretary Senior, 2807 Parham Rd., Suite 200, Richmond, VA 23294, telephone (804) 527-4236.

Fire/EMS Education and Training Committee

August 19, 1993 - 10 a.m. – Open Meeting
Howard Johnson Hotel, 100 Tower Drive, Danville, Virginia.

A meeting to discuss fire training and policies. The committee meeting is open to the public for comments and input.

Contact: Anne J. Bales, Executive Secretary Senior, 2807 Parham Rd., Suite 200, Richmond, VA 23294, telephone (804) 527-4236.

Fire Prevention and Control Committee

August 19, 1993 - 9 a.m. – Open Meeting
Howard Johnson Hotel, 100 Tower Drive, Danville, Virginia.

A meeting to discuss fire training and policies. The committee meeting is open to the public for comments and input.

Contact: Anne J. Bales, Executive Secretary Senior, 2807 Parham Rd., Suite 200, Richmond, VA 23294, telephone (804) 527-4236.

Legislative/Liaison Committee

August 19, 1993 - 1 p.m. – Open Meeting
Howard Johnson Hotel, 100 Tower Drive, Danville, Virginia.

A meeting to discuss fire training and policies. The committee meeting is open to the public for comments and input.

Contact: Anne J. Bales, Executive Secretary Senior, 2807 Parham Rd., Suite 200, Richmond, VA 23294, telephone (804) 527-4236.

BOARD OF GAME AND INLAND FISHERIES

August 26, 1993 - 9 a.m. – Open Meeting
Virginia Beach Resort and Conference Center, 2000 Shore Drive, Virginia Beach, Virginia.

Board members will spend the day touring department-owned facilities, including the dedication of the Whitehurst Marsh tract in Virginia Beach.

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August 27, 1993 - 9 a.m. - Open Meeting

Virginia Beach Resort and Conference Center, 2000 Shore Drive, Virginia Beach, Virginia.

Committees of the Board of Game and Inland Fisheries (Finance, Planning, Wildlife and Boat, Law and Education and Liaison) will meet. Each committee will review those agenda items appropriate to its authority and, if necessary, make recommendations for action to the full board. Other general and administrative matters, as necessary, will be discussed, and appropriate actions will be taken. During the Wildlife and Boat Committee meeting, staff will present the proposed 1993-94 migratory waterfowl seasons that will be based on the framework provided by the U.S. Fish and Wildlife Service.

August 28, 1993 - 9 a.m. - Open Meeting

Virginia Beach Resort and Conference Center, 2000 Shore Drive, Virginia Beach, Virginia.

The board will convene an executive session at 8 a.m. At 9 a.m., the public meeting will begin. In addition to adopting the 1993-94 migratory waterfowl seasons, other general and administrative matters, as necessary, will be discussed, and the appropriate actions will be taken.

Contact: Belle Harding, Secretary to Bud Bristow, 4010 W. Broad St., P.O. Box 11104, Richmond, VA 23230-1104, telephone (804) 367-1000.

DEPARTMENT OF GENERAL SERVICES

† October 11, 1993 - 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 General Services intends to repeal regulations entitled: **VR 330-02-06, Regulations for the Certification of Laboratories Analyzing Drinking Water** and adopt regulations entitled: **VR 330-02-06:1, Regulations for the Certification of Laboratories Analyzing Drinking Water**. The purpose of the proposed action is to repeal outdated regulations and promulgate regulations to provide a mechanism to assure that laboratories are capable of providing data for compliance under the State Drinking Water Act.

Statutory Authority: § 2.1-429 of the Code of Virginia and 40 CFR 141.

Contact: Dr. James L. Pearson, Director, Division of Consolidated Laboratory Services, 1 N. 14th St., Richmond, VA 23219, telephone (804) 786-7905.

BOARD FOR GEOLOGY

August 27, 1993 - 10 a.m. - Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, Conference Room 3, Richmond, Virginia. ☒

A general board meeting.

Contact: David E. Dick, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8595 or (804) 367-9753/TDD ☎



DEPARTMENT OF HEALTH (STATE BOARD OF)

† August 12, 1993 - 9 a.m. - Open Meeting

Virginia Department of Health, Commissioner's Board Room, Suite 214, 1500 East Main Street, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

An executive committee meeting to discuss future meetings.

† August 23, 1993 - 9 a.m. - Open Meeting

Eastern Shore Health District, Accomac, Virginia. ☒ (Interpreter for deaf provided upon request)

A working session and tour followed by an informal dinner at Smith's Chapel Methodist Church, Upshur Neck Road, Quinby, Virginia.

† August 24, 1993 - 9 a.m. - Open Meeting

Nandua High School, Accomac, Virginia. ☒ (Interpreter for deaf provided upon request)

Business meeting and adjournment.

Contact: Susan R. Rowland, MPA, Special Assistant to Commissioner, 1500 E. Main St., Suite 214, Richmond, VA 23219, telephone (804) 786-3564.

* * * * *

August 31, 1993 - 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 Health intends to repeal regulations entitled: **VR 355-17-02, Sewerage Regulations** and adopt regulations entitled **VR 355-17-100, Sewage Collection and Treatment Regulations**. The proposed regulations govern the

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design, construction and operation of both sewage collection systems and sewage treatment works, including the use of sewage sludge, and will replace existing regulations.

Statutory Authority: §§ 32.1-164 and 62.1-44.19 of the Code of Virginia.

Contact: C. M. Sawyer, Director, Division of Wastewater Engineering, Virginia Department of Health, P.O. Box 2448, Richmond, VA 23218, telephone (804) 786-1755.

* * * * *

August 24, 1993 - 9 a.m. - Public Hearing
1500 East Main Street, Room 214, Richmond, Virginia.

August 27, 1993 - Written comments may be submitted through this date.

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 amend regulations entitled: **VR 355-40-400. Regulations Governing the Virginia Medical Scholarship Program.** The regulation sets forth eligibility criteria, award process, terms, conditions, and circumstances under which Virginia Medical Scholarships will be awarded.

Statutory Authority: § 32.1-122.6 B of the Code of Virginia.

Contact: E. George Stone, Director, Virginia Medical Scholarship Program, Virginia Department of Health, P.O. Box 2448, Richmond, VA 23218, telephone (804) 786-6970.

