

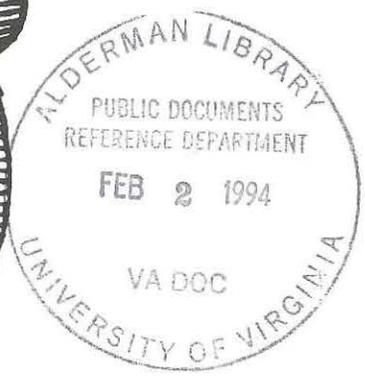
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VIRGINIA REGISTER

OF REGULATIONS

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VOLUME TEN • ISSUE SIX

December 13, 1993

1993

Pages 1299 Through 1516

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 Register* 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.

CITATION TO THE VIRGINIA REGISTER

The *Virginia Register* is cited by volume, issue, page number, and date. 1:3 V.A.R. 75-77 November 12, 1984 refers to Volume 1, Issue 3, pages 75 through 77 of the *Virginia Register* issued on November 12, 1984.

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VIRGINIA REGISTER OF REGULATIONS

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Noon Wednesday

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NOTICES OF INTENDED REGULATORY ACTION

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 amending regulations entitled: **VR 105-01-02. Board for Accountancy Regulations.** The Board for Accountancy will review its regulations for promulgation, amendment, and repeal and will also review its fees as is deemed necessary in its mission to regulate public accountancy in Virginia. The agency does not intend to hold a public hearing on the proposed amendments to the regulations.

Statutory Authority: § 54.1-201.5 of the Code of Virginia.

Written comments may be submitted until December 15, 1993.

Contact: Mark N. Courtney, Acting Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8590.

V.A.R. Doc. No. R94-109; Filed October 25, 1993, 2:20 p.m.

BOARD FOR BARBERS

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board for Barbers intends to consider amending regulations entitled: **VR 170-01-1:1. Board for Barbers Regulations.** The Board for Barbers will review its regulations, including its fees, for promulgation, amendment, and repeal as is deemed necessary in its mission to regulate Virginia barber regulants. The agency does not intend to hold a public hearing on the proposed amendments to the regulations after publication.

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

Written comments may be submitted until December 15, 1993.

Contact: Mark N. Courtney, Acting Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8590.

V.A.R. Doc. No. R94-108; Filed October 25, 1993, 2:20 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 amending regulations entitled: **VR 175-08-01. Minimum Standards for Licensed Child Day Centers Serving Children of Preschool Age or Younger.** The purpose of the proposed action is to incorporate therapeutic recreation requirements and to review the existing standards for appropriateness and clarity. The council does not intend to hold a public hearing on the proposed amendments after publication; however, oral comments will be accepted at 10 a.m. at the council's regular meetings.

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

Written comments may be submitted until January 13, 1994, 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 East Broad Street, Richmond, VA 23219, telephone (804) 692-1820.

V.A.R. Doc No. R94-278; Filed November 16, 1993, 2:24 p.m.

† 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 amending regulations entitled: **VR 175-09-01. Minimum Standards for Licensed Child Day Centers Serving School Age Children.** The purpose of the proposed action is to incorporate therapeutic recreation requirements and to review the existing standards for appropriateness and clarity. The council does not intend to hold a public hearing on the proposed amendments after publication; however, oral comments will be accepted at 10 a.m. at the council's regular meetings.

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

Written comments may be submitted until January 13, 1994, to Peg Spangenthal, Chair, Child Day-Care Council, 730 East Broad Street, Richmond, Virginia 23219.

Contact: Peggy Friedenber, Legislative Analyst, Office of

Notices of Intended Regulatory Action

Governmental Affairs, Department of Social Services, 730 East Broad Street, Richmond, Virginia 23219, telephone (804) 692-1820.

VA.R. Doc. No. R94-279; Filed November 16, 1993, 2:24 p.m.

DEPARTMENT OF CORRECTIONS (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 Corrections intends to consider promulgating regulations entitled: **VR 230-01-005. Regulations for Public/Private Joint Venture Work Programs Operated in a State Correctional Facility.** The purpose of the proposed action is to promulgate regulations which govern the form and review process for proposed agreements between the Director of the Department of Corrections and public or private entity to operate a work program in a state correctional facility for inmates confined therein. A public hearing will be held on these regulations after publication of proposed regulations. The date, time, and location of the hearing will be published at a later date.

Statutory Authority: §§ 53.1-5 and 53.1-45.1 of the Code of Virginia.

Written comments may be submitted until January 12, 1994.

Contact: Amy Miller, Regulatory Coordinator, Board of Corrections, P. O. Box 26963, Richmond, VA 23261, telephone (804) 674-3262.

VA.R. Doc. No. R94-277; Filed November 22, 1993, 3:42 p.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Board of Corrections intends to consider amending regulations entitled: **VR 230-30-001. Minimum Standards for Jails and Lockups.** The purpose of the proposed action is to review and amend the minimum standards for the administration of and programs in jails and lockups. Notices of intent to promulgate regulations VR 230-30-001:1 were published June 14, 1993, and October 4, 1993; however, the Board of Corrections wishes to amend its existing regulations instead of promulgating new ones. By filing this notice, the Board of Corrections withdraws those initial two Notices of Intent. A public hearing will be held on the proposed amendments 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 53.1-131 of the Code of Virginia.

Written comments may be submitted until December 15, 1993.

Contact: Lou Ann White, Certifications Supervisor,

Department of Corrections, P.O. Box 26963, Richmond, VA 23261, telephone (804) 674-3268.

VA.R. Doc. No. R94-175; Filed October 27, 1993, 9:20 a.m.

DEPARTMENT OF CRIMINAL JUSTICE SERVICES (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: **Rules Relating to Compulsory Minimum Training Standards for Radar Operators.** The purpose of the proposed action is to establish the Rules Relating to Compulsory Minimum Training Standards for Radar Operators. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: § 9-170(3a) of the Code of Virginia.

Written comments may be submitted until December 29, 1993, to L. T. Eckenrode, Department of Criminal Justice Services, 805 E. Broad Street, Richmond, VA 23219.

Contact: Paula Scott Dehetre, Staff Executive, 805 E. Broad Street, Richmond, VA 23219, telephone (804) 786-4000.

VA.R. Doc. No. R94-207; Filed November 5, 1993, 12:43 p.m.

DEPARTMENT FOR THE DEAF AND HARD OF HEARING

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department for the Deaf and Hard of Hearing intends to consider repealing regulations entitled: **VR 245-01-01. Public Participation Guidelines.** The purpose of the proposed action is to repeal existing guidelines so that new guidelines may be promulgated for the involvement of the public in the development and promulgation of regulations of the Department for the Deaf and Hard of Hearing. The agency intends to hold a public hearing on the proposed repeal after publication.

Statutory Authority: §§ 9-6.14:7.1 and 63.1-85.4 of the Code of Virginia.

Written comments may be submitted until 5 p.m. on January 12, 1994, to Clayton E. Bowen, Acting Director, 1100 Bank Street, 12th Floor, Richmond, VA 23219.

Contact: Leslie G. Hutcheson, Manager, Special Projects, Department for the Deaf and Hard of Hearing, 1100 Bank Street, 12th Floor, Richmond, VA 23219, telephone (804) 225-2570 or toll-free, 1-800-552-7917.

Notices of Intended Regulatory Action

V.A.R. Doc. No. R94-297; Filed November 24, 1993, 11:31 a.m.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department for the Deaf and Hard of Hearing intends to consider promulgating regulations entitled: **VR 245-01-01:1. 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 Department for the Deaf and Hard of Hearing. The agency intends to hold a public hearing on the proposed regulations after publication.

Statutory Authority: §§ 9-6.14:7.1 and 63.1-85.4 of the Code of Virginia.

Written comments may be submitted until 5 p.m. on January 12, 1994, to Clayton E. Bowen, Acting Director, 1100 Bank Street, 12th Floor, Richmond, VA 23219.

Contact: Leslie G. Hutcheson, Manager, Special Projects, 1100 Bank Street, 12th Floor, Washington Building, Capitol Square, Richmond, VA 23219, telephone (804) 225-2570 or toll-free 1-800-552-7917.

V.A.R. Doc. No. R94-297; Filed November 24, 1993, 11:31 a.m.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department for the Deaf and Hard of Hearing intends to consider amending regulations entitled: **VR 245-02-01. Regulations Governing Eligibility Standards and Application Procedures for the Distribution of Technological Assistive Devices**. The purpose of the proposed action is to more equitably apply the sliding fee scale mandated by the Code of Virginia. The agency intends to hold a public hearing on the proposed regulations after publication.

Statutory Authority: § 63.1-85.4 of the Code of Virginia.

Written comments may be submitted until 5 p.m. on January 12, 1994, to Clayton E. Bowen, Acting Director, 1100 Bank Street, 12th Floor, Richmond, VA 23219.

Contact: Bruce A. Sofinski, Manager, Communications and Technology Programs, 1100 Bank Street, 12th Floor, Washington Building, Capitol Square, Richmond, VA 23219-3640, telephone (804) 225-2570 or toll-free 1-800-552-7917.

V.A.R. Doc. No. R94-295; Filed November 24, 1993, 11:31 a.m.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department for the Deaf and Hard of Hearing intends to consider amending

regulations entitled: **VR 245-03-01. Regulations Governing Interpreter Services for the Deaf and Hard of Hearing**. The purpose of the proposed action is to: (i) establish the minimum requirements to attain a Virginia Quality Assurance Screening (VQAS) level; (ii) establish a method to maintain an individual's standing as a "qualified interpreter," and (iii) incorporate a consumer input tool, which includes grievance procedure regarding alleged violations of the Code of Ethics. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: § 63.1-85.4 of the Code of Virginia.

Written comments may be submitted until 5 p.m. on January 12, 1994, to Clayton E. Bowen, Acting Director, Department for the Deaf and Hard of Hearing, 1100 Bank Street, 12th Floor, Richmond, VA 23219.

Contact: Bruce A. Sofinski, Manager, Communications and Technology Programs, Department for the Deaf and Hard of Hearing, 1100 Bank Street, 11th Floor, Richmond, VA 23219-3640, telephone (804) 225-2750 or toll-free 1-800-552-7917.

V.A.R. Doc. No. R94-296; Filed November 24, 1993, 11:31 a.m.

DEPARTMENT OF EDUCATION (STATE BOARD OF)

Notice of Intended Regulatory Action

Notice participation guidelines that the State Board of Education intends to consider promulgating regulations entitled: **Guidelines for School Crime Lines**. The purpose of the proposed action is to provide a mechanism to receive, screen, and promote student reports of unlawful acts committed in school buildings or on school grounds or at school activities. Any local school board may develop a school crime line program as a joint, self-sustaining, cooperative alliance with law-enforcement authorities, the community, and the news media. Public hearings will be held during the public comment period and this information will be publicized through a press release.

Statutory Authority: § 22.1-280.2 of the Code of Virginia.

Written comments may be submitted until January 3, 1994.

Contact: Diane L. Jay, Grants Program Manager, Virginia Department of Education, P. O. Box 2120, Richmond, Virginia 23216-2120, telephone (804) 371-7582.

V.A.R. Doc. No. R94-255; Filed November 10, 1993, 10:41 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 Education intends to consider repealing regulations entitled: **VR 270-01-0042. Regulations Governing**

Notices of Intended Regulatory Action

Contractual Agreements with Professional Personnel. The purpose of the proposed action is to repeal this regulation and provide a section of newly developed proposed regulations to govern hiring 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 a 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 entitled "VR 270-01-0042:1, Regulations Governing the Employment of Professional Personnel," which are being published in the proposed section of the November 29 issue of The Virginia Register. As a result of the development of the new regulations, VR 270-01-0042, Regulations Governing Contractual Agreements with Professional Personnel, must be repealed. 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 Boards 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 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 December 30, 1993.

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

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 amending regulations entitled: **VR 325-04-2. Motorboat Numbering.** The purpose of the proposed action is to bring the agency's boat registration and titling process into compliance with §

58.1-3511 of the Code of Virginia which establishes the situs for the assessment of motorboats for personal property taxation assessment purposes and with the Soldiers' and Sailor's Civil Relief Act (50 U.S.C.A. App. 574) which provides certain exemptions to personal property taxation assessments for individuals on active military duty.

Basis and Statutory Authority: The basis for this regulation is § 29.1-701 E of the Code of Virginia which authorizes the board to adopt rules and procedures for the implementation of the provisions of Chapter 7 of Title 29.1 of the Code of Virginia, entitled "Boating Laws."

Substance and Purpose: The purpose of this proposed regulatory action is to amend the board's regulations governing motorboat registration and informational requirements. Specifically, the intent of the suggested changes is to require individuals to identify on the motorboat registration and titling application form the county where the motorboat will be "normally garaged, docked, or parked" and to require individuals to notify the department when they are no longer on active military duty within the Commonwealth of Virginia.

Section 58.1-3511 of the Code of Virginia requires commissioners of revenue to assess for personal property taxation purposes motorboats based on where the boats are "normally garaged, docked, or parked." Reports submitted to the commissioners of revenue currently indicate boat registrations based on "locality of principal use." The first change will enable the department to gather the information necessary to report boat registrations in compliance with § 58.1-3511.

The Soldiers' and Sailor's Civil Relief Act (Act) provides certain exemptions from local personal property taxation assessments for individuals who are on active military duty. The department does not now ask an individual to indicate their military status at the time an application is submitted for a motorboat registration. The agency has been requested by representatives of the commissioners of revenue to collect that information and report it to them annually. Such reporting will enable the commissioners to provide the assessment relief envisioned by the Act without requiring their constituents to complete additional paperwork at the local level. While the agency can comply with the reporting request of the commissioners of revenue without regulatory action, the agency does not currently have the authority to require individuals to notify the agency in the event there is a change in military status. Since boat registrations are valid for 3-year periods, such authority is needed to enable the agency to ensure the accuracy of the reports sent to the commissioners.

Estimated Impact: It is expected that this proposal will have a financial impact on both the regulated public and local governments. Because boats are presently reported to the commissioners of revenue based on the locality of principal use, many individuals live in one locality but pay

Notices of Intended Regulatory Action

personal property taxes on their boats in another county. By changing the reporting basis to the locality where the boat is normally garaged, docked, or parked, individuals will be more likely to pay personal property taxes where they live than where they use their boats. This will cause some individual's tax payments to go down and others to go up. There will also be a realignment of personal property tax revenues among the various localities. No data is available to quantify either of these potential impacts.

Alternatives: No other alternative to the first action is available. The agency is not now in compliance with state law governing information provided to the commissioners of revenue for personal property taxation assessment purposes and cannot come into compliance without the suggested action. The agency does have the option to not solicit information regarding military status on the registration application form. Not doing so, however, will require commissioners of revenue to continue incurring additional workloads to accommodate individuals on active military status as provided under federal law. Both of these actions have been discussed with and endorsed by the commissioners of revenue.

Comments: The board seeks oral and written comments from interested persons on the intended regulatory action and on the costs and benefits of the stated alternative or other 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 hold a public meeting at 9 a.m. on Friday, December 3, 1993, in the Main Conference Room of the Department of Game and Inland Fisheries, 4010 W. Broad Street, Richmond, Virginia 23230, 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. Jamerson in writing at the address below or by telephone at (804) 367-1000 (V / TDD). Persons needing interpreter services for the deaf must notify Ms. Jamerson no later than Friday, November 19, 1993.

Intent to Hold an Informational Proceeding or Public Hearing: The board intends to hold a public hearing (informational proceeding) on the proposed amendments after the proposal is published in The Virginia Register of Regulations as provided under the agency's Public Participation Guidelines. This informational proceeding may be convened by a member of the board. The board does not intend to hold a formal hearing on the proposed amendments after the proposal is published in The Virginia Register of Regulations.

Statutory Authority: § 29.1-701 E of the Code of Virginia.

Written comments may be submitted until December 15, 1993, to Nancy Jamerson, Department of Game and Inland Fisheries, P.O. Box 11104, Richmond, Virginia 23230.

Contact: Mark D. Monson, Chief, Administrative Services, 4010 W. Broad St., Richmond, VA 23230, telephone (804) 367-1000.

V.A.R. Doc. No. R94-177; Filed October 27, 1993, 9:37 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 amending regulations entitled: **VR 325-04-1. Watercraft: In General.** The purpose of the proposed action is to amend § 1 to adopt state boating safety regulations in conformance with U.S. Coast Guard regulations, pertaining to safety equipment requirements for commercial fishing vessels, thereby eliminating enforcement conflicts. These amended regulations would apply to vessels which are engaged in activities which are pursuant to the harvesting or processing of fish for commercial purposes. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: § 29.1-735 of the Code of Virginia.