VIRGINIA HEALTH SERVICES COST REVIEW COUNCIL

August 24, 1993 - 9:30 a.m. - Open Meeting
Blue Cross Blue Shield of Virginia, 2015 Staples Mill Road, Richmond, Virginia.

A monthly meeting.

Contact: Kim Bolden, Public Relations Coordinator, 805 E. Broad St., 6th Floor, Richmond, VA 23219, telephone (804) 786-6371.

BOARD FOR HEARING AID SPECIALISTS

† September 13, 1993 - 8:30 a.m. - Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☒

A meeting to conduct examinations to eligible candidates, review enforcement cases, conduct regulatory review and discuss other matters which may require board action.

Contact: Mr. Geralde W. Morgan, Administrator,

Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8534.

STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA

September 13, 1993 - 1 p.m. - Open Meeting
September 14, 1993 - 1 p.m. - Open Meeting
Mountain Lake, Virginia. ☒ (Interpreter for the deaf provided upon request)

The council's annual retreat. There will be a general business meeting on Tuesday, September 14. For more information, contact the council.

Contact: Anne M. Pratt, Associate Director, Monroe Bldg., 101 N. 14th St., 9th Floor, Richmond, VA 23219, telephone (804) 225-2632 or (804) 361-8017/TDD ☎

VIRGINIA HISTORIC PRESERVATION FOUNDATION

† September 8, 1993 - 10:30 a.m. - Open Meeting
State Capitol, Senate Room 4, Capitol Square, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

A general business meeting.

Contact: Margaret Peters, Information Director, Department of Historic Resources, 221 Governor St., Richmond, VA 23219, telephone (804) 786-3143 or (804) 786-1934/TDD ☎

DEPARTMENT OF HISTORIC RESOURCES (BOARD OF)

August 18, 1993 - 10 a.m. - Open Meeting
General Assembly Building, 910 Capitol Square, Senate Room A, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

A meeting to consider the nomination of the following properties to the Virginia Landmarks Register and the National Register of Historic Places:

1. Killahevin, Front Royal, Warren County
2. Lucketts School, Loudoun County
3. William Mackey House, Rockbridge County
4. Mankin Mansion, Henrico County
5. Moore's Auto Body and Paint Shop, City of Richmond
6. River House, Clarke County
7. Shenandoah County Farm, Shenandoah County
8. Thomas Jefferson High School, City of Richmond
9. Varney's Falls Dam, Botetourt Court
10. Greenway Rural Historic District, Clarke County

Contact: Margaret Peters, Information Director, 221 Governor St., Richmond, VA 23219, telephone (804)

Calendar of Events

786-3143 or (804) 786-1934/TDD ☎

† **September 9, 1993 - 2 p.m. - Open Meeting**
Department of Environmental Quality, Board Room, 4900
Cox Road, Innsbrook Corporate Center, Glen Allen,
Virginia. ☎

A meeting to receive comments and answer questions from the public concerning the intended regulatory actions to amend VR 390-01-01, Public Participation Guidelines for the Historic Resources Board and VR 392-01-01, Public Participation Guidelines for the Department of Historic Resources. Amendments to both sets of guidelines have been made necessary by amendments to the Administrative Process Act that took effect on July 1, 1993.

The meeting is being held at a public facility believed to be accessible to persons with disabilities. Any person with questions on the accessibility of the facility should contact Ms. Doneva Dalton at the Department of Environmental Quality, Office of Regulatory Services, P.O. Box 11143, Richmond, VA 23230, or at telephone number (804) 527-5162 or TDD (804) 527-4261. Persons needing interpreter services for the deaf must notify Ms. Dalton no later than Monday, August 23, 1993.

Contact: Margaret T. Peters, Information Officer, Department of Historic Resources, 221 Governor St., Richmond, VA 23219, telephone (804) 786-3143.

State Review Board

August 17, 1993 - 10 a.m. - Open Meeting
General Assembly Building, 910 Capitol Square, Senate Room A, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A meeting to consider the nomination of the following properties to the Virginia Landmarks Register and the National Register of Historic Places:

1. Killahevin, Front Royal, Warren County
2. Lucketts School, Loudoun County
3. William Mackey House, Rockbridge County
4. Mankin Mansion, Henrico County
5. Moore's Auto Body and Paint Shop, City of Richmond
6. River House, Clarke County
7. Shenandoah County Farm, Shenandoah County
8. Thomas Jefferson High School, City of Richmond
9. Varney's Falls Dam, Botetourt Court
10. Greenway Rural Historic District, Clarke County

† **September 15, 1993 - 10 a.m. - Open Meeting**
General Assembly Building, Senate Room A, 910 Capitol Street, Richmond, Virginia. ☎ (Interpreter for deaf provided upon request)

A joint meeting of the Board of Historic Resources

and State Review Board to consider the 1993-94 Work Program for the Department of Historic Resources.

Contact: Margaret Peters, Information Director, 221 Governor St., Richmond, VA 23219, telephone (804) 786-3143 or (804) 786-1934/TDD ☎

VIRGINIA HOUSING DEVELOPMENT AUTHORITY

† **August 17, 1993 - 11 a.m. - Open Meeting**
601 South Belvidere Street, Richmond, Virginia. ☎

A regular meeting 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 they may deem appropriate. Various committees of the Board of Commissioners may also meet before or after the regular meeting and consider matters within their purview. The planned agenda of the meeting will be available at the offices of the Authority one week prior to the date of the meeting.

Contact: J. Judson McKellar, Jr., General Counsel, Virginia Housing Development Authority, 601 S. Belvidere St., Richmond, VA 23220, telephone (804) 782-1986.

DEPARTMENT OF LABOR AND INDUSTRY AND THE HJR 534 ADVISORY COMMITTEE

August 9, 1993 - 7 p.m. - Open Meeting
Piedmont Community College Auditorium, Charlottesville, Virginia. ☎ (Interpreter for the deaf provided upon request)

August 16, 1993 - 7 p.m. - Open Meeting
Wytheville Community College, Bland Hall Auditorium, Wytheville, Virginia. ☎ (Interpreter for the deaf provided upon request)

August 18, 1993 - 7 p.m. - Open Meeting
Old Dominion University, Webb Center, Hampton-Newport News Room, Norfolk, Virginia. ☎ (Interpreter for the deaf provided upon request)

House Joint Resolution 534 requests the Department of Labor and Industry, assisted by an advisory group, to study drug testing in the workplace. The public is invited to comment on any aspect of workplace drug testing including the many economic, legal and technological questions regarding employment-related drug testing. Written comments may be submitted at the meeting or sent to Marilyn Mandel at the address below.

Contact: Marilyn Mandel, Director, Office of Planning and Policy Analysis, Department of Labor and Industry,

Powers-Taylor Bldg., 13 S. 13th St., Richmond, VA 23219, telephone (804) 786-2385.

STATE LAND EVALUATION ADVISORY COUNCIL

August 24, 1993 - 10 a.m. - Open Meeting
September 8, 1993 - 10 a.m. - Open Meeting
Department of Taxation, 2220 West Broad Street, Richmond, Virginia. ☐

A meeting to adopt suggested ranges of values for agricultural, horticultural, forest and open-space land use and the use-value assessment program.

Contact: Ronald W. Wheeler, Acting Assistant Commissioner, Virginia Department of Taxation, Office of Taxpayer Services, 2220 W. Broad St., Richmond, VA 23219, telephone (804) 367-8028.

LIBRARY BOARD

September 13, 1993 - 10 a.m. - Open Meeting
Virginia State Library and Archives, 11th Street at Capitol Square, Supreme Court Room, 3rd Floor, 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 St. at Capitol Square, Richmond, VA 23219, telephone (804) 786-2332.

STATE COUNCIL ON LOCAL DEBT

August 18, 1993 - 11 a.m. - Open Meeting
September 15, 1993 - 11 a.m. - Open Meeting
James Monroe Building, 101 North 14th Street, 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: Gary Ometer, Debt Manager, Department of the Treasury, P.O. Box 6-H, Richmond, VA 23215, telephone (804) 225-4928.

COMMISSION ON LOCAL GOVERNMENT

† September 27, 1993 - 11 a.m. - Open Meeting
Purcellville area (site to be determined)

Oral presentations regarding the Town of Purcellville - Loudoun County Agreement defining annexation rights.

Persons desiring to participate in the Commission's proceedings and requiring special accommodations or interpreter services should contact the commission's offices by September 13, 1993.

† September 27, 1993 - 7 p.m. - Public Hearing
Purcellville area (site to be determined)

Public hearing regarding the Town of Purcellville - Loudoun County Agreement defining annexation rights.

Persons desiring to participate in the Commission's proceedings and requiring special accommodations or interpreter services should contact the commission's offices by September 13, 1993.

† September 28, 1993 - 9 a.m. - Open Meeting
Purcellville area (site to be determined)

Regular meeting of the Commission on Local Government to consider such matters as may be presented.

Persons desiring to participate in the Commission's proceedings and requiring special accommodations or interpreter services should contact the commission's offices by September 13, 1993.

† November 4, 1993 - 9 a.m. - Open Meeting
Richmond area (site to be determined)

Oral presentations - Town of Colonial Beach - Westmoreland County. Arbitration of school funding issue at request of localities.

Persons desiring to participate in the Commission's proceedings and requiring special accommodations or interpreter services should contact the commission's offices by October 21, 1993.

Contact: Barbara Bingham, Administrative Assistant, 702 Eighth Street Office Building, Richmond, VA 23219, telephone (804) 786-6508 or (804) 786-1860/TDD ☎

STATE LOTTERY BOARD

August 23, 1993 - 10 a.m. - Open Meeting
2201 West Broad Street, Richmond, Virginia. ☐ (Interpreter for the deaf provided upon request)

A regular monthly meeting. Business will be conducted according to items listed on the agenda which has not yet been determined. Two periods for public comment are scheduled.

Contact: Barbara L. Robertson, Lottery Staff Officer, State Lottery Department, 2201 W. Broad St., Richmond, VA 23220, telephone (804) 367-3106 or (804) 367-3000/TDD ☎

Calendar of Events

MARINE RESOURCES COMMISSION

August 9, 1993 - 1 p.m. - Open Meeting
August 10, 1993 - 9 a.m. - Open Meeting
Windmill Point Conference Center, Windmill Point, Virginia.

The commission will meet with its staff in an informal conference on marine resources of the tidal waters.

† August 24, 1993 - 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 at approximately 12 noon. Items to be heard are as follows: regulatory proposals, fishery management plans; fishery conservation issues; licensing; shellfish leasing.

Meetings are open to the public. Testimony 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: Sandra S. Schmidt, Secretary to the Commission, P.O. Box 756, Newport News, VA 23607-0756, telephone (804) 247-8088, toll-free 1-800-541-4646, or (804) 247-2292/TDD ☎

MATERNAL AND CHILD HEALTH COUNCIL

† September 22, 1993 - 1 p.m. - Open Meeting
Virginia Housing Development Authority, 601 South Belvidere Street, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

The meeting will focus on improving the health of the Commonwealth's mothers and children by promoting and improving programs and service delivery systems related to maternal and child health, including prenatal care, school health, and teenage pregnancy.

Contact: Nancy C. Ford, MCH Nurse Consultant, Virginia Department of Health, Division of Child and Adolescent Health, 1500 E. Main St., Suite 137, Richmond, VA 23218-2448, telephone (804) 786-7367.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Drug Utilization Review Board

† September 23, 1993 - 3 p.m. - Open Meeting
600 East Broad Street, Suite 1300, Richmond, Virginia 23219.

A regular meeting of the DMAS DUR Board. Routine business will be conducted.

Contact: Carol B. Pugh, Pharm. D., DUR Program Consultant, Quality Care Assurance Division, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-3820.

BOARD OF MEDICINE

Credentials Committee

August 14, 1993 - 8 a.m. - Open Meeting
6606 West Broad Street, 5th Floor, Richmond, Virginia. ☒

The Credentials Committee will meet in open and closed session to conduct general business, interview and review medical credentials of applicants applying for licensure in Virginia and discuss any other items which may come before the committee. The committee will receive public comments of those persons appearing on behalf of candidates.

Contact: Eugenia K. Dorson, Deputy Executive Director, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9923.