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

Contact: Jeffrey A. Uerz, Chief, Law Enforcement Division, 4010 W. Broad St., P.O. Box 11104, Richmond, VA 23230, telephone (804) 367-1000.

V.A.R. Doc. No. R94-176; Filed October 27, 1993, 9:37 a.m.

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 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 will hold a public hearing on the repeal of the regulations after publication.

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

Written comments may be submitted until December 16, 1993.

Contact: Robert J. Wittman, Deputy Director, 1500 E. Main

Notices of Intended Regulatory Action

St., Room 109-31, Richmond, VA 23219, telephone (804) 786-7937.

VA.R. Doc. No. R94-101; Filed October 20, 1993, 1:32 p.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 355-19-06. Rules and Regulations for the Sanitary Control of Oysters, Clams and Other Shellfish.** The purpose of the proposed action is to replace current regulations with updated regulations. The agency will hold a public hearing on the repeal of the regulations after publication.

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

Written comments may be submitted until December 16, 1993.

Contact: Robert J. Wittman, Deputy Director, 1500 E. Main St., Room 109-31, Richmond, VA 23219, telephone (804) 786-7937.

VA.R. Doc. No. R94-102; Filed October 20, 1993, 1:32 p.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 355-19-500. Shellfish and Crustacea Sanitation Regulations.** The purpose of the proposed action is to provide up-to-date and comprehensive regulations governing Virginia's compliance with the National Shellfish Sanitation Program. These regulations will replace two existing regulations proposed to be repealed: VR 355-19-05, Rules and Regulations for the Sanitary Control of the Picking, Packing and Marketing of Crab Meat for Human Consumption, and VR 355-19-06, Rules and Regulations Governing the Sanitary Control of Oysters, Clams and Other Shellfish. The agency will hold a public hearing on the proposed regulation after publication.

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

Written comments may be submitted until December 16, 1993.

Contact: Robert J. Wittman, Deputy Director, 1500 E. Main St., Room 109-31, Richmond, VA 23219, telephone (804) 786-7937.

VA.R. Doc. No. R94-100; Filed October 20, 1993, 1:32 p.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 355-30-109. Virginia State Medical Facilities Plan: Diagnostic Imaging Services. The purpose of the proposed action is to amend the criteria and standards for Single Photon Emission Computed Tomography (SPECT) to expedite the Certification of Public Need review process. The agency intends to hold a public hearing on the proposed regulations after publication.

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

Written comments may be submitted until December 15, 1993.

Contact: Wendy V. Brown, Office of Resources Development, Department of Health, 1500 E. Main St., Suite 105, Richmond, VA 23219, telephone (804) 786-7463.

VA.R. Doc. No. R94-179; Filed October 27, 1993, 11:04 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 355-35-200. Sanitary Regulations for Hotels (Formerly VR 355-35-02).** The purpose of the proposed action is to specify sanitation requirements for hotels and to establish up-to-date standards that will improve public health and safety. A public hearing will be held during the public comment period after the proposed regulations are published.

Statutory Authority: §§ 35.1-11 and 35.1-13 of the Code of Virginia.

Written comments may be submitted until 5 p.m. on December 31, 1993.

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

VA.R. Doc. No. R94-256; Filed November 9, 1993, 10:57 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 355-35-300. Sanitary Regulations for Summer Camps (Formerly VR 355-35-03).** The purpose of the proposed action is to specify sanitation requirements for summer camps and to establish up-to-date standards that will improve public health and safety. A public hearing will be held during the public comment period after the proposed regulations are published.

Statutory Authority: §§ 35.1-11 and 35.1-16 of the Code of Virginia.

Notices of Intended Regulatory Action

Written comments may be submitted until 5 p.m. on December 31, 1993.

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

V.A.R. Doc. No. R94-253; Filed November 9, 1993, 10:58 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 355-35-400. Sanitary Regulations for Campgrounds** (Formerly VR 355-35-04). The purpose of the proposed action is to specify sanitation requirements for campgrounds and to establish up-to-date standards that will improve public health and safety. A public hearing will be held during the public comment period after the proposed regulations are published.

Statutory Authority: §§ 35.1-11 and 35.1-17 of the Code of Virginia.

Written comments may be submitted until 5 p.m. on December 31, 1993.

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

V.A.R. Doc. No. R94-258; Filed November 9, 1993, 10:57 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 355-35-500. Regulations Governing Swimming Pools at Hotels, Motels, Campgrounds, Summer Camps and Related Facilities** (Formerly VR 355-35-05). The purpose of the proposed action is to specify improved sanitation requirements for the operation and maintenance of swimming pools at hotels, motels, campgrounds, summer camps and related facilities to protect public health and to establish up-to-date standards for these swimming pools. A public hearing will be held during the public comment period after the proposed regulations are published.

Statutory Authority: §§ 35.1-11, 35.1-13, 35.1-16 and 35.1-17 of the Code of Virginia.

Written comments may be submitted until 5 p.m. on December 31, 1993.

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

V.A.R. Doc. No. R94-257; Filed November 9, 1993, 10:57 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 355-40-500. Rules and Regulations for the Identification of Medically Underserved Areas of Virginia**. The purpose of the proposed action is to review the current system for designating medically underserved areas. These areas identify potential practice sites for physicians or nurse practitioners who receive Virginia scholarships while students. The board intends to hold a public hearing during the comment period following publication of any proposed revisions.

Statutory Authority: § 32.1-122.5 of the Code of Virginia.

Written comments may be submitted until December 16, 1993.

Contact: E. George Stone, Director, Office of Primary Care Development, Department of Health, 1500 E. Main St., P.O. Box 2448, Richmond, VA 23218, telephone (804) 786-4891.

V.A.R. Doc. No. R94-178; Filed October 27, 1993, 11:04 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: **Assisted Living Services for Individuals Residing in Adult Care Residences**. The purpose of the proposed action is to define the criteria for reimbursement to adult care residences providing regular and intensive assisted living services to individuals receiving auxiliary grant payments, subsequent to implementation of this program by the General Assembly. The agency does not intend to hold public hearings on this issue.

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

Written comments may be submitted until December 15, 1993, to Chris Pruett, Manager, Community Based Care Services, 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.

V.A.R. Doc. No. R94-94; Filed October 18, 1993, 3:23 p.m.

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 Board of Medical Assistance Services intends to consider amending regulations entitled: **Case Management Services: Auxiliary Grant Recipient Case Management**. The purpose of the proposed action is to adopt regulations regarding case management for recipients of auxiliary grants who are residing in licensed adult care residences. The agency does not intend to hold public hearings on this issue.

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

Written comments may be submitted until December 15, 1993, to Ann E. Cook, 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.

V.A.R. Doc. No. R94-99; Filed October 20, 1993, 3:25 p.m.

BOARD OF MEDICINE

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Medicine intends to consider amending regulations entitled: **VR 465-02-1. Regulations Governing the Practice of Medicine, Osteopathy, Podiatry, Chiropractic, Clinical Psychology and Acupuncture**. The purpose of the proposed action is to amend or delete §§ 1.1 B, 1.2, and 2.2 A 3 a through d pertaining to definition of foreign medical schools, and sections otherwise pertaining to above sections. There will be no public hearing unless requested; the amendments are being promulgated to reflect changes which influence medical licensure.

Statutory Authority: §§ 54.1-2400 and 54.1-2900 of the Code of Virginia.

Written comments may be submitted until January 14, 1994, to Hilary H. Connor, M.D., Executive Director, Board of Medicine, 6606 West Broad Street, 4th Floor, Richmond, VA 23230-1717.

Contact: Russell Porter, Assistant Executive Director, Board of Medicine, 6606 West Broad Street, 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9908 or (804) 662-7197/TDD ☎ .

V.A.R. Doc. No. R94-302; Filed November 24, 1993, 10:13 a.m.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Medicine intends to consider amending regulations entitled: **VR 465-02-1. Regulations Governing the Practice of Medicine,**

Osteopathy, Podiatry, Chiropractic, Clinical Psychology and Acupuncture. The purpose of the proposed action is to amend § 4.2, licensure to practice acupuncture; § 7.1 B, examination fee for podiatry; and sections otherwise pertaining to §§ 4.2 and 7.1 B. There will be no public hearing unless requested; the amendments are being promulgated to comply with statutory changes and increased costs for podiatric examinations.

Statutory Authority: §§ 54.1-2400, 54.1-2900, 54.1-2929, and 54.1-2930.

Written comments may be submitted until January 14, 1994, to Hilary H. Connor, M.D., Executive Director, Board of Medicine, 6606 West Broad Street, 4th Floor, Richmond, VA 23230-1717.

Contact: Eugenia Dorson, Deputy Executive Director, Board of Medicine, 6606 West Broad Street, 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9908 or (804) 662-7197/TDD ☎ .

V.A.R. Doc. No. R94-281; Filed November 16, 1993, 2:16 p.m.

† 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 repealing regulations entitled: **VR 465-02-2. Regulations for Granting Approval of Foreign Medical Schools and Other Foreign Institutions that Teach the Healing Arts and Guidelines for Completing Application**. The purpose of the proposed regulation is to repeal the regulations which were never promulgated as final regulations. There will be no public hearing unless requested; the emergency regulations which became effective on December 2, 1985, are being repealed because they were never promulgated as final regulations.

Statutory Authority: §§ 54.1-2400 and 54.1-2900 of the Code of Virginia.

Written comments may be submitted until January 14, 1994, to Hilary H. Connor, M.D., Executive Director, Board of Medicine, 6606 West Broad Street, 4th Floor, Richmond, VA 23230-1717.

Contact: Russell Porter, Assistant Executive Director, Board of Medicine, 6606 West Broad Street, 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9908 or (804) 662-7197/TDD ☎ .

V.A.R. Doc. No. R94-294; Filed November 24, 1993, 10:13 a.m.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Medicine intends to consider amending regulations entitled: **VR 465-03-1. Regulations Governing Physical Therapy**. The purpose of the proposed action is to conduct a regulatory review of the regulations to be consistent with national

Notices of Intended Regulatory Action

guidelines and statutory changes. A public hearing will be held on the proposed regulations after publication.

Statutory Authority: §§ 54.1-2400, 54.1-2900, 54.1-2942, 54.1-2943, 54.1-2944, 54.1-2945, 54.1-2946, 54.1-2947, and 54.1-2948 of the Code of Virginia.

Written comments may be submitted until January 14, 1994, to Hilary H. Connor, M.D., Executive Director, Board of Medicine, 6606 West Broad Street, 4th Floor, Richmond, VA 23230-1717.

Contact: Eugenia Dorson, Deputy Executive Director, Board of Medicine, 6606 West Broad Street, 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9908 or (804) 662-7197/TDD ☎ .

VA.R. Doc. No. R94-280; Filed November 16, 1993, 2:16 p.m.

STATE MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES BOARD

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Mental Health, Mental Retardation and Substance Abuse Services Board intends to consider repealing regulations entitled: **VR 470-03-01. Rules and Regulations to Assure the Rights of Residents of Hospitals and Other Facilities Operated by the Department of Mental Health, Mental Retardation and Substance Abuse Services.** The purpose of the proposed action is to assure regulations on the rights of clients are current and adequately protect the rights of the residents served. This regulation will be incorporated into and superseded by VR 470-03-04, Rules and Regulations to Assure the Rights of Residents of Facilities Operated by the Department of Mental Health, Mental Retardation and Substance Abuse Services. The task force will meet regularly throughout the state in hopes of completing the process in 12 months and will conduct public hearings.

Statutory Authority: § 37.1-84.1 of the Code of Virginia.

Written comments may be submitted until January 12, 1994, to Elsie D. Little, State Human Rights Director, P. O. Box 1797, 109 Governor Street, Richmond, VA 23214.

Contact: Rubyjean Gould, Director, Department of Mental Health, Mental Retardation and Substance Abuse Services, Administrative Services, 109 Governor St., P. O. Box 1797, Richmond, VA 23214, telephone (804) 786-3915.

VA.R. Doc. No. R94-291; Filed November 22, 1993, 2:45 p.m.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Mental Health, Mental Retardation and Substance Abuse Services Board intends to consider repealing regulations entitled: **VR**

470-03-03. Rules and Regulations to Assure the Rights of Clients in Community Programs. The purpose of the proposed action is to assure the Department of Mental Health, Mental Retardation and Substance Abuse Services regulations on the rights of clients are current and adequately protect the rights of the residents served. This regulation will be incorporated into and superseded by VR 470-03-04, Rules and Regulations to Assure the Rights of Residents of Facilities Operated by the Department of Mental Health, Mental Retardation and Substance Abuse Services. The task force will meet regularly throughout the state in hopes of completing the process in 12 months and will conduct public hearings.

Statutory Authority: § 37.1-84.1 of the Code of Virginia.

Written comments may be submitted until January 12, 1994, to Elsie D. Little, State Human Rights Director, P. O. Box 1797, 109 Governor Street, Richmond, VA 23214.

Contact: Rubyjean Gould, Director, Department of Mental Health, Mental Retardation and Substance Abuse Services, Administrative Services, 109 Governor Street, Richmond, VA 23214, telephone (804) 786-3915.

VA.R. Doc. No. R94-292; Filed November 22, 1993, 2:45 p.m.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Mental Health, Mental Retardation and Substance Abuse Services Board intends to consider promulgating regulations entitled: **VR 470-03-04. Rules and Regulations to Assure the Rights of Residents of Facilities Operated by the Department of Mental Health, Mental Retardation and Substance Abuse Services.** The purpose of the proposed action is to assure the regulations on the rights of clients are current and adequately protect the rights of the residents served. The agency intends to hold a public hearing on the proposed regulations after publication.

Statutory Authority: § 37.1-84.1 of the Code of Virginia.

Written comments may be submitted until January 12, 1994, to Elsie D. Little, State Human Rights Director, P. O. Box 1797, 109 Governor Street, Richmond, VA 23214.

Contact: Rubyjean Gould, Director, Department of Mental Health, Mental Retardation and Substance Abuse Services, Administrative Services, 109 Governor Street, Richmond, VA 23214, telephone (804) 786-3915.

VA.R. Doc. No. R94-293; Filed November 24, 1993, 10:46 a.m.

BOARD OF NURSING

Notice of Intended Regulatory Action

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

Notices of Intended Regulatory Action

intends to consider promulgating regulations entitled: **VR 495-04-1. Public Participation Guidelines**. The purpose of the proposed action is to replace emergency regulations which are in effect until June 27, 1994. The board does not intend to hold a public hearing since there have been no objections to the emergency public participation guidelines currently in effect. A hearing will be held if requested.

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

Written comments may be submitted until December 29, 1993.

Contact: Corinne F. Dorsey, R.N., Executive Director, Board of Nursing, 6606 W. Broad St., Richmond, VA 23230, telephone (804) 662-9909.

VA.R. Doc. No. R94-254; Filed November 10, 1993, 10:39 a.m.

BOARD OF OPTOMETRY

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Optometry intends to consider promulgating regulations entitled: **VR 510-01-2. Public Participation Guidelines**. The purpose of the proposed action is 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 board intends to hold a brief public hearing on the proposed regulations during the comment period.

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

Written comments may be submitted until January 11, 1994.

Contact: Elizabeth Carter, Executive Director, Board of Optometry, 6606 W. Broad St., Richmond, VA 23230-1717, telephone (804) 662-9910.

VA.R. Doc. No. R94-188; Filed October 28, 1993, 3:29 p.m.

BOARD OF PROFESSIONAL COUNSELORS

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Professional Counselors intends to consider repealing regulations entitled: **VR 560-01-01. Public Participation Guidelines**. The purpose of the proposed action is to replace emergency Public Participation Guidelines with permanent regulations. No hearing is planned during the comment period on this matter as the board plans to

adopt without changing the emergency regulations currently in effect.

Statutory Authority: §§ 9-6.14:7.1 and 54.1-3500 of the Code of Virginia.

Written comments may be submitted until December 29, 1993.

Contact: Evelyn B. Brown, Executive Director, Board of Professional Counselors, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9912.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Professional Counselors intends to consider promulgating regulations entitled: **VR 560-01-01:1. Public Participation Guidelines**. The purpose of the proposed action is to replace emergency Public Participation Guidelines with permanent regulations. No public hearing is planned during the comment period on this matter as the board plans to adopt without changing the emergency regulations currently in effect.