Executive Committee

August 13, 1993 - 9 a.m. - Open Meeting
6606 West Broad Street, 5th Floor, Board Room 1, Richmond, Virginia. ☒

The Executive Committee will meet in open and closed session to review cases of files requiring administrative action, review proposed budget, review legislation enacted by the 1993 General Assembly, review proposed regulations which may need administrative action, and consider any other items which may come before the committee. The committee may receive public comments on specific items at the pleasure of the chairperson.

Contact: Eugenia K. Dorson, Deputy Executive Director, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9925.

Informal Conference Committee

† August 13, 1993 - 1:30 p.m. - Open Meeting
Department of Health Professions, 6606 West Broad Street, Richmond, Virginia. ☒

A meeting to inquire into allegations that certain practitioners may have violated laws and regulations governing the practice of medicine and other healing arts in Virginia. The committee will meet in open and closed sessions pursuant to § 2.1-344 of the Code of Virginia. Public comment will not be received.

Contact: Karen W. Perrine, Deputy Executive Director, Discipline, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9908 or (804) 662-9943/TDD ☎

Legislative Committee

September 3, 1993 - 9 a.m. - Open Meeting
6606 West Broad Street, 5th Floor, Board Room 1, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

A meeting to review §§ 54.1-2936, 54.1-2937 and 54.1-2961 of the Code of Virginia, and develop regulations for licensure, practice and renewal requirements for a limited license or temporary license in Virginia. The committee will also review the practice requirements for respiratory therapy, discuss referral for physical therapy pursuant to § 54.1-2943, and the fee for the PMLEXIS examination.

Contact: Eugenia K. Dorson, Deputy Executive Director, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9923 or (804) 662-7197/TDD ☎

Advisory Board on Occupational Therapy

September 1, 1993 - 10 a.m. - Open Meeting
6606 West Broad Street, 5th Floor, Board Room 4, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

A meeting to review the impact of health care reform which may impact the regulations for the practice of occupational therapy as presented at the American Occupational Therapy Association, Inc., at their annual meeting in March. Also, to review regulations relating to foreign educated therapists to consider additional requirements or alternatives to ensure minimal competency requirements to practice occupational therapy with safety to the public, and such other issues which may come before the advisory board. The chairperson will entertain public comments during the first 15 minutes on any agenda items.

Contact: Eugenia K. Dorson, Deputy Executive Director, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9923 or (804) 662-7197/TDD ☎

Advisory Board on Physical Therapy

September 17, 1993 - 9 a.m. - Open Meeting
6606 West Broad Street, Board Room 3, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon

request)

A meeting to (i) receive specific reports from officers and staff; (ii) review and evaluate traineeship evaluation forms; (iii) discuss requirements for facilities to employ foreign educated trainees and related forms; (iv) clarify the decision to allow foreign educated therapist to sit for the examination during the traineeship; (v) clarify, by regulation, the period for license requirements in another state to be eligible for waiver of the required traineeship for foreign applicants; (vi) review § 6.1 of the regulations; (vii) review passing score for licensure examination; (viii) review the use of or storage of schedule VI drugs; and (ix) conduct such other business which may come before the advisory board. The chairman will entertain public comments during the first 15 minutes on any agenda items.

Contact: Eugenia K. Dorson, Deputy Executive Director, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9923 or (804) 662-7197/TDD ☎

DEPARTMENT OF MINES, MINERALS AND ENERGY

Board of Examiners

† **August 19, 1993 - 10 a.m. - Open Meeting**

† **August 20, 1993 - 10 a.m. - Open Meeting**

Buchanan-Smith Building, Room 219, U.S. Route 23 South, Big Stone Gap, Virginia. ☒ (Interpreter for deaf provided upon request)

A meeting to consider petitions for revocations of miners' certificates, review of qualifications for certifications, adoption of proposed public participation guidelines, and other board business.

Contact: Mr. Harry D. Childress, Chief, Division of Mines, U.S. Rt. 23 S., P.O. Drawer 900, Big Stone Gap, VA 24219, telephone (703) 523-8100.

VIRGINIA MUSEUM OF FINE ARTS

Collections Committee

September 21, 1993 - 2 p.m. - Open Meeting
Meeting location to be announced.

A meeting to consider proposed gifts, purchases and loans of art works.

Contact: Emily C. Robertson, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond, VA 23221, telephone (804) 367-0553.

Finance Committee

September 23, 1993 - 11 a.m. - Open Meeting

Calendar of Events

Virginia Museum of Fine Arts Conference Room,
Richmond, Virginia. ☒

A meeting to conduct budget review and approval.

Contact: Emily C. Robertson, Secretary of the Museum,
Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond,
VA 23221, telephone (804) 367-0553.

Board of Trustees

September 23, 1993 - Noon - Open Meeting
Virginia Museum of Fine Arts Auditorium, Richmond,
Virginia. ☒

First meeting FY 1993-94 of the full Board of Trustees
to receive reports from committees and staff; conduct
budget review; and conduct acquisition of art objects.

Contact: Emily C. Robertson, Secretary of the Museum,
Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond,
VA 23221, telephone (804) 367-0553.

VIRGINIA MUSEUM OF NATURAL HISTORY

Board of Trustees

August 21, 1993 - 9 a.m. - Open Meeting
Virginia Museum of Natural History, 1001 Douglas Avenue,
Martinsville, Virginia.

A meeting that will include reports from the
executive, finance, marketing, outreach, personnel,
planning/facilities, and research and collections
committees. Public comment will be received following
approval of the minutes of the April meeting.

Contact: Rhonda J. Knighton, Executive Secretary, Virginia
Museum of Natural History, 1001 Douglas Ave.,
Martinsville, VA 24112, telephone (703) 666-8616 or (703)
666-8638/TDD ☎

BOARD OF NURSING

Special Conference Committee

† **August 16, 1993 - 8:30 a.m. - Open Meeting**
† **August 23, 1993 - 8:30 a.m. - Open Meeting**
Department of Health Professions, 6606 West Broad Street,
5th Floor, Richmond, Virginia. ☒ (Interpreter for deaf
provided upon request)

A meeting to conduct informal conferences with
licensees to determine what, if any, action should be
recommend to the Board of Nursing. Public comment
will not be received.

Contact: M. Teresa Mullin, R.N., Assistant Executive
Director, 6606 W. Broad St., 4th Floor, Richmond, VA

23230-1717, telephone (804) 662-9909 or (804)
662-7197/TDD ☎

BOARD FOR OPTICIANS

† **August 17, 1993 - 9 a.m. - Open Meeting**
J. Sargeant Reynolds Community College - Downtown
Campus, 700 East Jackson Street, Richmond, Virginia. ☒

† **October 12, 1993 - 9 a.m. - Open Meeting**

Department of Professional and Occupational Regulation,
3600 West Broad Street, Richmond, Virginia. ☒

A meeting to conduct board business and any other
matters which may require board action.

Contact: Mr. Geralde W. Morgan, Board Administrator,
Department of Professional and Occupational Regulation,
3600 W. Broad St., Richmond, VA 23230-4917, telephone
(804) 367-8534.

BOARD OF OPTOMETRY

August 11, 1993 - 9 a.m. - Open Meeting
Department of Health Professions, 6606 West Broad Street,
5th Floor, Conference Room 1, Richmond, Virginia.

A board meeting. The board will consider adopting
final regulations and develop responses to comments
received during the public comment period.

Contact: Scotti W. Milley, Executive Director, Board of
Pharmacy, 6606 W. Broad St., Suite 400, Richmond, VA
23230, telephone (804) 662-9911.

August 13, 1993 - 9 a.m. - Open Meeting
Department of Health Professions, 6606 West Broad Street,
5th Floor, Room 4, Richmond, Virginia. ☒ (Interpreter for
the deaf provided upon request)

An informal conference committee meeting. Public
comment will not be received.

Contact: Carol Stamey, Administrative Assistant, 6606 W.
Broad St., Richmond, VA 23230-1717, telephone (804)
662-9910.

VIRGINIA OUTDOORS FOUNDATION

August 10, 1993 - 10 a.m. - Open Meeting
State Capitol, Capitol Square, House Room 1, Richmond,
Virginia. ☒

A general business meeting.

Contact: Tyson B. Van Auken, Executive Director, 203
Governor St., #302, Richmond, VA 23219, telephone (804)

786-5539.

POLYGRAPH EXAMINERS ADVISORY BOARD

† September 21, 1993 - 10 a.m. - Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, Richmond, Virginia. ☒

The meeting is for the purpose of administering the Polygraph Examiners Licensing Examination to eligible polygraph examiner interns and to consider other matters which may require board action.

Contact: Mr. Geralde W. Morgan, Administrator,
Department of Professional and Occupational Regulation,
3600 W. Broad St., Richmond, VA 23230-4917, telephone
(804) 367-8534.

PREVENTION AND PROMOTION ADVISORY COUNCIL

† August 19, 1993 - 10 a.m. - Open Meeting
James Madison Building, 109 Governor Street, 9th Floor
Conference Room, Richmond, Virginia. ☒

Rescheduled quarterly business meeting for the council.

Contact: Hope Richardson, Special Projects Assistant,
DMHMRSAS, 109 Governor St., 10th Floor, James Madison
Bldg., Richmond, VA 23219, telephone (804) 786-1530 or
(804) 371-8977/TDD ☒

BOARD OF PSYCHOLOGY

August 12, 1993 - 9:30 a.m. - Open Meeting
Department of Health Professions, 6606 West Broad Street,
Richmond, Virginia. ☒ (Interpreter for the deaf provided
upon request)

The board will conduct a formal fact finding in accordance with § 9-6.14:12 of the Code of Virginia to determine the eligibility of an applicant for licensing as a clinical psychologist. No public comment will be received.

August 12, 1993 - 9:30 a.m. - Open Meeting
Department of Health Professions, 6606 West Broad Street,
5th Floor, Room #1, Richmond, Virginia. ☒

A formal credentials hearing to review application for licensure of Cheryl R. Hussey, Ed.D.

Contact: Evelyn B. Brown, Executive Director, or Jane Ballard, Administrative Assistant, 6606 W. Broad St., Richmond, VA 23230, telephone (804) 662-9913.

SEWAGE HANDLING AND DISPOSAL APPEALS REVIEW BOARD

August 25, 1993 - 10 a.m. - Open Meeting
General Assembly Building, 910 Capitol Square, Senate Room A, Richmond, Virginia. ☒

A meeting to hear all administrative appeals of denials of onsite sewage disposal system permits pursuant to § 32.1-166.1 et seq., § 9-6.14:12 of the Code of Virginia, and VR 355-34-02.

Contact: Constance G. Talbert, Secretary to the Board,
1500 E. Main St., Suite 177, P.O. Box 2448, Richmond, VA 23218, telephone (804) 786-1750.

DEPARTMENT OF SOCIAL SERVICES (STATE BOARD OF)

August 27, 1993 - Written comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Social Services intends to amend regulations entitled: **VR 615-08-1. Virginia Energy Assistance Program.** The amendments propose several changes to the fuel and cooling assistance components of the Energy Assistance Program. In fuel assistance, households applying for assistance will be allowed to establish or maintain one \$5,000 savings account for education expenses or the purchase of a primary residence without penalty in the calculation of benefit amounts. Households receiving utility subsidies that must pay some heating expenses out-of-pocket will not have their benefit reduced. Additionally, income exempt in Food Stamps, ADC or Medicaid will be considered exempt in the determination of eligibility for fuel assistance. The cooling assistance component would be eliminated in FY 93-94.

Statutory Authority: § 63.1-25 of the Code of Virginia.

Written comments may be submitted through August 27, 1993, to Charlene H. Chapman, Department of Social Services, 730 E. Broad St., Richmond, VA 23219.

Contact: Peggy Friedenber, Legislative Analyst, Bureau of Governmental Affairs, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1820.

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August 28, 1993 - 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 Social Services intends to adopt regulations entitled: **VR 615-45-5. Investigation of Child Abuse and Neglect In**

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Out of Family Complaints. The regulation establishes policy to be used for investigating child abuse and neglect which occurs in certain situations outside the child's family.

Statutory Authority: §§ 63.1-25 and 63.1-248.6 of the Code of Virginia.