Statutory Authority: §§ 9-6.14:7.1 and 54.1-3500 of the Code of Virginia.

Written comments may be submitted until December 29, 1993.

Contact: Evelyn B. Brown, Executive Director, Board of Professional Counselors, 6606 W. Broad Street, Richmond, VA 23230, telephone (804) 662-9912.

VA.R. Doc. No. R94-185; Filed November 2, 1993, 3:27 p.m.

DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Professional and Occupational Regulation intends to consider amending regulations entitled: **VR 190-01-1:1. Regulations Governing Employment Agencies**. The Employment Agencies Program will review its regulations, including fees, for promulgation, amendment, and repeal as is deemed necessary in its mission to regulate Virginia employment agencies regulants. The agency does not intend to hold public hearing on the proposed amendments after publication.

Statutory Authority: § 54.1-1302 of the Code of Virginia.

Written comments may be submitted until December 15, 1993.

Notices of Intended Regulatory Action

Contact: Mark N. Courtney, Acting Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590.

VA.R. Doc. No. R94-107; Filed October 25, 1993, 2:20 p.m.

BOARD OF PSYCHOLOGY

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Psychology intends to consider repealing regulations entitled: **VR 565-01-1. Public Participation Guidelines.** The purpose of the proposed action is to replace emergency Public Participation Guidelines with permanent regulations. No public hearing is planned during the comment period on this matter as the board plans to adopt without changing the emergency regulations currently in effect.

Statutory Authority: §§ 9-6.14:7.1, 54.1-2400, and 54.1-3500 of the Code of Virginia.

Written comments may be submitted until December 29, 1993.

Contact: Evelyn B. Brown, Executive Director, Board of Psychology, 6606 W. Broad St., Richmond, VA 23230-1717, telephone (804) 662-9913.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Psychology intends to consider promulgating regulations entitled: **VR 565-01-1:1. Public Participation Guidelines.** The purpose of the proposed action is to replace emergency Public Participation Guidelines with permanent regulations. No public hearing is planned during the comment period on this matter as the board plans to adopt without changing the emergency regulations currently in effect.

Statutory Authority: §§ 9-6.14:7.1, 54.1-2400, and 54.1-3500 of the Code of Virginia.

Written comments may be submitted until December 29, 1993.

Contact: Evelyn B. Brown, Executive Director, Board of Psychology, 6606 W. Broad Street, Richmond, VA 23230-1717, telephone (804) 662-9913.

VA.R. Doc. No. R94-183; Filed November 2, 1993, 3:28 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 amending regulations entitled: **VR 615-08-1. Virginia Energy Assistance Program.** The purpose of the proposed action is to plan policies and procedures for implementation in the 1994-95 program year. Regulatory requirements are contained in Title VI of the Human Services Reauthorization Act of 1990 (Public Law 101-501). No public hearing is planned on the proposed regulation after publication.

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

Written comments may be submitted until December 15, 1993, to Charlene H. Chapman, Department of Social Services, 730 East Broad Street, Richmond, Virginia 23219-1849.

Contact: Margaret J. Friedenber, Legislative Analyst, Bureau of Governmental Affairs, Division of Planning and Program Review, 730 E. Broad St., Richmond, VA 23219-1849, telephone (804) 692-1820.

VA.R. Doc. No. R94-95; Filed October 19, 1993, 12:38 p.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 615-08-1. Virginia Energy Assistance Program.** The purpose of the proposed action is to incorporate emergency regulations as final regulatory action for the 1993-94 program year. Regulatory requirements are contained in Title VI of the Human Services Reauthorization Act of 1990 (Public Law 101-501). No public hearing is planned on the proposed regulation after publication.

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

Written comments may be submitted until December 18, 1993, to Charlene H. Chapman, Department of Social Services, 730 East Broad Street, Richmond, Virginia 23219-1849.

Contact: Margaret J. Friedenber, Legislative Analyst, Bureau of Governmental Affairs, Division of Planning and Program Review, 730 E. Broad St., Richmond, VA 23219-1849, telephone (804) 692-1820.

VA.R. Doc. No. C94-64; Filed September 28, 1993, 3:57 p.m.

BOARD OF SOCIAL WORK

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Social Work intends to consider promulgating regulations entitled: **VR 620-01-3. Public Participation Guidelines.** The purpose

Notices of Intended Regulatory Action

of the proposed action is to replace emergency Public Participation Guidelines with permanent regulations. No public hearing is planned during the comment period on this matter as the board plans to adopt without changing the emergency regulations currently in effect.

Statutory Authority: §§ 9-6.14:7.1, 54.1-2400, and 54.1-3700 of the Code of Virginia.

Written comments may be submitted until December 29, 1993.

Contact: Evelyn B. Brown, Executive Director, Board of Social Work, 6606 W. Broad St., Fourth Floor, Richmond, VA 23230, telephone (804) 662-9914.

V.A.R. Doc. No. R94-206; Filed November 5, 1993, 12:57 p.m.

BOARD OF VETERINARY MEDICINE

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Veterinary Medicine intends to consider promulgating regulations entitled: **VR 645-01-0:1. Public Participation Guidelines.** The purpose of the proposed action is 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 board intends to hold a public hearing on the proposed regulations during the comment period.

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

Written comments may be submitted until December 29, 1993, to Terri Behr, Board of Veterinary Medicine, 6606 W. Broad St., Richmond, VA 23230-1717.

Contact: Elizabeth Carter, Executive Director, Board of Veterinary Medicine, 6606 W. Broad St., Fourth Floor, Richmond, VA 23230-1717, telephone (804) 662-9915.

V.A.R. Doc. No. R94-259; Filed November 10, 1993, 10:32 a.m.

DEPARTMENT FOR THE VISUALLY HANDICAPPED

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department for the Visually Handicapped intends to consider repealing regulations entitled: **VR 670-01-1. Regulation Guidelines for Public Participation.** The purpose of the proposed action is to repeal regulations outdated by the 1993 amendments to the public participation requirements of the Administrative Process Act. Location and date of public hearing on the repeal of these regulations will be announced at a later date.

Statutory Authority: §§ 9-6.14:7.1 and 63.1-85 of the Code of Virginia.

Written comments may be submitted until December 31, 1993.

Contact: Joseph A. Bowman, Assistant Commissioner, Department for the Visually Handicapped, 397 Azalea Avenue, Richmond, VA 23227, telephone (804) 371-3140 or toll-free 1-800-622-2155.

V.A.R. Doc. No. R94-229; Filed November 9, 1993, 4:12 p.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department for the Visually Handicapped intends to promulgate regulations entitled: **VR 670-01-100. Public Participation Guidelines.** The purpose of the proposed action is to implement regulations for public participation in accordance with the 1993 amendments to the public participation requirements of the Administrative Process Act. Location and date of public hearing on the proposed regulations will be announced at a later date.

Statutory Authority: §§ 9-6.14:7.1 and 63.1-85 of the Code of Virginia.

Written comments may be submitted until December 31, 1993.

Contact: Joseph A. Bowman, Assistant Commissioner, Department for the Visually Handicapped, 397 Azalea Avenue, Richmond, VA 23227, telephone (804) 371-3140 or toll-free 1-800-622-2155.

V.A.R. Doc. No. R94-228; Filed November 9, 1993, 4:12 p.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department for the Visually Handicapped intends to consider amending regulations entitled: **VR 670-03-1. Regulation Governing Provisions of Services in Vocational Rehabilitation.** The purpose of the proposed action is to (i) establish maximum time requirements for determining client eligibility and completing the client grievance process; (ii) change financial eligibility requirements; (iii) expand order of selection; (iv) liberalize the minimum grade point average for college student sponsorship; and (v) specify visual acuity requirements for agency sponsored eye surgery. Numerous language changes will be proposed. A public hearing will be held on the proposed amended regulation after publication. Location and date will be announced at a later date.

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

Written comments may be submitted until December 31, 1993, to James Taylor, Program Specialist, Department for

Notices of Intended Regulatory Action

the Visually Handicapped, 397 Azalea Avenue, Richmond, VA 23227.

Contact: Joseph A. Bowman, Assistant Commissioner, Department for the Visually Handicapped, 397 Azalea Avenue, Richmond, VA 23227, telephone (804) 371-3140 or toll-free 1-800-622-2155.

VA.R. Doc. No. R94-230; Filed November 9, 1993, 4:12 p.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department for the Visually Handicapped intends to consider amending regulations entitled: **VR 670-03-2. Regulations Governing Provision of Services for the Infants, Children, and Youth Program.** The purpose of the proposed action is to amend the method used to calculate financial eligibility for eye examinations and glasses. A public hearing will be held on the proposed amended regulation after publication. Location and date will be announced at a later date.

Statutory Authority: § 22.1-217 of the Code of Virginia.

Written comments may be submitted until December 31, 1993, to Glen Slonneger, Program Specialist, Department for the Visually Handicapped, 397 Azalea Avenue, Richmond, VA 23227.

Contact: Joseph A. Bowman, Assistant Commissioner, Department for the Visually Handicapped, 397 Azalea Avenue, Richmond, VA 23227, telephone, (804) 371-3140 or toll-free 1-800-622-2155.

VA.R. Doc. No. R94-231; Filed November 9, 1993, 4:12 p.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department for the Visually Handicapped intends to consider amending regulations entitled: **VR 670-03-3. Regulation Governing Provision of Services in Rehabilitation Teaching.** The purpose of the proposed action is to (i) augment regulations to incorporate expanded services and definitions; (ii) add a client grievance procedure; (iii) add financial participation guidelines; and (iv) clarify eligibility requirements. A public hearing will be held on the proposed amended regulation after publication. Location and date to be announced at a later date.

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

Written comments may be submitted until December 31, 1993, to Jane Ward, Program Specialist, Department for the Visually Handicapped, 397 Azalea Avenue, Richmond, VA 23227.

Contact: Joseph A. Bowman, Assistant Commissioner, Department for the Visually Handicapped, 397 Azalea Avenue, Richmond, VA 23227, telephone (804) 371-3140 or

toll-free 1-800-622-2155.

VA.R. Doc. No. R94-232; Filed November 9, 1993, 4:12 p.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department for the Visually Handicapped intends to consider repealing regulations entitled: **VR 670-03-4. Provision of Independent Living Rehabilitation Services.** The purpose of the proposed action is to repeal regulations due to loss of federal funds to support a Center for Independent Living within a state agency. A public hearing on the proposed repeal of these regulations will be announced at a later date.

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

Written comments may be submitted until December 31, 1993, to Jane Ward, Program Specialist, Department for the Visually Handicapped, 397 Azalea Avenue, Richmond, VA 23227.

Contact: Joseph A. Bowman, Assistant Commissioner, Department for the Visually Handicapped, 397 Azalea Avenue, Richmond, VA 23227, telephone (804) 371-3140 or toll-free 1-800-622-2155.

VA.R. Doc. No. R94-233; Filed November 9, 1993, 4:12 p.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department for the Visually Handicapped intends to consider amending regulations entitled: **VR 670-03-5. Supervision of Administrative Regulations Governing Intake and Social Services.** The purpose of the proposed action is to (i) change age requirement for referral to program for infants, children, and youth; and (ii) delete section on income data collection. A public hearing will be held on the proposed amended regulation after publication. Location and date will be announced at a later date.

Statutory Authority: §§ 63.1-77 and 63.1-85 of the Code of Virginia.

Written comments may be submitted until December 31, 1993, to Paige Berry, Program Specialist, Department for the Visually Handicapped, 397 Azalea Avenue, Richmond, VA 23227.

Contact: Joseph A. Bowman, Assistant Commissioner, Department for the Visually Handicapped, 397 Azalea Avenue, Richmond, VA 23227, telephone (804) 371-3140 or toll-free 1-800-622-2155.

VA.R. Doc. No. R94-234; Filed November 9, 1993, 4:12 p.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 Department for the Visually Handicapped intends to consider amending regulations entitled: **VR 670-03-6, Regulations Governing Deaf-Blind Services**. The purpose of the proposed action is to change the name of the Independent Living and Rehabilitation Teaching programs in § 3.1. A public hearing will be held on the proposed amended regulation after publication. Location and date will be announced at a later date.

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

Written comments may be submitted until December 31, 1993, to Paige Berry, Program Specialist, Department for the Visually Handicapped, 397 Azalea Avenue, Richmond, VA 23227.

Contact: Joseph A. Bowman, Assistant Commissioner, Department for the Visually Handicapped, 397 Azalea Avenue, Richmond, VA 23227, telephone (804) 371-3140 or toll-free 1-800-622-2155.

VA.R. Doc. No. R94-235; Filed November 9, 1993, 4:13 p.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department for the Visually Handicapped intends to consider amending regulations entitled: **VR 670-03-7, Regulations Governing Low Vision**. The purpose of the proposed action is to clarify financial participation, remove the requirement of opening a case file, and remove the definition of bioptics. A public hearing will be held on the proposed amended regulation after publication. Location and date will be announced at a later date.

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

Written comments may be submitted until December 31, 1993 to Marge Owens, Program Specialist, Department for the Visually Handicapped, 397 Azalea Avenue, Richmond, VA 23227.

Contact: Joseph A. Bowman, Assistant Commissioner, Department for the Visually Handicapped, 397 Azalea Avenue, Richmond, VA 23227, telephone (804) 371-3140 or toll-free 1-800-622-2155.

VA.R. Doc. No. R94-236; Filed November 9, 1993, 4:13 p.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 repealing regulations entitled: **VR 680-16-06, Tennessee-Big Sandy River Basin Water Quality Management Plan**. The purpose of the proposed

action is to repeal the existing Tennessee-Big Sandy River Basin Water Quality Management Plan while concurrently promulgating a new, updated plan.

Basis and Statutory Authority: Section 62.1-44.15(13) of the Code of Virginia authorizes the board to establish policies and programs for effective area-wide or basin-wide water quality control and management. Section 62.1-44.15(10) of the Code of Virginia authorizes the board to adopt such regulations as it deems necessary to enforce the general water quality management program of the board in all or part of the Commonwealth.

Title 40, Parts 35 and 130, of the Code of Federal Regulations requires states to develop a continuing planning process of which Water Quality Management Plans (WQMP) are a part. No VPDES permit may be issued which is in conflict with an approved WQMP.

Need: WQMPs set forth measures for the department to implement in order to reach and maintain water quality goals in general terms and numeric loadings for, among other things, five-day biochemical oxygen demand. The Tennessee-Big Sandy WQMP was adopted by the board in 1977. This plan has not been updated to reflect current data, including total maximum daily loading and waste load allocations, scientific studies, new or revised legislation, procedures, policies and regulations, and changes in area growth and development.

Substance and Purpose: The purpose of this proposal is to repeal the existing Tennessee-Big Sandy River Basin WQMP. This plan has not been updated since it was originally adopted by the board in 1977 and is outdated. Concurrently with this proposed action, the board plans to adopt a new, updated Tennessee-Big Sandy River Basin WQMP which will incorporate policies, procedures, regulations, current data and information regarding point and nonpoint sources of pollution which have changed since the original plan was adopted in 1977.

Estimated Impacts: There are approximately 330,000 persons residing in the Tennessee-Big Sandy River Basin. There are 182 municipal and 76 industrial VPDES permits issued for the basin. No financial impact to the Department of Environmental Quality or the regulated community is anticipated by the repeal of the existing plan since a new plan will be adopted concurrently. The new proposal will provide the Commonwealth, local governments, industrial firms, agricultural interests and interested citizens with a more up-to-date management tool to assist in achieving and maintaining applicable water quality goals in the basin.

Alternatives: The Tennessee-Big Sandy River Basin WQMP has not been updated to reflect current data, scientific studies, new or revised legislation, policies or regulations, or changes in area growth and development since it was adopted in 1977. One alternative is to continue to use the existing, outdated WQMP. To do this would result in noncompliance with amendments to the Clean Water Act

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for achieving current water quality goals until a state WQMP is developed and adopted in late 1994.

Comments: The board seeks comments from interested persons on the intended regulatory action and on the costs and benefits of the stated alternative or other alternatives. In addition, the board will hold a public meeting to receive views and comments on Thursday, January 20, 1994, at 7 p.m. at the University of Virginia Southwest Center, Highway 19 N., Abingdon, VA 24210.

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 should contact Ms. Dalton. Persons needing interpreter services for the deaf must notify Ms. Dalton no later than January 5, 1994.

Advisory Committee/Group: An advisory committee was convened to provide input to the department regarding the content of the proposed new Tennessee-Big Sandy River Basin WQMP. The committee was composed of federal, state and local government representatives and members of environmental organizations. The committee will be reconvened after the close of this public comment period to provide comments on the new draft plan.