Written comments may be submitted until August 28, 1993, to Rita Katzman, Program Manager, 730 East Broad Street, Richmond, Virginia.

Contact: Peggy Friedenber, Legislative Analyst, Bureau of Governmental Affairs, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1820.

BOARD FOR PROFESSIONAL SOIL SCIENTISTS

September 20, 1993 - 10 a.m. - Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☒

A general board meeting.

Contact: David E. Dick, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8595 or (804) 367-9753/TDD ☎

VIRGINIA SOIL AND WATER CONSERVATION BOARD

† **September 9, 1993 - 2 p.m. - Open Meeting**
Department of Environmental Quality, Water Division, Board Room, 4900 Cox Road, Innsbrook Corporate Center, Glen Allen, Virginia. ☒ (Interpreter for deaf provided upon request)

A meeting to receive views and comments and answer questions of the public concerning the intended regulatory action to amend VR 625-00-00:1, Regulatory Public Participation Guidelines.

The meetings are being held at public facilities believed to be accessible to persons with disabilities. Any person with questions on the accessibility of the facilities should contact Mr. App at the address below or telephone at (804) 786-4570 or (804) 786-2121/TDD. Persons needing interpreter services for the deaf must notify Mr. App no later than Monday, August 23, 1993.

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 ☎

COMMONWEALTH TRANSPORTATION BOARD

August 18, 1993 - 2 p.m. - Open Meeting

Department of Transportation, 1401 East Broad Street, Board Room, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

A work session of the Commonwealth Transportation Board and staff.

August 19, 1993 - 10 a.m. - Open Meeting
Department of Transportation, 1401 East Broad Street, Board Room, Richmond, Virginia. ☒ (Interpreter for the 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 form. 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.

Contact: John G. Milliken, Secretary of Transportation, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-6670.

TREASURY BOARD

August 18, 1993 - 9 a.m. - Open Meeting
September 15, 1993 - 9 a.m. - Open Meeting
James Monroe Building, 101 North 14th Street, Treasury Board Room, 3rd Floor, Richmond, Virginia.

A regular meeting of the board.

Contact: Gloria J. Hatchel, Administrative Assistant, Department of the Treasury, 101 N. 14th St., 3rd Floor, Richmond, VA 23219, telephone (804) 371-6011.

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August 13, 1993 - Written comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Treasury Board intends to amend regulations entitled VR 640-02, Virginia Security for Public Deposits Act Regulations. The purpose of the proposed amendments is to provide adequate protection for public funds on deposit in financial institutions by strengthening the ability of the Treasury Board to monitor collateral by identifying criteria for the selection of third-party escrow agents by financial institutions.

Statutory Authority: § 2.1-364 of the Code of Virginia.

Written comments may be submitted through August 13,

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1993.

Contact: Robert S. Young, Director of Financial Policy, Department of the Treasury, P.O. Box 1879, Richmond, VA 23215-1879, telephone (804) 225-3131.

BOARD ON VETERANS' AFFAIRS

August 25, 1993 - 10 a.m. - Public Hearing
General Assembly Building, 910 Capitol Square, House Room C, Richmond, Virginia. ☒

Topics of discussion will include the state veterans cemetery and other items of interest to Virginia's veterans. The public is invited to speak on items of interest to the veteran community; however, presentations should be limited to 15 minutes. Speakers are requested to register with the aide present at the meeting and should leave a copy of their remarks for the record. Service organizations should select one person to speak on behalf of the entire organization in order to give ample time to accommodate all who may wish to speak.

Contact: Beth Tonn, Secretary for the Board, P.O. Box 809, Roanoke, VA 24004, telephone (703) 857-7104 or (703) 857-7102/TDD ☎

BOARD OF VETERINARY MEDICINE

August 10, 1993 - 9 a.m. - Open Meeting
Southern States Building, 6606 West Broad Street, 5th Floor, Conference Rooms 3 and 4, Richmond, Virginia. ☒
(Interpreter for the deaf provided upon request)

Informal conferences.

August 11, 1993 - 8:30 a.m. - Open Meeting
Southern States Building, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia. ☒
(Interpreter for the deaf provided upon request)

A brief board meeting and regulatory review.

Contact: Terri H. Behr, Administrative Assistant, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9915 or (804) 662-7197/TDD ☎

GOVERNOR'S COMMISSION ON VIOLENT CRIME

† **August 25, 1993 - 9 a.m. - Open Meeting**
State Capitol, House Room 4, Richmond, Virginia. ☒

Discussion of programmatic proposals.

Contact: Kris Ragan, Special Assistant, 701 E. Franklin St., 9th Floor, Richmond, VA 23219, telephone (804) 225-3899.

VIRGINIA RESOURCES AUTHORITY

August 10, 1993 - 9:30 a.m. - Open Meeting
The Mutual Building, 909 East Main Street, Suite 607, Board Room, Richmond, Virginia.

The board will meet to (i) approve minutes of its prior 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: Shockley D. Gardner, Jr., Mutual Bldg., 909 E. Main St., Suite 707, Richmond, VA 23219, telephone (804) 644-3100 or fax (804) 644-3109.

VIRGINIA VOLUNTARY FORMULARY BOARD

September 2, 1993 - 10:30 a.m. - Open Meeting
Washington Building, 1100 Bank Street, 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. Thompson, Director, Bureau of Pharmacy Services, 109 Governor St., Room B1-9, Richmond, VA 23219, telephone (804) 786-4326.

BOARD FOR WASTE MANAGEMENT FACILITY OPERATORS

August 20, 1993 - 10:30 a.m. - Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☒

A general board meeting.

Contact: David E. Dick, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8595 or (804) 367-9753/TDD ☎

STATE WATER CONTROL BOARD

† **September 16, 1993 - 7 p.m. - Open Meeting**
Fairfax County Government Center, Conference Center, Rooms 4 and 5, 1200 Government Center Parkway, Fairfax, Virginia.

A meeting to receive comments from interested persons on the intent to amend the Potomac Embayment Standards of VR 680-21-00, Water Quality Standards and on the costs and benefits of the

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intended action. (See Notices of Intended Regulatory Action)

Contact: Alen E. Pollock, Chesapeake Bay Program, Department of Environmental Quality, P.O. Box 11143, Richmond, VA 23230, telephone (804) 527-5155.

VIRGINIA WORKERS' COMPENSATION COMMISSION

August 13, 1993 - Written comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Worker's Compensation Commission intends to promulgate regulations entitled: **VR 405-01-06. Procedures for Processing Workers' Compensation Claims.** The commission proposes to change its present rules concerning prehearing, hearing and review procedures in accordance with recommendations made by the 1993 General Assembly. The Virginia Workers' Compensation Commission pursuant to § 65.2-201 A of the Code of Virginia, proposes to change its present Rules of Practice and Procedure in accordance with recommendations made by the 1993 General Assembly. Present rules concerning prehearing, hearing and review procedures have been reviewed and proposed new rules are offered for comment by the public, members of the bar and all other interested parties. Copies of the proposed new rules may be obtained from the Office of the Clerk, Worker's Compensation Commission, 1000 DMV Drive, Richmond, Virginia 23220, without cost. A public hearing will be conducted in the commission courtroom beginning at 10 a.m. on July 15, 1993, at which time interested parties will be heard regarding proposed rule changes. Those who wish to have their comments made part of the record must file written comments with the Clerk of the Commission no less than five business days prior to the public hearing. Oral comments to the commission will be heard and shall be limited to eight minutes per person unless extended comments are approved by the commission before the hearing date.

Statutory Authority: § 65.2-201 A of the Code of Virginia.

Contact: Lawrence D. Tarr, Chief Deputy Commissioner, 1000 DMV Dr., Richmond, VA 23220, telephone (804) 367-8664.

LEGISLATIVE

JOINT SUBCOMMITTEE STUDYING VIRGINIA'S BINGO AND RAFFLE STATUTES

† **August 9, 1993 - 10 a.m.** - Open Meeting
General Assembly Building, Senate Room B, 910 Capitol

Street, Richmond, Virginia. ☐

An open meeting to discuss SJR 195.

Contact: Aubrey J. Stewart, Senate of Virginia, P.O. Box 396, Richmond, VA 23203, telephone (804) 786-5742; or Maria Everett, Staff Attorney, Division of Legislative Services, General Assembly Building, 2nd Floor, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

VIRGINIA COAL AND ENERGY COMMISSION

Energy Preparedness Subcommittee

August 10, 1993 - 10 a.m. - Open Meeting
General Assembly Building, 910 Capitol Square, Senate Room A, Richmond, Virginia.

An open meeting.

Contact: Thomas C. Gilman, Senate of Virginia, P.O. Box 396, Richmond, VA 23203, telephone (804) 786-5742, or Arlen K. Bolstad, Staff Attorney, Division of Legislative Services, 910 Capitol Square, Richmond, VA 23219, telephone (804) 786-3591.

COMMISSION ON EARLY CHILDHOOD AND CHILD DAY CARE PROGRAMS

† **August 30, 1993 - 10 a.m.** - Open Meeting
General Assembly Building, Senate Room B, 910 Capitol Street, Richmond, Virginia. ☐

Open meeting pursuant to § 9-291.1 et seq.

Contact: John McE. Garrett, Senate of Virginia, P.O. Box 396, Richmond, VA 23203, telephone (804) 786-5742; or Jessica Bolecek, Staff Attorney, Division of Legislative Services, General Assembly Bldg., 2nd Floor, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

JOINT SUBCOMMITTEE TO EXAMINE WHICH FUNCTIONS OF STATE GOVERNMENT CAN BE PRIVATIZED

† **August 16, 1993 - 10 a.m.** - Open Meeting
General Assembly Building, Senate Room A, 910 Capitol Street, Richmond, Virginia. ☐

Open meeting regarding SJR 421.

Contact: Beverly Kelly, Senate of Virginia, P.O. Box 396, Richmond, VA 23203, telephone (804) 786-5742; or Jeffrey Sharp, Staff Attorney, Division of Legislative Services, General Assembly Bldg., 2nd Floor, 910 Capitol St., Richmond, VA 23208, telephone (804) 786-3591.

JOINT SUBCOMMITTEE TO STUDY GOVERNMENTAL ACTIONS AFFECTING PRIVATE PROPERTY RIGHTS

August 16, 1993 - 1 p.m. - Open Meeting
State Capitol, Capitol Square, House Room 1, Richmond, Virginia.

The subcommittee will hold an organizational meeting for studying Virginia governmental actions which may result in taking of private property under current federal or Virginia constitutional law, and the need, if any, for legislation to change current law or procedures in response to such study.

Contact: Jeffrey F. Sharp, Staff Attorney, Division of Legislative Services, 910 Capitol Square, Richmond, VA 23219, telephone (804) 786-3591.

JOINT SUBCOMMITTEE TO STUDY WAYS TO IMPROVE THE REGISTRATION AND ELECTORAL PROCESS AND ENCOURAGE VOTER PARTICIPATION

† September 8, 1993 - 10 a.m. - Public Hearing
General Assembly Building, House Room C, 910 Capitol Street, Richmond, Virginia. ☒

The subcommittee is conducting regional hearings across the state to give the public an opportunity to comment on the electoral process in Virginia and to recommend ways to encourage voter participation and improve registration and election procedures. HJR 532.

Contact: Virginia Edwards, Staff Attorney, Division of Legislative Services, 2nd Floor, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

SELECT COMMITTEE ON SALES TAX EXEMPTIONS

September 16, 1993 - 11 a.m. - Open Meeting
General Assembly Building, 910 Capitol Square, Senate Room B, Richmond, Virginia.

An open meeting. SJR 249, 1993.

Contact: Aubrey Stewart, Senate of Virginia, P.O. Box 396, Richmond, VA 23203, telephone (804) 786-5742, or John MacConnell, Staff Attorney, Division of Legislative Services, 910 Capitol Square, Richmond, VA 23219, telephone (804) 786-3591.