Intent to Hold an Informational Proceeding or Public Hearing: The board intends to hold at least one informational proceeding (informal hearing) on this 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 formal evidential hearing on this proposal after it is published in the Register of Regulations.

Statutory Authority: §§ 62.1-44.15(10) and 62.1-44.15(13) of the Code of Virginia.

Written comments may be submitted until 4 p.m. on January 31, 1994, to Doneva Dalton, Hearing Reporter, Department of Environmental Quality, P. O. Box 10009, Richmond, VA 23240.

Contact: Ronald D. Sexton, Department of Environmental Quality, Water Division, P. O. Box 888, Abingdon, VA 24210, telephone (703) 676-5507.

† 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 680-16-06:1. Tennessee-Big Sandy River Basin.** The purpose of the proposed action is to adopt a new Tennessee-Big Sandy River Basin Water Quality Management Program.

Basis and Statutory Authority: Section 62.1-44.15(13) of the Code of Virginia authorizes the board to establish policies

and programs for effective area-wide or basin-wide water quality control and management. Section 62.1-44.15(10) of the Code of Virginia authorizes the board to adopt such regulations as it deems necessary to enforce the general water quality management program of the board in all or part of the Commonwealth.

Title 40, Parts 35 and 130, of the Code of Federal Regulations requires states to develop a continuing planning process of which Water Quality Management Plans (WQMP) are a part. No VPDES permit may be issued which is in conflict with an approved WQMP.

Need: The Tennessee-Big Sandy WQMP was adopted by the board in 1977. This plan has not been updated to reflect current data, including total maximum daily loading and waste load allocations, scientific studies, new or revised legislation, procedures, policies and regulations, and changes in area growth and development.

Substance and Purpose: WQMPs set forth measures for the board to implement in order to reach and maintain water quality goals in general terms and numeric loadings for, among other things, five-day biochemical oxygen demand (BOD). The purpose of this proposal is to adopt a new Tennessee-Big Sandy River Basin WQMP to incorporate policies, procedures, regulations, current data and information regarding point and nonpoint sources of pollution which have changed since the original plan was adopted. Concurrently with this action, the board plans to repeal the existing plan.

Estimated Impacts: There are approximately 330,000 persons residing in the Tennessee-Big Sandy River Basin. There are 182 municipal and 76 industrial VPDES permits issued for the basin. No financial impact to the Department of Environmental Quality or the regulated community is anticipated. The proposal will provide the Commonwealth, local governments, industrial firms, agricultural interests and interested citizens with a more up-to-date management tool to assist in achieving and maintaining applicable water quality goals in the basin.

Alternatives: The Tennessee-Big Sandy River Basin WQMP has not been updated to reflect current data, scientific studies, new or revised legislation, policies or regulations, or changes in area growth and development since it was adopted in 1977. One alternative is to continue to use the existing, outdated WQMP. To do this would result in noncompliance with amendments to the Clean Water Act for achieving current water quality goals until a state WQMP is developed and adopted in late 1994.

Comments: The board seeks comments from interested persons on the intended regulatory action and on the costs and benefits of the stated alternative or other alternatives. In addition, the board will hold a public meeting to receive views and comments on Thursday, January 20, 1994, at 7 p.m. at the University of Virginia Southwest Center, Highway 19 N., Abingdon, VA 24210.

Notices of Intended Regulatory Action

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 should contact Ms. Dalton. Persons needing interpreter services for the deaf must notify Ms. Dalton no later than January 5, 1994.

Advisory Committee/Group: An advisory committee was convened to provide input to the department regarding the content of the proposed WQMP. The committee was composed of federal, state and local government representatives and members of environmental organizations. The committee will be reconvened, after the close of this public comment period, to provide comments on the draft plan.

Intent to Hold an Informational Proceeding or Public Hearing: The board intends to hold at least one informational proceeding (informal hearing) on this regulatory action after a 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 formal evidential hearing on this proposal after it is published in the Register of Regulations.

Statutory Authority: §§ 62.1-44.15(10) and 62.1-44.15(13) of the Code of Virginia.

Written comments may be submitted until 4 p.m. on January 31, 1994, to Doneva Dalton, Hearing Reporter, Department of Environmental Quality, P. O. Box 10009, Richmond, VA 23240.

Contact: Ronald D. Sexton, Department of Environmental Quality, Water Division, P. O. Box 888, Abingdon, VA 24210, telephone (703) 676-5507.

Statutory Authority: §§ 16.1-311, 66-10 and 66-27 of the Code of Virginia.

Written comments may be submitted until December 15, 1993.

Contact: Donald R. Carignan, Policy Coordinator, Department of Youth and Family Services, P.O. Box 1110, Richmond, VA 23208-1110, telephone (804) 371-0692.

V.A.R. Doc. No. R94-174; Filed October 17, 1993, 9:17 a.m.



VIRGINIA DEPARTMENT OF
YOUTH &
FAMILY SERVICES
Youth Begins With You.

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 Family Group Home**. The purpose of the proposed action is to set minimum standards for the care of youth in and operation of family group homes in Virginia. These proposed standards will supersede the minimum standards for family group homes adopted by the Board of Corrections on March 9, 1983. The board plans to hold a public hearing on the proposed standards after publication.

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 FOR ARCHITECTS, PROFESSIONAL ENGINEERS, LAND SURVEYORS AND LANDSCAPE ARCHITECTS

Title of Regulation: VR 130-01-1. Public Participation Guidelines (REPEALING).

V.A.R. Doc. No. R94-271; Filed November 24, 1993, 11:35 a.m.

Title of Regulation: VR 130-01-01:1. Public Participation Guidelines.

Statutory Authority: §§ 9-6.14:7.1, 54.1-201 and 54.1-404 of the Code of Virginia.

Public Hearing Date: N/A – Written comments may be submitted until February 23, 1994.

(See Calendar of Events section for additional information)

Basis: Sections 9-6.14:7.1, 54.1-201 and 54.1-404 of the Code of Virginia provide the Board for Architects, Professional Engineers, Land Surveyors and Landscape Architects with the statutory authority to promulgate Public Participation Guidelines. The board is empowered to promulgate regulations to establish entry requirements for licensure and standards of practice and conduct for architects, professional engineers, land surveyors, landscape architects and interior designers.

Purpose: The purpose of this regulatory action is to implement the requirements of the Administrative Process Act (APA) and the legislative changes to the APA made by the 1993 Virginia General Assembly by establishing regulatory board (agency) procedures for soliciting, receiving and considering input from interested parties in the formulation, adoption and amendments to new and existing regulations governing the licensure of architects, professional engineers, land surveyors, landscape architects and interior designers in Virginia.

Substance: Legislative changes enacted to the Administrative Process Act prompted the repeal of the existing public participation guidelines and the adoption of new emergency public participation guidelines for the Board for Architects, Professional Engineers, Land Surveyors and Landscape Architects on June 29, 1993. The proposed Public Participation Guidelines for the Board for Architects, Professional Engineers, Land Surveyors and Landscape Architects have been amended to include definitions in § 1. There is no substantial change from the current status of the law.

Issues: The proposed PPG's will give interested parties as well as the general public the opportunity to participate in the formation and development of the architects, professional engineers, land surveyors, landscape architects and interior designers regulations. Such participation will be advantageous to the public since they will become more familiar with the contents and expectations of the licensure requirements and regulations. The advantage to the agency is such that with public knowledge of the regulations, the agency should save considerable staff time in explaining, implementing and enforcing the regulations.

Estimated Impact: The proposed Public Participation Guidelines affect approximately 24,000 licensed, certified and registered architects, professional engineers, land surveyors, landscape architects and interior designers. Since the proposed public participation guidelines are substantially similar to the current emergency public participation guidelines, there will be no additional cost to the agency in the implementation and compliance of these regulations.

Summary:

The Board for Architects, Professional Engineers, Land Surveyors and Landscape Architects Public Participation Guidelines (PPG's) mandate public participation in the formulation, adoption and amendments to new and existing regulations governing the licensure, certification and registration of architects, professional engineers, land surveyors, landscape architects and interior designers. The Department of Professional and Occupational Regulation (the agency) will maintain a mailing list of persons and organizations to notify of any intended regulatory action by the board. The agency will mail such documents as "Notice of Intended Regulatory Action," "Notice of Comment Period," and a notice that final regulations have been adopted. The proposed PPG's outline the necessary procedures for being placed on or deleted from the mailing list. The "Notice of Intended Regulatory Action" will provide for a comment period of at least 30 days and will state whether or not the agency will hold a public hearing. Specific instances are given as to when the agency must hold a public hearing and when the agency must reevaluate the effectiveness and continued need of the regulations. The PPG's also establish the procedures for the formulation and adoption of regulations and the guidelines for when substantial changes are made prior to final adoption of regulations, and include the formation of an appointed advisory committee for input regarding board regulations. Finally, the PPG's specify what

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meetings and notices will be published in *The Virginia Register*.

VR 130-01-01:1. Public Participation Guidelines.

§ 1. Definitions.

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

“Administrative Process Act” means Chapter 1.1:1 (§ 9-6.14:1 et seq.) of Title 9 of the Code of Virginia.

“Agency” or “board” means the Board for Architects, Professional Engineers, Land Surveyors and Landscape Architects.

“Person” means an individual, a corporation, a partnership, an association, a governmental body, a municipal corporation, or any other legal entity.

§ 2. Mailing list.

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

1. “Notice of Intended Regulatory Action” to promulgate or repeal regulations.
2. “Notice of Comment Period” and public hearings, the subject of which is proposed or existing regulations.
3. Notice that the final regulations have been adopted.

Failure of these persons and organizations to receive the documents for any reason shall not affect the validity of any regulations otherwise properly adopted under the Administrative Process Act.

§ 3. Placement on the mailing list; deletion.

Any person wishing to be placed on the mailing list may do so by writing the agency. In addition, the agency, at its discretion, may add to the list any person, organization, or publication it believes will serve the purpose of responsible participation in the formation or promulgation of regulations. Persons on the list will be provided all information stated in § 2. Individuals and organizations may be periodically requested to indicate their desire to continue to receive documents or be deleted from the list. When mail is returned as undeliverable, individuals and organizations will be deleted from the list.

§ 4. Petition for rulemaking.

Any person may petition the agency to adopt or amend any regulation. Any petition received shall appear on the next agenda of the agency. The agency shall consider and

respond to the petition within 180 days. The agency shall have sole authority to dispose of the petition.

§ 5. Notice of intent.

At least 30 days prior to the filing of the “Notice of Comment Period” and the proposed regulations as required by § 9-6.14:7.1 of the Code of Virginia, the agency will publish a “Notice of Intended Regulatory Action.” This notice will provide for at least a 30-day comment period and shall state whether or not they intend to hold a public hearing. The agency is required to hold a hearing on proposed regulation upon request by the Governor or from 25 or more persons. Further, the notice shall describe the subject matter and intent of the planned regulation. Such notice shall be transmitted to the Registrar of Regulations for inclusion in *The Virginia Register*.

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

Within two years of the promulgation of a regulation, the agency shall evaluate it for effectiveness and continued need. The agency shall conduct an informal proceeding which may take the form of a public hearing to receive public comment on existing regulation. Notice of such proceedings shall be transmitted to the Registrar of Regulations for inclusion in *The Virginia Register*. Such proceedings may be held separately or in conjunction with other informational proceedings.

§ 7. Notice of formulation and adoption.

At any meeting of the agency or a subcommittee where it is anticipated the formation or adoption of regulation will occur, the subject matter shall be transmitted to the Registrar of Regulations for inclusion in *The Virginia Register*.

If there are one or more changes with substantial impact on a regulation, any person may petition the agency within 30 days from the publication of the final regulation to request an opportunity for oral or written submittals on the changes to the regulations. If the agency received requests from at least 25 persons for an opportunity to make oral or written comment, the agency shall suspend the regulatory process for 30 days to solicit additional public comment, unless the agency determines that the changes made are minor or inconsequential in their impact.

If the Governor finds that one or more changes with substantial impact have been made to proposed regulation, he may suspend the regulatory process for 30 days to require the agency to solicit further public comment on the changes to the regulation.

A draft of the agency's summary description of public comment shall be sent by the agency to all public commenters on the proposed regulation at least five days before final adoption of the regulation.

§ 8. Advisory committees.

The board intends to appoint advisory committees as it deems necessary to provide adequate participation in the formation, promulgation, adoption, and review of regulations. Such committees are particularly appropriate when other interested parties may possess specific expertise in the area of proposed regulation. The advisory committee shall only provide recommendations to the agency and shall not participate in any final decision making actions on a regulation.

When identifying potential advisory committee members the agency may use the following:

1. Directories of organizations related to the profession,
2. Industry, professional and trade associations' mailing lists, and
3. Lists of persons who have previously participated in public proceedings concerning this or a related issue.

§ 9. Applicability.

Sections 2 through 4, 6, and 8 shall apply to all regulations promulgated and adopted in accordance with § 9-6.14.9 of the Code of Virginia except those regulations promulgated in accordance with § 9-6.14.4.1 of the Administrative Process Act.

V.A.R. Doc. No. R94-270; Filed November 24, 1993, 11:35 a.m.

VIRGINIA ASBESTOS LICENSING BOARD

Title of Regulation: VR 190-05-01. Asbestos Licensing Regulations (REPEALING).

Title of Regulation: VR 137-01-02. Virginia Asbestos Licensing Regulations.

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

Public Hearing Date: January 14, 1994 - 10 a.m.

Written comments may be submitted until February 18, 1994.

(See Calendar of Events section for additional information)

Basis: The statutory authority to promulgate the Asbestos Licensing Regulations is found in § 54.1-501 of the Code of Virginia. The Virginia Asbestos Licensing Board is empowered to promulgate regulations setting standards for initial licensure, continuing licensure and for conduct for asbestos contractors, asbestos RFS contractors, asbestos workers, supervisors, inspectors, management planners, project designers, project monitors, training providers and asbestos analytical laboratories.

Purpose: The purpose of this regulatory action is to repeal the currently effective regulations entitled "VR 190-05-01, Asbestos Licensing Regulations" and to promulgate regulations entitled "VR 137-01-02, Asbestos Licensing Regulations" which will implement recent acts of the Virginia General Assembly and the United States Congress, and will revise the provisions of the current regulations to continue to assure that the public health, safety and welfare is protected by issuing licenses only to those who are properly trained and qualified, and to take proper disciplinary action against licensees who fail to comply with the conduct and practice standards established.

Substance: The proposed regulations implement the Virginia Asbestos Licensing Board created by an act of the 1993 Session of the General Assembly. Additionally, recent revisions to the United States Environmental Protection Act (EPA) are implemented. A standards of conduct section has been created to provide for disciplinary action against licensees who fail to comply with the regulations. Also, a General Entry and Renewal Requirements section has been added and the asbestos worker and supervisor sections have been combined to eliminate duplicate language and provide simplicity and clarity. New standards have been created for training provider record keeping, certificate information, length of training, training upgrade, primary instructor approval, use of videos and training course approval. License applicants will be required to submit proof of continuing accreditation in addition to proof of initial accreditation. Project designer applicants will be required to submit proof of experience.

The following definitions have been added or revised: "asbestos abatement project," "asbestos management plan," "asbestos RFS contractor license," "asbestos project design," "board," "demolition," "full approval," "friable," "hands-on experience," "occupied," "preliminary review," "primary instructor," "removal," "site," "substantial change," and "structure."

Fees have been reduced for Asbestos Contractor Licenses, RFS Contractor Licenses, Asbestos Analytical Laboratory Licenses and for training course approvals, to comply with § 54.1-113 of the Code of Virginia.

Issues: The proposed regulations implement the creation, by the 1993 General Assembly, of an asbestos licensing board. Those applying for asbestos licenses, training course approvals and licensees who are subject to disciplinary action will now be judged by a seven-member asbestos licensing board, five of which are involved in the asbestos industry, rather than by the Director of the Department of Professional and Occupational Regulation. The submission of proof of initial and continuing accreditation will benefit the agency and the public by ensuring that only properly accredited individuals will receive an asbestos license.

The agency will see a slight reduction in revenues as a result of fee reductions and an increase in expenditure as the result of board member travel, lodging, per diem and meal expense to participate in board meetings and

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disciplinary proceedings.

Estimated Impact: The proposed Asbestos Licensing Regulations will affect approximately 5,515 individuals licensed as asbestos workers, supervisors, project designers, project monitors, asbestos inspectors and management planners; approximately 245 licensed asbestos contractors and asbestos RFS contractors, approximately 95 licensed asbestos analytical laboratories and approximately 60 asbestos training providers.

The agency does not anticipate any additional resources will be needed to implement the proposed regulations. The agency anticipates that the reduced fees will provide adequate revenue to meet increased expenditures.

Summary:

The proposed regulations implement the Virginia Asbestos Licensing Board created by an act of the 1993 Session of the General Assembly. Additionally, recent revisions to the United States Environmental Protection Act (EPA) are implemented. A standards of conduct section has been created to provide for disciplinary action against licensees who fail to comply with the regulations. Also, a General Entry and Renewal Requirements section has been added and the asbestos worker and supervisor sections have been combined to eliminate duplicate language and provide simplicity and clarity. New standards have been created for training provider record keeping, certificate information, length of training, training upgrade, primary instructor approval, use of videos and training course approval. License applicants will be required to submit proof of continuing accreditation in addition to proof of initial accreditation. Project designer applicants will be required to submit proof of experience.

The following definitions have been added or revised: "asbestos project," "asbestos management plan," "asbestos project design," "asbestos RFS contractor's license," "board," "demolition," "full approval," "friable," "hands-on experience," "occupied," "preliminary review," "primary instructor," "removal," "site," "substantial change," and "structure."

Fees have been reduced for Asbestos Contractor Licenses, RFS Contractor Licenses, Asbestos Analytical Laboratory Licenses and for training course approvals, to comply with § 54.1-113 of the Code of Virginia.

VR 137-01-02. Virginia Asbestos Licensing Regulations.

PART I. SCOPE.

§ 1.1. Scope.

The purpose of this section is to identify those in the asbestos industry who need a specific Virginia asbestos

license. The following lists the types of asbestos license and those required to be licensed.

Asbestos Contractors License: Required for companies that contract with another person, for compensation, to carry out an asbestos abatement project.

Asbestos RFS Contractors License: Required for companies that contract with another person, for compensation, to remove nonfriable asbestos-containing roofing, flooring, or siding. This material must remain nonfriable during the entire removal process. Employees of RFS contractors are not required to be licensed, however, they must have RFS training specific to the type of nonfriable asbestos containing material they remove (roofing, flooring, or siding).

Asbestos Worker License: Required for those who remove or otherwise engage in an asbestos project.*

Asbestos Supervisor License: Required for those who supervise an asbestos abatement project. The Commonwealth of Virginia National Emission Standards for Hazardous Air Pollutants (NESHAP) Program recognizes the "competent person" as an individual licensed under this classification.*

Asbestos Building Inspector: Required for those who inspect buildings to identify, classify, record, sample, test and prioritize by exposure potential asbestos containing material.*

RFS Inspector License: Required for those who identify the presence of asbestos-containing roofing, flooring or siding material through sampling and interpretation of testing reports prepared by a licensed asbestos analytical laboratory.

Asbestos Management Planners License: Required for those who prepare or update an asbestos management plan. *

Asbestos Project Monitors License: Required for those who act as a project monitor on asbestos abatement sites. Project monitors who analyze PCM asbestos air samples on an asbestos abatement project must be employed by a firm that holds a valid Virginia Asbestos Analytical Laboratory license or the project monitor must be registered with the AIHA National Analyst Registry.

Asbestos Analytical Laboratory License: Required for laboratories who analyze air or bulk samples for the presence of asbestos by PLM, PCM, or TEM.

Asbestos Project Designers License: Required for those who prepare or update an asbestos abatement project design, specifications for asbestos abatement projects, and addenda to the specifications. *

* Employees who conduct asbestos response actions, inspections, prepare management plans or project designs

for their employer, on property owned or leased by the employer, are exempt from Virginia asbestos licensure, however, they are required to meet all EPA training requirements.

PART II. DEFINITIONS.

§ 2.1. Definitions.

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

"ACM" means asbestos containing material.

"AHERA" means Asbestos Hazard Emergency Response Act 40 CFR Part 763, Subpart E.

"Asbestos" means any material containing more than 1.0% asbestos by area as determined by microscopy. *

"Asbestos Analytical Laboratory License" means an authorization issued by the department to perform phase contrast, polarized light, or transmission electron microscopy on material known or suspected to contain asbestos.*

"Asbestos Contractor's License" means an authorization issued by the department permitting a person to enter into contracts to perform an asbestos abatement project.*

"Asbestos Containing Material" or "ACM" means any material or product which contains more than 1.0% asbestos by area as determined by microscopy.

"Asbestos inspector" means any person who performs an on-site investigation to identify, classify, record, sample, test and prioritize by exposure potential asbestos containing materials.

"Asbestos Inspector's License" means an authorization issued by the department permitting a person to perform on-site investigations to identify, classify, record, sample, test and prioritize by exposure potential asbestos-containing materials.*

"Asbestos Management Plan" means a program designed to control or abate any potential risk to human health from asbestos.*

"Asbestos management planner" means any person preparing or updating a management plan.

"Asbestos Management Planner's License" means an authorization issued by the department permitting a person to develop or alter an asbestos management plan.*

"Asbestos project" or "Asbestos abatement project" means an activity involving job set-up for containment, removal, encapsulation, enclosure, encasement, renovation,

repair, construction or alteration of asbestos-containing materials. An asbestos project or asbestos abatement project shall not include nonfriable asbestos containing roofing, flooring and siding material which when installed, encapsulated or removed does not become friable.*

"Asbestos project design" means any descriptive form written as instructions or drafted as a plan describing the construction of an asbestos abatement area or site, response action or work practices to be utilized on the asbestos abatement project.

"Asbestos project designer" means any person providing an asbestos project design or specifications for an asbestos abatement project.

"Asbestos Project Designer's License" means an authorization issued by the department permitting a person to design an asbestos abatement project.*

"Asbestos project monitor" means any person hired by a building owner or his agent to monitor, inspect, provide visual clearance or clearance monitoring of an asbestos abatement project.

"Asbestos Project Monitor License" means an authorization issued by the department permitting a person to monitor an asbestos project, subject to department regulations.*

"Asbestos supervisor" means any person so designated by an asbestos contractor who provides on-site supervision and direction to the workers engaged in asbestos projects.*

"Asbestos Supervisor's License" means an authorization issued by the department permitting an individual to supervise and work on an asbestos project.

"Asbestos worker" means any person who engages in an asbestos abatement activity.

"Asbestos Worker's License" means an authorization issued by the department permitting an individual to work on an asbestos project.*

"Board" means the Virginia Asbestos Licensing Board.

"Department" means the Department of Professional and Occupational Regulation.*

"Demolition" means the wrecking or taking out of any load-supporting structural member of a structure or solid barrier which is known to contain or be enclosing an asbestos-containing material.

"Director" means the Director of the Department of Professional and Occupational Regulation.*

"Employee" means all persons in the service of another under any contract of hire, express or implied, oral or written.

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"Encapsulation" means the treatment of ACM with a material that surrounds or embeds asbestos fibers in an adhesive matrix to prevent the release of fibers, as the encapsulant creates a membrane over the surface (bridging encapsulant) or penetrates the material and binds its components together (penetrating encapsulant).

"Encasement" means any process by which an asbestos-containing material is sprayed with an insulating sealer which is then mechanically fastened to the asbestos covered substrate. The insulating sealer is then covered with a sealer to give structural strength and durability.

"Enclosure" means the construction or installation over or around the ACM of any leak tight solid or flexible coverings, which will not deteriorate or decompose for an extended period of time, so as to conceal the ACM, contain ACM fibers, and render the ACM inaccessible.

"Financial interest" means financial benefit accruing to an officer or an employee or to a member of his immediate family. Such interest shall exist by reason of (i) ownership in a business if the ownership exceeds 3.0% of the total equity of the business; (ii) annual gross income that exceeds, or may be reasonably anticipated to exceed, \$1,000 from ownership in real or personal property or a business, (iii) salary, other compensation, fringe benefits, or benefits from the use of property, or any combination thereof, paid or provided by a business that exceeds or may be reasonably expected to exceed \$1,000 annually, (iv) ownership of real or personal property if the interest exceeds \$1,000 in value and excluding ownership in business, income, salary, other compensation, fringe benefits or benefits from the use of property.

"Friable" means that the material when dry, may be crumbled, pulverized or reduced to powder by hand pressure and includes previously nonfriable material after such previously nonfriable material becomes damaged to the extent that when dry it may be crumbled, pulverized, or reduced to powder by hand pressure.*

"Full approval" means approval given to a training provider for a course that has met the requirements of these regulations.

"Hands-on experience" means the physical participation of students in an asbestos training class. The physical participation includes mock sampling and inspection techniques, report preparation, writing project specifications, glovebag demonstrations and containment construction.

"Immediate family" means (i) a spouse, (ii) a sibling or step sibling, (iii) a parent or step parent, (iv) children or step children, and (v) any other person residing in the same household as the officer or employee.

"Local education agency" or "LEA" shall have the meaning provided in the USEPA AHERA regulations set

forth in 40 CFR 763. *

"NIOSH" means National Institute of Occupational Safety and Health.

"NIST" means National Institute of Standards and Technology.

"Occupied" means any area of any building designed or intended for human habitation for any purpose.

"Officer" means any person appointed, elected or hired by any company, whether or not he receives compensation or any other emolument of office.

"OSHA" means the U.S. Department of Labor Occupational Safety and Health Administration.

"Person" means a corporation, partnership, sole proprietorship, firm, enterprise, franchise, association or any other individual or entity.*

"Preliminary review" means a review conducted by the board following the submission of training materials to ascertain if the proposed training course meets the standards established by these regulations.

"Primary instructor" means an instructor whose main responsibility is to instruct courses, supervise other instructors and manage the overall course curriculum.*

"PCM" means phase contrast microscopy.

"PLM" means polarized light microscopy.

"RFS Contractor's License" means an authorization issued by the department permitting a person to enter into contracts to install, remove or encapsulate nonfriable asbestos-containing roofing, flooring and siding materials.

"RFS inspector" means any person performing on-site investigations to identify, classify, record or sample suspect asbestos-containing roofing, flooring or siding materials.

"RFS Inspector's License" an authorization issued by the department authorizing a person to identify the presence of asbestos-containing roofing, flooring and siding material through sampling and interpretation of testing reports prepared by a licensed asbestos analytical laboratory.*

"Removal" means the physical removal of ACM and disposal thereof in accordance with all applicable regulations.

"Renovation" means altering in any way, one or more facility components.

"Repair" means returning damaged ACM to an undamaged condition or to an intact state so as to prevent fiber release.

"Residential buildings" means site-built homes, modular homes, condominium units, mobile homes, manufactured housing, and duplexes, or other multi-unit dwellings consisting of four units or less which are currently in use or intended for use only for residential purposes.

"Response action" means any method including removal, encapsulation, enclosure or encasement that remediates an asbestos-containing material.

"Site" means an area established by the employer or contractor to demarcate areas where the airborne concentration of asbestos exceeds or can reasonably be expected to exceed the permissible exposure limit. The area may take the form of a temporary enclosure as defined by 29 CFR 1926.58(e)(6) or be demarcated in any manner which restricts employees from entering the area.

"Structure" means any building or load supporting framework whether fixed or portable utilized for occupancy, storage, or conveyance of public utilities or industrial materials.

"Substantial change" means a change in overall course curriculum, materials, primary instructors, directors, ownership, facilities, equipment, examinations, and certificates of completion. The addition of updated regulations, exam questions or news articles shall not be considered a substantial change.

"TEM" means transmission electron microscopy.

"USEPA" means United States Environmental Protection Agency.

"Visual inspection" means a process of looking for conditions, which if not corrected during the asbestos abatement project, will lead to residual asbestos-containing dust or debris. Visual inspection includes examination of an asbestos abatement project area prior to clearance air monitoring for evidence that the project has been successfully completed as indicated by the absence of residue, dust and debris.

* Cited from § 54.1-500 of the Code of Virginia

PART III. GENERAL ENTRY AND RENEWAL REQUIREMENTS.

§ 3.1. License application.

A. Individual and business applicants are responsible for obtaining a current application. All requests for applications should be directed to:

Assistant Director
Virginia Board for Asbestos Licensing
Virginia Department of Professional and Occupational
Regulation
3600 West Broad Street

Richmond, Virginia 23230

B. Individuals applying for initial licensure shall provide proof of successful completion of a EPA/AHERA or board approved initial asbestos training course and all subsequent EPA/AHERA or board approved refresher courses, relevant to the applicants discipline. If, at any time, there has been a lapse of AHERA accreditation of more than 12 months, the applicant must show successful completion within the past 24 months of a EPA/AHERA or board approved initial asbestos training course, relevant to the applicants discipline.

C. Each application shall be signed by the applicant and shall include a certification, by the applicant, that within three years prior to the application date, the applicant's license or other authorization to perform asbestos related work has not been suspended or revoked by any jurisdiction and that no enforcement action by any jurisdiction is pending against the applicant.

D. In the event disciplinary actions have been taken against the applicant, the applicant shall submit the following information, as the board may deny an applicant's request for a license based on prior disciplinary actions which indicate that the asbestos related work may not be performed in a manner that would protect the public health, safety and welfare:

1. A complete list of all prior disciplinary actions, including any sanctions imposed on the applicant by any jurisdiction or any state or federal court.
2. A description of any asbestos abatement or inspection activities, or both, conducted by the applicant that were terminated prior to completion, including the circumstances of the termination.
3. A copy of all reports compiled by the enforcement agency or a copy of a final report.

E. All applications shall be completed according to the instructions provided with the application. Incomplete applications will be returned to the applicant; fees received will not be refunded.

Applicants who submit checks which are dishonored by the institution on which they are drawn shall pay a \$25 service fee in addition to the application fee required by these regulations.

§ 3.2. Experience and Educational Verification Form (Form A).

Each application for inspector, management planner, project monitor and project designer shall include an Experience and Education Verification Form (Form A) completed by the applicant and signed by a supervisor verifying the job description of the applicant during the term of employment. Form A shall contain the name and address of the employer, a complete and concise job

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description, a job title, the dates of employment and the signature, typewritten or printed name, address and phone number of the supervisor verifying the experience. In lieu of a verifying signature for experience, an applicant who is self employed may submit a copy of three completed inspections, management plans, project designs or project monitor reports, whichever is applicable. If verification of a degree is required, the degree verification form must be sent directly from the school. An incomplete Form A will be returned to the applicant with an explanation for the return, and will constitute an incomplete application for licensure. Form A may be resubmitted following completion by the applicant.

§ 3.3. Fees.

A. The fee for an initial or a renewal of an asbestos worker, supervisor, inspector, RFS inspector, management planner, project designer, or project monitor license shall be \$35.

B. The renewal fee for individual licenses not renewed within 30 days after the noted expiration date shall be \$70.

C. The fee for an initial or a renewal of an Asbestos Analytical Laboratory License shall be \$75.

D. The renewal fee for Asbestos Analytical Laboratory Licenses not renewed within 30 days after the noted expiration date shall be \$150.

E. The fee for an initial or a renewal of an Asbestos Contractor License and RFS Asbestos Contractor License shall be \$300.

F. The renewal fee for Asbestos Contractor Licenses or RFS Contractors Licenses not renewed within 30 days after the noted expiration date shall be \$600.

G. Those who fail to renew within six months after the expiration date printed on the license shall not be renewed and shall apply for a new license.

H. All dishonored checks will be charged a \$25 service fee in addition to the required application fee.

§ 3.4. Expiration.

All asbestos licenses issued under these regulations shall expire one year from the last day of the month in which they are issued as indicated on the license.

§ 3.5. Renewal application.

A. The department will mail a renewal notice to the licensee at the last known address. The notice shall outline the procedures for renewal and the renewal fee amount. Failure to receive the notice shall not relieve the licensee of the obligation to renew.

B. Prior to the expiration date shown on the license, each licensee desiring to renew the license shall return to the board the renewal notice and appropriate fee. Should the licensee fail to receive the renewal notice, a copy of the current license may be submitted with the required fee.

C. For individual licenses, only asbestos refresher training courses approved by the board shall meet the training requirement for license renewal. Asbestos refresher courses approved by the USEPA under AHERA Regulations will not fulfill the renewal requirements unless the course is also a Virginia approved asbestos refresher training course. All refresher courses must be discipline specific. Applicants for renewal shall forward proof that the annual retraining requirements and an examination has been successfully completed. A copy of the certificate meeting the requirements outlined in § 14.4 of these regulations shall accompany the renewal card and fee.