JOINT COMMISSION TO STUDY MANAGEMENT OF THE COMMONWEALTH'S WORKFORCE AND ITS COMPENSATION, PERSONNEL, AND MANAGEMENT POLICIES AND TO RECOMMEND IMPROVEMENTS TO VIRGINIA'S SYSTEM

† September 7, 1993 - 10 a.m. - Open Meeting
General Assembly Building, Senate Room B, 910 Capitol

Street, Richmond, Virginia. ☒

SJR 279

Contact: John McE. Garrett, Senate of Virginia, P.O. Box 396, Richmond, VA 23203, telephone (804) 786-5742; or Nancy Roberts, Division Manager, Division of Legislative Services, 2nd Floor, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

CHRONOLOGICAL LIST

OPEN MEETINGS

August 9

Barbers, Board for
† Bingo and Raffle Statutes, Joint Subcommittee Studying Virginia's
Labor and Industry, Department of and the HJR 534 Advisory Committee
Marine Resources Commission

August 10

Coal and Energy Commission
- Subcommittee on Energy Preparedness
Marine Resources Commission
Veterinary Medicine, Board of
Virginia Outdoors Foundation
Virginia Resources Authority

August 11

Pharmacy, Board of
Veterinary Medicine, Board of

August 12

† Health, State Board of
Psychology, Board of

August 13

† Aquaculture Advisory Board, Virginia
Dentistry, Board of
Medicine, Board of
- Executive Committee
- Informal Conference Committee
Optometry, Board of

August 14

Medicine, Board of
- Credentials Committee

August 16

Alcoholic Beverage Control Board
Labor and Industry, Department of and the HJR 534 Advisory Committee
† Nursing, Board of
- Special Conference Committee

Calendar of Events

Private Property Rights, Joint Subcommittee to Study Governmental Actions Affecting

† Joint Subcommittee to Examine Which Functions of State Government Can be Privatized

August 17

Environmental Quality, Department of
Historic Resources, Department of

- State Review Board

† Housing Development Authority, Virginia

† Opticians, Board for

August 18

† Air Pollution, State Advisory Board on

† Corrections, Board of

Environmental Quality, Department of
Historic Resources, Department of

Labor and Industry, Department of and the HJR 534
Advisory Committee

Local Debt, State Council on

Transportation Board, Commonwealth

Treasury Board

August 19

Chesapeake Bay Local Assistance Board

- Northern Area Review Committee

Fire Services Board, Virginia

- Fire/EMS Education and Training Committee

- Legislative/Liaison Committee

- Fire Prevention and Control

† Mines, Minerals and Energy, Department of

- Board of Examiners

† Prevention and Promotion Advisory Council

Transportation Board, Commonwealth

August 20

Alcohol and Drug Abuse Problems, Governors Council
on

Fire Services Board, Virginia

† Mines, Minerals and Energy, Department of

- Board of Examiners

Waste Management Facility Operators, Board for

August 21

Museum of Natural History, Virginia

- Board of Trustees

August 23

Agricultural Council, Virginia

† Health, State Board of

Lottery Department, State

† Nursing, Board of

- Special Conference Committee

August 24

† Architects, Professional Engineers, Land Surveyors,
and Landscape Architects, Board for

- Board for Professional Engineers

Health Services Cost Review Council, Virginia

† Health, State Board of

Land Evaluation Advisory Council, State

† Marine Resources Commission

August 25

Aviation Board

Contractors, Board for

- Complaints Committee

Environmental Quality, Department of

Sewage Handling and Disposal Appeals Review Board

† Violent Crime, Governor's Commission on

August 26

Chesapeake Bay Local Assistance Board

- Central Area Review Committee

Game and Inland Fisheries, Board of

August 27

Aviation Board

Chesapeake Bay Local Assistance Board

- Southern Area Review Committee

Game and Inland Fisheries, Board of

Geology, Board for

August 28

Game and Inland Fisheries, Board of

August 30

Alcoholic Beverage Control Board

† Early Childhood and Child Day Care Programs,
Commission on

August 31

† Contractors, Board for

- Regulatory/Statutory Review Committee

September 1

Compensation Board

Medicine, Board of

- Advisory Board on Occupational Therapy

September 2

Voluntary Formulary Board, Virginia

September 3

Medicine, Board of

- Legislative Committee

September 7

† Workforce and Its Compensation, Personnel, and
Management Policies and to Recommend
Improvements to Virginia System, Joint Commission to
Study Management of the Commonwealth's

September 8

† Historic Preservation Foundation, Virginia

Land Evaluation Advisory Council, State

September 9

† Conservation and Recreation, Board of

† Conservation and Recreation, Department of

† Historic Resources, Department of

† Soil and Water Conservation Board, Virginia

Calendar of Events

September 13

† Hearing Aid Specialists, Board for
Higher Education for Virginia, State Council of
Library Board

September 14

Higher Education for Virginia, State Council of

September 15

Historic Resources, Department of
- Board of Historic Resources and State Review
Local Debt, State Council on
Treasury Board

September 16

Sales Tax Exemptions, Select Committee on
† Water Control Board, State

September 17

Medicine, Board of
- Advisory Board on Physical Therapy

September 20

† Emergency Planning Committee, Local - Prince
William County, Manassas City, and Manassas Park
City
Professional Soil Scientists, Board for

September 21

Museum of Fine Arts, Virginia
- Collections Committee
Contractors, Board for
- Recovery Fund Committee
† Polygraph Examiners Advisory Board

September 22

† Maternal and Child Health Council

September 23

† Aging, Department for the
- Long-Term Care Ombudsman Program Advisory
Council
Chesapeake Bay Local Assistance Board
- Northern Area Review Committee
† Medical Assistance Services, Department of
- Drug Utilization Review Board
Museum of Fine Arts, Virginia
- Finance Committee
- Board of Trustees

September 24

Chesapeake Bay Local Assistance Board
- Southern Area Review Committee

September 27

† Local Government, Commission on

September 28

† Local Government, Commission on

September 29

Chesapeake Bay Local Assistance Board
- Central Area Review Committee

October 12

† Opticians, Board for

November 4

† Local Government, Commission on

PUBLIC HEARINGS

August 17

Aging, Department for the

August 18

Fire Services Board, Virginia

August 24

Health, Board of

August 25

Veterans' Affairs, Board on

September 8

† Joint Subcommittee to Study Ways to Improve the
Registration and Electoral Process and Encourage
Voter Participation

September 27

† Local Government, Commission on

September 29

Criminal Justice Services, Department of

October 6

Criminal Justice Services, Department of

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