D. If the renewal fee is not received by the department within 30 days after the expiration date noted on the license, a late renewal fee shall be required in addition to the renewal fee as stated in § 3.3.

E. Licensees failing to renew their licenses within six months after the expiration date noted on the license shall not be permitted to renew their licenses and shall apply as new applicants. Applicants shall reapply in accordance with Part III of these regulations.

§ 3.6. Change of address or name.

All licensees shall notify the board, in writing, of any change of address or name. This notification shall be sent to the board within 30 days of such relocation or name change.

PART IV. ASBESTOS WORKERS AND SUPERVISORS LICENSING REQUIREMENTS.

§ 4.1. Qualifications for licensure.

Each individual applying to the board for licensure as an asbestos worker or asbestos supervisor shall have the following qualifications:

1. Applicants shall be at least 18 years of age.
2. Applicants shall provide all evidence of completion of an EPA/AHERA approved training course as per § 3.1 B.

§ 4.2. Completed application.

A completed application, as defined in § 3.1, shall be accompanied by the required fee. All checks or money orders shall be made payable to the Treasurer of Virginia. No application will be processed if it is not accompanied by the required fee.

PART V. ASBESTOS CONTRACTOR LICENSING REQUIREMENTS.

§ 5.1. Qualifications for licensure.

Applicants shall have all occupational or professional licenses as required by state statute or local ordinance to transact the business of an asbestos contractor in addition to the requirements in these regulations.

§ 5.2. Asbestos contractor responsibilities.

A. Licensed asbestos contractors shall comply with all requirements, procedures, standards and regulations covering any part of an asbestos project established by the U.S. Environmental Protection Agency, the U.S. Occupational Safety and Health Administration, the Virginia Department of Labor and Industry, the Virginia Air Pollution Control Board, and the Virginia Waste Management Board.

B. Licensed asbestos contractors may also be required to comply with the requirements found in § 54.1-1100 of the Code of Virginia governing the regulation of general contractors.

C. The licensed asbestos contractor may designate a licensed supervisor to serve as his agent for the purpose of meeting the training requirements.

D. A licensed asbestos contractor shall use only licensed asbestos supervisors and workers to perform work on any asbestos project.

E. A licensed asbestos supervisor must be present at each job site while an asbestos project is in progress.

§ 5.3. Maintenance of licensing and training records at the asbestos job site.

A. The asbestos contractor shall be responsible for maintaining, at each job site, a list or copy of the license of each asbestos worker and supervisor. This list shall include the current license numbers and the license expiration dates of those workers and supervisors. The section does not relieve the contractor of any specific AHERA requirements concerning training certificates.

B. A licensed asbestos contractor shall maintain a copy of their Virginia asbestos contractors license on the job site.

C. Records maintained at the job site shall be available for review by the Department of Labor and Industry, the Department of Professional and Occupational Regulation, and all other agencies having authorization to inspect an asbestos job site.

§ 5.4. Conflict of interest.

Pursuant to § 54.1-501.1 of the Code of Virginia, the following situations and relationships between license categories are deemed to represent a conflict of interest and are prohibited.

1. It is a conflict of interest and a violation of these regulations for an asbestos contractor to have an employee/employer relationship with, or financial interest, in a laboratory utilized by the contractor for asbestos sample analysis. Laboratories owned by a building owner performing analysis on suspect asbestos samples taken from the building owners' property are exempt from this section.

2. It is a conflict of interest and a violation of these regulations for an asbestos contractor to have an employee/employer relationship with an asbestos project monitor working on an asbestos project performed by that asbestos contractor. An asbestos contractor shall not have any financial interests in the firm of which a project monitor is an employee. This section does not relieve a contractor of the OSHA personal monitoring requirements set forth in 29 CFR Part 1926.58(f).

3. It is a conflict of interest and a violation of these regulations for an asbestos contractor to enter into a contract to perform an asbestos project if the asbestos inspection or project design was performed by individuals with an employer/employee relationship with or financial interest in, the asbestos contractor, unless the asbestos contractor provides the building owner with the Virginia Asbestos Licensing Consumer Information Sheet and the Virginia Asbestos Licensing Inspector/Project Designer/Contractor Disclosure Form as prescribed by the department. The asbestos contractor's relationship with the asbestos inspector, asbestos RFS inspector, or project designer on the project must be disclosed. The disclosure form must be signed and dated by the building owner or his agent and the contracting entity prior to the bid or contract submission. The building owner must provide the disclosure form to all parties involved in the asbestos project. The disclosure form will be kept on the asbestos project site and available for review.

§ 5.5. Denial of license.

The board may refuse to issue a license to any asbestos contractor who is shown to have a substantial identity of interest with an asbestos contractor or RFS contractor whose asbestos license has been revoked, suspended or not renewed. A substantial identity of interest is defined to include but is not limited to, (i) a controlling financial interest by the individual or corporate principals of the asbestos contractor whose license has been revoked or not renewed or (ii) any officers or directors whose license has been denied, revoked, or not renewed.

§ 5.6. Transfer of asbestos contractor license.

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The transfer of an Asbestos Contractor License is prohibited. Whenever there is any change in the controlling interest of the licensed legal entity, whether in proprietorship or change of partner in partnership or the creation of a corporation, a new license is required.

PART VI. RFS CONTRACTOR LICENSING REQUIREMENTS.

§ 6.1. General.

All individual workers and supervisors on RFS projects must have fulfilled the RFS training requirements specified in Part XVI.

§ 6.2. Qualifications for licensure.

Applicants shall have all occupational or professional licenses required by state statute or local ordinance to transact the business of an asbestos RFS contractor, in addition to the requirements forth in these regulations.

§ 6.3. RFS contractor responsibilities.

A. Licensed RFS contractors shall comply with all requirements, procedures, standards and regulations relating to asbestos established by the U.S. Environmental Protection Agency, the U.S. Occupational Safety and Health Administration, the Virginia Department of Labor and Industry, the Virginia Air Pollution Control Board and the Virginia Waste Management Board.

B. Licensed RFS contractors may also be required to comply with the requirements found in § 54.1-1100 of the Code of Virginia, governing the regulation of general contractors.

C. A licensed RFS Contractor shall use only RFS trained workers and RFS trained supervisors to perform work on any RFS removal project.

D. A trained RFS supervisor must be present at each job RFS job site.

§ 6.4. Maintenance of training records at the asbestos job site.

A. The RFS contractor shall be responsible for maintaining, at each job site, a copy of the training certificates for each RFS asbestos worker and supervisor and shall include the date of each worker and supervisor RFS training.

B. A licensed RFS contractor shall maintain a copy of their Virginia RFS asbestos contractors license on each job site.

C. Records maintained at the job site shall be available for review by the Department of Labor and Industry, the Department of Professional and Occupational Regulation, and all other agencies having authorization to inspect an

RFS job site.

§ 6.5. Conflict of interest.

Pursuant to § 54.1-501.1 of the Code of Virginia, the following situations and relationships between license categories are deemed to represent a conflict of interest and are prohibited.

1. It is a conflict of interest and a violation of these regulations for an asbestos RFS contractor to have an employee/employer relationship with, or financial interest in, a laboratory utilized by the contractor for asbestos sample analysis. Laboratories owned by a building owner performing analysis on suspect asbestos samples taken from said building owner's property are exempt from this section.

2. It is a conflict of interest and a violation of these regulations for an asbestos RFS contractor to have an employee/employer relationship with an asbestos project monitor working on a removal project performed by that asbestos RFS contractor. An asbestos RFS contractor shall not have any financial interests in the firm of which a project monitor is an employee. This section does not relieve a contractor of the OSHA personal monitoring requirements in 29 CFR Part 1926.58(f).

3. It is a conflict of interest and a violation of these regulations for an asbestos RFS contractor to enter into a contract to perform a removal project if the asbestos inspection or project design was performed by individuals with an employer/employee relationship with, or financial interest in, the asbestos RFS contractor, unless the RFS contractor provides the building owner with the Virginia Asbestos Licensing Consumer Information Sheet and the Virginia Asbestos Licensing Inspector/Project Designer/Contractor Disclosure Form as prescribed by the board. The asbestos RFS contractor's relationship with the asbestos inspector, asbestos RFS inspector, or project designer on the project must be disclosed. The disclosure form must be signed and dated by the building owner or his agent and the contracting entity prior to the bid or contract submission. The building owner must provide the disclosure form to all parties involved in the removal project removal. The disclosure form will be kept on the removal site and available upon demand.

§ 6.6. Denial of license.

The board may refuse to issue a license to any asbestos RFS contractor who is shown to have a substantial identity of interest with an RFS contractor or asbestos contractor whose asbestos license has been revoked, suspended or not renewed.

A substantial identity of interest is defined to include but is not limited to, (i) a controlling financial interest by

the individual or corporate principals of the asbestos RFS contractor whose license has been revoked or not renewed or (ii) any officers or directors whose license has been denied, revoked, or not renewed.

§ 6.7. Transfer of asbestos RFS contractor license.

The transfer of an RFS contractor license is prohibited. Whenever there is any change in the controlling interest of the licensed legal entity, whether in proprietorship or change of partner in partnership or the creation of a corporation, a new license is required.

PART VII. RFS INSPECTOR LICENSING REQUIREMENTS.

§ 7.1. Qualifications for licensure.

Each individual applying to the board for licensure as an RFS inspector shall have the following qualifications:

1. Applicants shall be at least 18 years of age.
2. Applicants shall provide evidence of having completed educational requirements, as set forth in § 16.23 of these regulations.

PART VIII. ASBESTOS INSPECTOR LICENSING REQUIREMENTS.

§ 8.1. Qualifications for licensure.

A. Each individual applying to the board for licensure as an asbestos inspector shall have the following qualifications:

1. Applicants shall be at least 18 years of age.
2. The applicant must have successfully completed an asbestos inspector training course and examination approved by the board or an USEPA accredited AHERA inspector training course and examination. Applicants shall submit all training documents in accordance with § 3.1 B.
3. The applicant shall be required to provide proof of experience in performing asbestos inspections in buildings or industrial facilities, including collecting bulk samples, categorizing ACM, assessing ACM and preparing inspection reports.

Experience may be gained by acting as an inspector, being in responsible charge of inspectors, or being under the responsible charge of an inspector as follows:

- a. Acting as an inspector accredited (after December 17, 1987) according to AHERA or the Virginia Asbestos Licensing Program; or
- b. Being in responsible charge of persons accredited

as inspectors according to AHERA or the Virginia Asbestos Licensing Program; or

c. Being under the responsible charge of an inspector accredited according to AHERA or the Virginia Asbestos Licensing Program. All reports prepared by the unlicensed individual must be signed by the licensed or accredited individual in charge. The licensed or accredited individual in charge assumes responsibility for all reports prepared by the unlicensed individual.

4. An applicant with a bachelor's degree in engineering, architecture, industrial hygiene, science or a related field must have at least six months experience as described above. The applicant must submit the Experience and Educational Form (Form A) as noted in § 3.2.

5. An applicant with a two-year associate's degree in engineering, architecture, industrial hygiene, science or a related field must have at least 12 months experience as described above. The applicant must submit the Experience and Educational Form (Form A) as noted in § 3.2.

6. An applicant with a high school diploma must have at least 24 months experience as described above. The applicant must submit the Experience Verification Form as noted in § 3.2.

PART IX. ASBESTOS MANAGEMENT PLANNER LICENSING REQUIREMENTS.

§ 9.1. Management plan.

The management planner is responsible for preparing or updating a management plan in response to an asbestos inspection. This document identifies asbestos containing materials, specifies training, work permitting system, cleaning and work practices, and surveillance procedures to be utilized by maintenance and custodial staff performing routine maintenance. A management plan is prepared following an asbestos inspection.

§ 9.2. Qualifications for licensure.

A. Each individual applying to the board for licensure as an asbestos management planner shall have the following qualifications:

1. Applicants shall be at least 18 years of age.
2. The applicant must have successfully completed an asbestos management planner training course and examination approved by the board or a USEPA accredited AHERA management planner training course and examination. Applicants shall submit all training documents in accordance with § 3.1 B.

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3. The applicant must meet all of the qualifications to be licensed as an asbestos inspector, whether or not the asbestos inspector license is held.

4. The applicant is required to provide proof of experience evaluating inspection reports, selecting response actions, analyzing the cost of response actions, ranking response actions, preparing operations and maintenance plans and preparing management plans.

B. Experience may be gained by acting as a management planner, being in responsible charge of management planners or being under the responsible charge of a management planner as follows:

1. Any experience gained after December 17, 1987, must be gained acting as a management planner accredited according to AHERA, or the Virginia Asbestos Licensing Program, being in responsible charge of persons accredited as management planners according to AHERA or being under the responsible charge of a management planner accredited according to AHERA and the Virginia Asbestos Licensing Program. All reports prepared by the unlicensed individual must be signed by the licensed or accredited person in charge, who assumes responsibility; or

2. Experience gained as an inspector as outlined in § 8.1 of these regulations may be substituted for the management planner experience requirements.

C. An applicant with a bachelor's degree in engineering, architecture, industrial hygiene, science or a related field must have at least six months experience as described above. The applicant must submit the Experience and Educational Verification Form (Form A) as noted in § 3.2.

D. An applicant with a two-year associate's degree in engineering, architecture, industrial hygiene, science or a related field must have at least twelve months experience as described above. The applicant must submit the Experience and Educational Form (Form A) as noted in § 3.2.

E. An applicant with a high school diploma must have at least 24 months experience as described above. The applicant must submit the Experience Verification Form as noted in § 3.2.

PART X. ASBESTOS PROJECT DESIGNER LICENSING REQUIREMENTS.

§ 10.1. Duties and functions.

The duties and functions of a project designer include, but are not limited to, preparing an asbestos abatement project design, specifications for asbestos abatement projects and addenda to abatement specifications.

§ 10.2. Qualifications for licensure.

A. Each individual applying to the board for licensing as an asbestos project designer shall have the following qualifications:

1. Applicants shall be at least 18 years of age.

2. Applicants shall provide evidence of completion of an EPA/AHERA approved or board approved asbestos project designer training course. All training documents must be submitted in accordance with § 3.1 B.

3. After May 1, 1994, the applicant shall provide proof of experience in the preparation of project designs or project specifications on the Form A as noted in § 3.2.

Experience may be gained for licensure as a project designer as follows:

a. Acting as a project designer prior to September 1, 1993, according to AHERA or the Virginia Asbestos Licensing Program regulations; or

b. Being under the responsible charge of a project designer accredited according to AHERA, or licensed as an project designer by the Virginia Asbestos Licensing Program or another jurisdiction with an Environmental Protection Agency approved accreditation program. All work prepared by the unlicensed individual must be signed by the accredited or licensed designer in charge. The certified or licensed individual assumes all responsibility for work prepared by the unlicensed individual.

B. An applicant with a Bachelor of Science degree in engineering, architecture, industrial hygiene, physical science or related field must have six months experience as described above. The applicant must submit the Experience and Educational Verification Form (Form A) as noted in § 3.2.

C. An applicant with a two-year associates degree in engineering, architecture, industrial hygiene, physical science or related field must have 12 months experience as described above. The applicant must submit the Experience and Educational Verification Form (Form A) as noted in § 3.2.

D. An applicant with a high school diploma must have at least 24 months experience as described above. The applicant must the Experience Verification Form as noted in § 3.2.

PART XI. ASBESTOS PROJECT MONITOR LICENSING REQUIREMENTS.

§ 11.1. Duties and functions.

The duties and functions of a project monitor include, but are not limited to, observing and monitoring the activities of an asbestos abatement contractor or RFS contractor on asbestos projects to determine that proper work practices are used and compliance with all federal and local laws and regulations is maintained, collecting environmental air samples during the asbestos project, performing visual inspections of the work area and granting final clearance upon completion of the asbestos project.

§ 11.2. Abatement projects that require a project monitor.

A project monitor is required on:

1. Asbestos projects, performed in buildings that are occupied or intended to be occupied upon completion of the asbestos project, exceeding 2600 linear feet or 1600 square feet of asbestos containing material; or
2. Whenever the building or property owner deems it necessary to monitor asbestos projects or work performed by an RFS contractor on their property.

§ 11.3. Exemptions.

Asbestos projects in residential buildings are exempt from the project monitor requirements.

§ 11.4. Qualifications for licensure.

A. Each individual applying shall be at least 18 years of age.

B. The applicant must have a high school diploma or an equivalent.

C. An applicant currently certified by the USEPA as a project designer or asbestos supervisor may successfully complete an asbestos project monitor training course of 16 hours and examination.

D. An applicant not currently certified as a project designer or asbestos supervisor shall successfully complete a comprehensive asbestos project monitor training course of 40 hours and examination approved by the board.

E. The applicant shall provide proof of performing 160 hours of asbestos project monitoring training through field work on project sites, including evaluating and monitoring the asbestos work practices. The field work shall also include collecting environmental air samples during the abatement work and granting final clearance by performing visual inspections and collecting aggressive final air samples. The applicant shall submit the Experience Verification Form, as noted in § 3.2, to verify the above experience.

F. Project monitors who analyze PCM air samples on-site must be employed by a licensed asbestos analytical laboratory or be registered with the AIHA Asbestos

Analytical Registry.

Experience may be gained to qualify for licensure as follows:

1. Acting as a project monitor after becoming licensed by the department as a project designer or an asbestos supervisor.
2. Being under the direct charge of a person acting as a project monitor who is licensed by the board as a project designer or an asbestos supervisor before July 1, 1992, or under the supervision of a licensed project monitor after January 1, 1992. All reports compiled by an unlicensed project monitor must be signed by the licensed project monitor who is responsible for his supervision. The licensed individual in charge is at all times responsible for the activities of the unlicensed project monitor.

G. An applicant with a bachelor's degree in engineering, architecture, industrial hygiene, science or a related field must have at least 120 hours experience as described. The applicant must submit the Experience and Educational Verification Form (Form A) as noted in § 3.2.

PART XII. ASBESTOS ANALYTICAL LABORATORY LICENSE REQUIREMENTS.

§ 12.1. General.

Asbestos analytical laboratories are required to comply with all requirements, procedures, standards and regulations covering all aspects of asbestos analytical services as established by these regulations.

§ 12.2. License application.

A. Each application shall be signed by an officer or a responsible party of the asbestos analytical laboratory and shall include a certification by the applicant that within the last three years prior to the application date, his license, program accreditation rating or other authorization to analyze asbestos samples has not been suspended or revoked by any jurisdiction, accrediting association or governing agency and that no enforcement action is pending against the applicant. This section applies to all branch facilities of the asbestos analytical laboratory.

B. In the event enforcement actions have been taken against the applicant, the board may deny an applicant's request for a license based on the prior enforcement actions which indicate that the asbestos analytical laboratory or its branch facilities may not be performing its services in a manner that would protect the safety of its employees or public or that the analytical testing results might lack credibility or reliability. In order to make this determination, the following information will be required:

Proposed Regulations

1. A complete list of all prior enforcement actions, including any sanctions imposed on the applicant by any jurisdiction or any state or federal court.

2. A copy of any reports of enforcement action compiled by an enforcement agency against the applicant.

C. All applications shall be completed according to the instructions provided with the application. Incomplete applications will be returned to the applicant; fees received are not refundable.

§ 12.3. Qualifications for licensure.

Each individual or business applying to the board for licensing as an asbestos analytical laboratory shall have the following qualifications:

1. Applicants shall have all occupational or professional licenses and certifications necessary and required by state statute or local ordinance to transact the business of an asbestos analytical laboratory in addition to those requirements as set forth in these regulations.

2. A license issued by the board will authorize an asbestos analytical laboratory to perform analysis of bulk samples using PLM or TEM analysis, air samples using PCM or TEM analysis or both bulk and air sampling using PLM or PCM or TEM analysis.

3. Analysis of bulk materials:

a. For licensure to analyze bulk materials using Polarized Light Microscopy (PLM):

(1) The applicant shall provide evidence that the asbestos analytical laboratory is currently rated as "proficient" by the National Institute of Standards and Technology's National Voluntary Laboratory Accreditation Program. A copy of the NVLAP Certificate of Accreditation and Scope of Accreditation shall be submitted with the application for licensure.

(2) The asbestos analytical laboratory using PLM to analyze bulk samples shall use the method in accordance with USEPA specifications defined in the Interim Method for the Determination of Asbestos in Bulk Insulation Samples, USEPA 40 CFR Part 763, Appendix A, Subpart F or NIOSH Method 9002.

b. For licensure to analyze asbestos bulk materials using Transmission Electron Microscopy, the applicant shall provide evidence that the asbestos analytical laboratory is currently rated as "proficient" by the National Institute of Standards and Technology's National Voluntary Laboratory Accreditation Program. A copy of the NVLAP Certificate of Accreditation and Scope of

Accreditation shall be submitted with the application for licensure. The asbestos analytical laboratory shall participate in all rounds of the program.

4. Analysis of airborne asbestos fibers.

a. For licensure to analyze airborne fiber counts using Phase Contrast Microscopy:

(1) The applicant shall provide evidence that the National Institute for Occupational Safety and Health (NIOSH) has rated all the applicant's facilities in the Proficiency Analytical Testing (PAT) Programs most recent round of asbestos evaluations and has been found "proficient" or has been accredited by the American Industrial Hygiene Association for Asbestos Analytical Services. Each analyst must provide proof of successfully completing the NIOSH 582 Course or equivalent.

(2) The laboratory shall use the method in accordance with OSHA 29 CFR 1910.1001, Appendix A, FR No. 119, 22739, June 20, 1986, or most recent edition of the NIOSH 7400 counting method.

(3) Analysts who analyze air samples on-site must be registered with the AIHA National Analyst Registry, proof of registry must be maintained on-site, or the analysts must be employed by a Virginia licensed Asbestos Analytical Laboratory.

b. The technique used for TEM Analysis of asbestos airborne fiber counting shall be in accordance with USEPA 40 CFR PART 763, Appendix A, Subpart E or NIOSH Method 7402. The applicant shall provide evidence that the asbestos analytical laboratory and its branch facilities are currently rated as "proficient" by the National Institute of Standards and Technology's National Voluntary Laboratory Accreditation Program. A copy of the NVLAP Certificate of Accreditation and Scope of Accreditation shall be submitted with the application for licensure. The asbestos analytical laboratory shall participate in all rounds of the NVLAP program.

§ 12.4. Completed application.

A completed application (as required in § 3.1) shall be accompanied by the required fee. All checks or money orders shall be made payable to the "Treasurer of Virginia." No application will be processed if it is not accompanied by the required fee. The application shall list the type of analyses performed.

§ 12.5. Change of status.

A. The licensee shall notify the board immediately of any addition or deletion regarding employment of trained and experienced supervisors, and any changes regarding the signing officers or responsible party's relationship with

the company.

B. The licensee shall notify the board immediately upon the loss of accreditation or proficiency rating by NVLAP, NIOSH PAT Proficiency Program or AIHA by any laboratory location.

C. The licensee shall notify the board, in writing, within 10 days of the receipt of their most recent proficiency evaluation results. This shall include, but not limited to, NVLAP Accreditation, PAT round results and AIHA evaluation accreditation.

D. The licensee shall notify the board, in writing, if the type of analysis performed is different from the type of analysis in which the initial license was issued. The licensee shall submit a new application reflecting the changes and submit the qualifications required by these regulations to perform the analysis. The above information must be submitted to the board prior to performing the analysis. No additional fees are required to upgrade the analytical laboratory license.

§ 12.6. License certificate.

A. The transfer of an Asbestos Analytical Laboratory License is prohibited. Whenever there is any change in the controlling interest of the legal entity licensed, whether in proprietorship or change of partner in a partnership or the creation of a corporation, a new license is required.

B. A copy of the current Asbestos Analytical Laboratory License will be on site at all times where analysis is performed, including project sites. The license shall be available for review by the department.

C. The board shall require asbestos analytical laboratories that wish to become or remain licensed in the Commonwealth to conform to any future additional standards or regulations set forth by the USEPA or accrediting entity.

D. The board or board representatives shall conduct periodic on-site inspections and evaluations of any licensed asbestos analytical laboratory facility. The inspection shall include, but not be limited to: equipment, procedure and protocol records, training and accreditation documentation and any other program evaluation results on file. Prior notice of such inspections is not required.

PART XIII. STANDARDS OF PRACTICE AND CONDUCT.

§ 13.1. Responsibility to the public.

The primary obligation of the licensee or approved entity is to the public. If the licensee or approved entity's judgement is overruled under circumstances when the safety, health, property and welfare of the public are endangered, the licensee or approved entity shall inform the employer or client of the possible consequences and

notify appropriate authorities if the situation is not resolved. The licensee or approved entity shall take such action only when his authority to correct a problem has been ignored or overruled.

§ 13.2. Public Statements.

A. The licensee or approved entity shall be truthful in all matters relating to the performance of asbestos abatement or asbestos consulting services.

B. When serving as an expert or technical witness, the licensee or approved entity shall express an opinion only when it is based on an adequate knowledge of the facts in issue and on a background of technical competence in the subject matter. Except when appearing as an expert witness in court or an administrative proceeding when the parties are represented by counsel, the licensee or approved entity shall issue no statements, reports, criticisms, or arguments on matters relating to practices which are inspired or paid for by an interested party or parties, unless one has prefaced the comment by disclosing the identities of the party or parties on whose behalf the licensee or approved entity is speaking, and by revealing any self-interest.

C. A licensee or approved entity shall not knowingly make a materially false statement, submit falsified documents or fail to disclose a material fact requested in connection with an application submitted to the board by any individual or business entity for licensure or renewal.

§ 13.3. Solicitation of work.

In the course of soliciting work:

1. The licensee or approved entity shall not bribe.
2. The licensee or approved entity shall not falsify or permit misrepresentation of the licensee or approved entity's work or an associate's academic or professional qualifications, nor shall the licensee or approved entity misrepresent the degree of responsibility for prior assignments. Materials used in the solicitation of employment shall not misrepresent facts concerning employers, employees, associates joint ventures or past accomplishments of any kind.
3. Materials used in the solicitation of services shall not misrepresent facts of approval, federal, or state requirements.

§ 13.4. Professional responsibility.

A. The licensee or approved entity shall, upon request or demand, produce to the board, or any of its representatives, any plan, document, book, record or copy thereof in his possession concerning a transaction covered by these regulations, and shall cooperate in the investigation of a complaint filed with the board against a licensee or approved entity.

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B. A licensee or approved entity shall not use the design, plans or work of another licensee or approved entity without the original professional's knowledge and consent and after consent, a thorough review to the extent that full responsibility may be assumed by the user.

§ 13.5. Good standing in other jurisdictions.

A licensee or approved entity licensed to practice project monitoring, project design, inspections, management planning, training, contractual or supervisor work in other jurisdictions shall be in good standing in every jurisdiction where licensed, certified, or approved and shall not have had a license, certificate or approval suspended, revoked or surrendered in connection with a disciplinary action.

§ 13.6. Prohibited acts.

A. The following may be grounds for disciplinary action by the board:

1. The licensee, training provider, or primary instructor has violated or induced another person to violate any provisions of Chapters 1, 2, 3, or 5 of Title 54.1 of the Code of Virginia, or any provisions of these regulations.

2. The licensee has obtained his license through fraudulent means.

3. The licensee has altered a Virginia Asbestos License issued by the Commonwealth of Virginia or certificate issued by a training provider.

4. The licensee has been found guilty by the board, an administrative body or by a court, of any material misrepresentation in the course of performing his operating duties.

5. The licensee has been convicted or found guilty, regardless of jurisdiction of any felony or violation which resulted in the significant harm or the imminent and substantial threat of significant harm to human health or the environment. Any plea of *nolo contendere* shall be considered a conviction for the purposes of this regulation. The record of a conviction authenticated in such form as to be admissible in evidence under the laws of the jurisdiction where convicted, shall be admissible as *prima facie* evidence of such conviction.

6. Failing to notify the board in writing within 30 days of pleading guilty or *nolo contendere* or being convicted or found guilty of any felony which resulted in the significant harm or the imminent and substantial threat of significant harm to human health or the environment.

7. Negligence, or a continued pattern of incompetence, in the practice of the discipline in which the asbestos license is held.

8. Failing or neglecting to send any information or documentation that was requested by the board or its representatives.

B. Any individual whose license is revoked under this section shall not be eligible to reapply for a period of one year from the effective date of the final order of revocation. The individual shall meet all education, experience and training requirements, complete the application and submit the required fee for consideration as a new applicant.

PART XIV. TRAINING PROVIDER REQUIREMENTS.

§ 14.1. General.

This part outlines the record keeping responsibilities for an individual, a business, an agency, an institution or a sponsor performing asbestos training under Virginia law. All records are required to be available for review by representatives of the board. Records required to be maintained by the training provider must be maintained at the address on the Certificate of Approval of the asbestos training course. All training requirements are in accordance with AHERA (40 CFR Part 763), the EPA April 1990 memorandum or recommended EPA policy.

§ 14.2. Record keeping.

A. For all training courses approved by the board, training providers shall keep a list of all course participants attending the training course. The list shall contain the following minimum information:

1. Training provider;
2. Date of training;
3. Location of training course presentation;
4. Type and length of training;
5. Course director and primary instructor;
6. Course participants name and signature as it will appear on the Certificate of Completion to be issued by the training provider;
7. Participants employer, if applicable;
8. Participants name, address and social security number;
9. Participants Virginia asbestos license number, if applicable;
10. The resulting certificate number assigned to a participant who successfully completes the course when applicable;

11. The participant's examination score when applicable.

B. The course participant list shall be completed by the training provider and course participants daily.

C. The course participant listing shall be retained by the training provider for three years following the date of completion of the training course.

D. The course participant list shall be submitted to the board within five working days, after the last day of the course.

E. The training provider shall retain all examinations completed by course participants for a period of one year.

§ 14.3. Course outline and syllabus.

A. Prior to the start of the training course, the training provider shall prepare a course outline or syllabus. The outline shall contain the following minimum information:

1. Course title and length of training;
2. Starting time of each day of training;
3. Course section, inclusive length of training time for each section and instructor for each course section;
4. Scheduled breaks and inclusive length of breaks;
5. Scheduled lunch break and inclusive length of break;
6. Scheduled hands-on training, a description of the training to be performed, inclusive length of hands-on training and instructor(s) of hands on training;
7. Examination and inclusive length of examination time.

B. The training provider shall disseminate the course outline or syllabus to all course participants. A copy of the course outline shall be retained by the training provider for a period of three years following the completion of the training course.

§ 14.4. Certificates of completion.

A. Following attendance of the training course and successful completion of an examination by the course participant, the training provider shall issue a Certificate of Completion to the course participant. The certificate shall contain the following minimum information:

1. Training provider's business name;
2. Training provider's business address and phone number;

3. Location of training;

4. Typewritten or printed name of course participant;

5. Course title and length of training in hours;

6. Certificate number;

7. Inclusive course dates;

8. Examination date;

9. An expiration date one year subsequent to the date of completion of the training course;

10. For courses covered under 40 CFR 763, Subpart E, Appendix C, a statement of course approval;

11. Statement of attendance and successful completion of an examination by the course participant;

12. Signature and typewritten or printed name of course director or administrator and primary instructor. The signature may be a printed facsimile.

B. Changes to the Certificate of Completion shall be submitted to the board for review and approval prior to issuance to a course participant.

§ 14.5. Course materials: course manuals; video instruction; training equipment.

A. All training course participants shall be issued a course manual for the asbestos training course.

All materials will be legible and, in the case of Virginia approved training courses, submitted for review and approval by the board at least 45 days prior to being used by a course participant in an asbestos training course.

The training provider shall retain a copy on file for a period of three years following any amendments to the manual.

B. Use of video instruction is permitted as a method of instruction in a Virginia approved asbestos training course.

Videos shall not be the primary source of instruction unless it is an interactive video.

All videos utilized in a Virginia approved asbestos training course shall have undergone the review and approval process required in Part XIV of these regulations.

Videos shall be made available to the board, if requested, during an on-site audit or inspection.

C. In no case will equipment utilized for display or part of hands on training have been utilized on an asbestos abatement project site.

Proposed Regulations

Equipment will be dedicated for training use only.

The training provider shall keep a listing of all equipment utilized for training on file.

The equipment list will contain the following minimum information:

1. Equipment brand name;
2. Equipment description;
3. A statement of how the equipment is to be utilized in the asbestos training course.

The equipment list will be updated as new equipment is added as part of an asbestos training program and retained for a period of three years.

§ 14.6. Approval of primary instructors.

The qualifications of all primary instructors are required to be reviewed by the board as specified in §§ 14.2, 14.4 and 14.6 prior to the instructor teaching in a Virginia approved asbestos training course. If the board deems the instructor's qualifications inadequate, the department will promptly notify the provider. Guest instructors who do not teach a course on a routine basis are exempt from this section.

§ 14.7. Number of instructors required to provide training.

A. The board strongly recommends a minimum of two instructors to teach a Virginia approved initial worker course.

B. The board requires at least two instructors for each Virginia approved supervisor, inspector, management planner, project designer and project monitor initial course.

C. One instructor is adequate per refresher course.

D. At least one instructor shall be in the class and available to the students at all times during the course.

§ 14.8. Student to instructor ratios.

A. Hands-on training is to be overseen by the instructor at a ratio of no more than 10 students to one instructor.

B. There shall be no more than three course participants in any hands-on exercise, except for hands-on training which involves building containments.

§ 14.9. Concurrent training of asbestos workers and supervisors.

Training of asbestos workers and supervisors in the same classroom setting in a Virginia approved refresher course is prohibited.

§ 14.10. Supervisor upgrade

The ability of a worker to upgrade his accreditation or license to be a supervisor is permitted if all training needed to upgrade is completed within a single two week time frame from the time of completion of initial training.

§ 14.11. Completion of training.

The total hours of actual training, including upgrades, must be completed within a single two week time frame, from the completion time of initial training.

§ 14.12. Length of training.

The following are the requirements for length of training for a Virginia approved asbestos training course:

1. In no case shall actual asbestos training exceed eight hours in a 24-hour period.
2. Training given during evening hours (after 5 p.m. and before 8 a.m.) may not exceed four hours.
3. Training performed on weekends (Friday after 5 p.m. to Monday 8 a.m.) may not exceed 16 hours.

§ 14.13. Non-English speaking training courses.

All Virginia approved asbestos training courses shall be taught in English. Asbestos worker training courses are exempt from this section.

§ 14.14. Examinations.

A. All asbestos training courses approved by the board and utilized for licensure by the board shall contain an examination following the instructional portion of the asbestos training course. This requirement shall apply to all Virginia approved courses regardless of course location.

B. Oral examinations, except for workers, are not permitted in a Virginia approved asbestos training course. Trainers who provide worker oral examinations shall issue an answer sheet to be marked by the student. The student shall sign the answer sheet and it shall become a part of the trainers record keeping under § 14.2 E.

C. Examinations in languages other than English are permitted in asbestos worker courses only.

D. Examinations shall be given in the language of course instruction.

E. Reexamination following unsuccessful completion of the examination is permitted in a Virginia approved asbestos training course. The reexamination shall be limited to one attempt to pass following the initial examination. If the participant fails to achieve a 70% passing score after the second attempt, the participant must retake the training course before he is permitted to

take a retest. The training provider shall retain all the examinations completed by the course participant in compliance with § 14.2 E.

§ 14.15. Change of address, phone number or contact person.

Training providers approved by the board are required to notify the board of changes of address, phone number or primary instructor within 30 business days of changes to these items.

PART XV. TRAINING COURSE APPROVAL PROCESS.

§ 15.1. Training course approval requirements.

The Virginia accreditation program has been granted approval by the United States Environmental Protection Agency under the provisions found in 40 CFR 763 Subpart F. All EPA recognized asbestos training courses approved by the board will concurrently be granted USEPA approval.

All approved training courses shall meet the minimum requirements as outlined in these regulations. Individuals, businesses, agencies or institutions requesting approval of a proposed asbestos training course to prepare course participants for licensure requirements shall submit a Training Course Review and Audit Application with the following required information:

1. Training provider's business name, physical address, mailing address, and phone number;
2. Copies of approval letters issued by USEPA or other states granting approval to asbestos training courses presented by the training provider;
3. Applicable fee (see the evaluation fee schedule located in Part XVII);
4. The course curriculum;
5. A narrative explanation that states how the course meets the requirements for approval in the following areas:
 - a. Length of training in hours.
 - b. Amount and type of hands-on training.
 - c. Examinations (length, format and passing score).
 - d. Topics covered in the course.
 - e. Assurances of test security and how exams are administered.
6. A copy of all course materials (student manuals, instructor notebooks, handouts, etc).

7. A detailed statement providing information about the development of the examination used in the course.

8. The names and qualifications, including education and experience of each instructor and subject areas that each instructor will teach.

9. A description of and an example of a certificate that will be issued to students who successfully complete the course. The certificate shall contain the information noted in § 14.4.

10. A proposed course date for auditing purposes. The proposed date will be confirmed or an alternate date will be proposed within 10 business days of receipt of a complete training course submission and the required fee.

11. A complete submission consists of all items listed in § 15.1. Receipt of application and deposit of fees by the board in no way indicates approval of a training course.

§ 15.2. Examination.

All courses approved by the board are required to have a monitored, final written examination, except for workers needing an oral examination. The board recommends the examination include a practical component to test skill in asbestos abatement techniques. Students must obtain a minimum exam grade of 70% correct. Records of the participants examination shall be maintained in accordance with § 14.2 E of these regulations.

§ 15.3. Letters of course approval.

Letters of course approval shall be maintained at the business address listed on the course approval letter and made accessible to the public. An approved school shall maintain all records at the business address. The required records shall be available for review upon demand by the board or its representatives.

§ 15.4. Refresher course approval.

Refresher courses shall be one day (eight hours) for supervisors, workers, project designers and project monitors, and one-half day (four hours) for inspectors, management planners and RFS training courses. The refresher course shall review federal and state regulations, discuss changes to the regulations if applicable, developments in state-of-the-art procedures and a review of key aspects of the initial training course.

Individuals, businesses, agencies, or institutions wishing to sponsor refresher training courses shall submit a training course review and audit application required by § 15.1.

§ 15.5. Changes to an approved training course.

Proposed Regulations

Once a training course has been approved, substantial changes in the items listed below must be submitted to the board for review and approval prior to the continuation of the training course. The board will state its approval or disapproval of the changes by mail.

1. Course curriculum
2. Course examination
3. Course materials (as specified in §§ 15.1, 15.2 and 15.4 of these regulations)
4. Primary instructors and course director
5. Certificate of Completion

§ 15.6. Transfer of Virginia approval of an asbestos training course.

The transfer of a Virginia approved asbestos training course or program by sale of ownership will require a review of the course or program by the following procedure:

1. The transfer of a Virginia approved asbestos training course is subject to review by the board, and requires an application to the board and submission of materials for review to determine if substantive changes have been made to the course or program. All submissions shall be in accordance with § 15.1 or § 15.4 of these regulations.
2. Receipt of applications and deposit of fees submitted to the board does not indicate approval of the transfer.
3. A review of the submitted materials will be performed by the board to ascertain if substantial changes have been made to the training course. A substantial change is defined as a change in course materials, curriculum, primary instructors or facilities at the time of transfer of the asbestos training course or program. The board may conduct a complete field audit of any training course it believes has undergone a substantial change at the cost of the new owner.

§ 15.7. Attendance by the department.

Training course sponsors shall permit department representatives to attend, evaluate, and monitor any training course. Prior notice of attendance by agency representatives is not required.

§ 15.8. Suspension or revocation of approval of a training course.

A. The board may withdraw approval of any approved training course for the following reasons:

1. The school, instructors, or courses no longer meet

the standards established in these regulations.

2. The board determines an approved individual, business, agency, institution or sponsor is not conducting the training in a manner that meets the requirements as set forth in these regulations.

B. Suspension or revocation of training approval in another state or by the U.S.E.P.A. may be grounds for suspension or revocation in Virginia.

C. If the approval of a training course is revoked or suspended, the board will promptly notify the individual business, agency, institution, or sponsor in writing of the reason for the suspension or revocation. In the case of a suspension, the steps necessary to comply with the regulations will be stated in writing. Decisions regarding revocation or suspension of approval may be appealed under the Virginia Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia).

PART XVI. TRAINING COURSE REQUIREMENTS.

§ 16.1. General.

In all of the following training course requirements, one day shall be equal to eight hours. In all refresher training course requirements one day shall be equal to eight hours. All training courses, except project monitor, shall meet the minimum requirements set forth in AHERA (40 CFR Part 763).

§ 16.2. Worker training.

Asbestos abatement workers shall complete at least a three day (24 hours) training course as outlined below. All training courses shall be approved by the board. The training course shall include lectures, demonstrations, at least six hours of hands-on training, a course review, and an examination.

The training shall address the following topics:

1. Physical characteristics of asbestos:
 - a. Identification of asbestos.
 - b. Aerodynamic characteristics.
 - c. Typical uses and physical appearance.
 - d. A summary of abatement control options.
2. Potential health effects related to asbestos exposure:
 - a. The nature of asbestos-related diseases.
 - b. Routes of exposure, dose-response relationships and the lack of a safe exposure level.

c. Synergism between cigarette smoking and asbestos exposure.

d. Latency period for disease.

3. Employee personal protective equipment:

a. Classes and characteristics of respirator types.

b. Limitations of respirators and their proper selection, inspection, donning, use, maintenance, and storage procedures.

c. Methods for field testing of the facepiece-to-face seal (positive and negative pressure fitting tests).

d. Qualitative and quantitative fit testing procedures.

e. Variability between field and laboratory protection factors.

f. Factors that alter respirator fit (eg., facial hair).

g. The components of a proper respiratory protection program.

h. Selection and use of personal protective clothing; use, storage, and handling of nondisposable clothing.

i. Regulations covering personal protective equipment.

4. State-of-the-art work practices:

a. Asbestos abatement activities including descriptions of construction and maintenance of barriers and decontamination enclosure systems.

b. Positioning of warning signs.

c. Electrical and ventilation system lock-out.

d. Working techniques for minimizing fiber release, use of wet methods, use of negative pressure ventilation equipment, use of high efficiency particulate air (HEPA) vacuums.

e. Clean-up and disposal procedures.

f. Work practices for removal, encapsulation, enclosure, and repair.

g. Emergency procedures for sudden releases.

h. Potential exposure situations, and transport and disposal procedures.

i. Recommended and prohibited work practices.

5. Personal hygiene:

a. Entry and exit procedures for the work area, use of showers, avoidance of eating, drinking, smoking, and chewing (gum or tobacco) in the work area.

b. Potential exposures, such as family exposure.

6. Additional safety hazards:

a. Hazards encountered during abatement activities and how to deal with them, including electrical hazards, heat stress, air contaminants other than asbestos, fire and explosion hazards.

b. Scaffold and ladder hazards.

c. Slips, trips and falls.

d. Confined spaces.

7. Medical monitoring:

a. OSHA requirements for a pulmonary function test.

b. Chest X-rays and a medical history for each employee.

8. Air monitoring:

a. Procedures to determine airborne concentrations of asbestos fibers.

b. Focusing on how personal air sampling is performed and the reasons for it.

9. Relevant federal, state and local regulatory requirements, procedures and standards, with particular attention directed at relevant USEPA, OSHA, and state regulations concerning asbestos abatement workers and Department of Transportation regulations (49 CFR Part 172 Subpart H), with emphasis on packaging requirements and marking of containers of ACM waste.

10. Establishment of respiratory protection programs.

11. Course review. A review of key aspects of the training course.

§ 16.3. Examinations: Asbestos abatement worker.

Upon completion of an approved initial training course a closed book examination will be administered. Demonstration testing will also be permitted as part of the examination. Each examination shall cover the topics included in the training course. Persons who pass the examination and fulfill the course requirements will receive a Certificate of Completion as specified in § 14.4. The following are the requirements for an examination:

1. 50 Multiple choice questions

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2. *Passing Score: 70% correct*

§ 16.4. *Refresher training course.*

A. *Refresher courses shall be one day (eight hours) for asbestos abatement workers. The course shall review federal and state regulations, discuss changes to the regulations if applicable and developments in state-of-the-art procedures. A review of the following topics from the initial course:*

1. *Potential health effects related to asbestos exposure;*
2. *Employee personal protective equipment;*
3. *State-of-the-art work practices (with emphasis on work practices for removal, encapsulation, enclosure and repair and proper working techniques for minimizing fiber release, use of wet methods, use of negative pressure ventilation equipment and the use of high efficiency particulate air (HEPA) vacuums);*
4. *Personal hygiene.*
5. *Additional safety hazards.*

B. *A written closed book examination shall be included in the refresher course. The examination will consist of no fewer than 50 questions. The passing score will be 70% correct. Persons who pass the examination and fulfill the course requirements will receive a Certificate of Completion as specified in § 14.4.*

§ 16.5. *Supervisor training.*

Asbestos abatement supervisors shall complete a four-day (32 hours) training course as outlined below. The training course shall include lecture, demonstrations, course review, examination, and at least six hours of hands-on training which allows supervisors the experience of performing actual tasks associated with asbestos abatement. The supervisor's training course shall address the following topics:

1. *The role of the supervisor in the asbestos abatement process.*
2. *The physical characteristics of asbestos and asbestos-containing materials:*
 - a. *Identification of asbestos.*
 - b. *Aerodynamic characteristics.*
 - c. *Typical uses, physical appearance.*
 - d. *A review of hazard assessment considerations.*
 - e. *A summary of abatement control options.*
3. *Potential health effects related to asbestos exposure:*

a. *The nature of asbestos-related diseases.*

b. *Routes of exposure, dose-response relationships and the lack of a safe exposure level.*

c. *Synergism between cigarette smoking and asbestos exposure.*

d. *Latency period for disease.*

4. *Employee personal protective equipment:*

a. *Classes and characteristics of respirator types.*

b. *Limitations of respirators and their proper selection, inspection, donning, use, maintenance and storage procedures.*

c. *Methods for field testing of the facepiece-to-face seal (positive and negative pressure fitting tests).*

d. *Qualitative and quantitative fit testing procedures.*

e. *Variability between field and laboratory protection factors.*

f. *Factors that alter respirator fit (e.g., facial hair, dental work, weight loss or gain).*

g. *The components of a proper respiratory protection program.*

h. *Selection and use of personal protective clothing; use, storage and handling of nondisposable clothing.*

i. *Regulations covering personal protective equipment.*

5. *State-of-the-art work practices:*

a. *Work practices for asbestos abatement activities including descriptions of proper construction and maintenance of barriers and decontamination enclosure systems.*

b. *Positioning of warning signs.*

c. *Electrical and ventilation system lock-out.*

d. *Working techniques for minimizing fiber release, use of wet methods, use of negative pressure ventilation equipment, use of high efficiency particulate air (HEPA) vacuums.*

e. *Clean-up and disposal procedures.*

f. *Work practices for removal, encapsulation, enclosure and repair.*

g. *Emergency procedures for sudden releases.*

- h. Potential exposure situations.
 - I. Transport and disposal procedures.
 - j. Recommended and prohibited work practices.
 - k. Discussion of new abatement related techniques and methodologies.
6. Personal hygiene:
- a. Entry and exit procedures for the work area; use of showers; and avoidance of eating, drinking, smoking, and chewing (gum or tobacco) in the work area.
 - b. Potential exposures, such as family exposure, shall also be included.
7. Additional safety hazards:
- a. Hazards encountered during abatement activities and how to deal with them, including electrical hazards, heat stress, air contaminants other than asbestos, fire and explosion hazards.
 - b. Scaffold and ladder hazards.
 - c. Slips, trips and falls.
 - d. Confined spaces.
8. Medical monitoring. OSHA requirements for a pulmonary function test, chest X-rays and a medical history for each employee.
9. Air monitoring:
- a. Procedures to determine airborne concentration of asbestos fibers, including a description of aggressive sampling, sampling equipment and methods.
 - b. Reasons for air monitoring.
 - c. Types of samples and interpretation of results, specifically from analysis performed by polarized light, phase-contrast, and electron microscopy analyses.
10. Relevant federal, state, and local regulatory requirements, procedures and standards including:
- a. Requirements of TSCA Title II.
 - b. 40 CFR Part 61 National Emission Standards for Hazardous Air Pollutants, Subparts A (General Provisions) and M (National Emission Standards for Asbestos).
 - c. OSHA Standards for permissible exposure to airborne concentrations of asbestos fibers and respiratory protection (29 CFR Part 1910.134).
- d. OSHA Asbestos Construction Standard (29 CFR Part 1926.58).
 - e. USEPA Worker Protection Rule, 40 CFR Part 763, Subpart G.
 - f. Section 8.1 of the Virginia Solid Waste Management Regulations, (VR 672-20-10).
 - g. 49 CFR Part 172 Subpart H Department of Transportation regulations covering packaging, proper marking of shipping containers and shipping papers.
11. A review of NESHAP Guidance Documents:
- a. Common Questions on the Asbestos NESHAP.
 - b. Asbestos NESHAP: Regulated Asbestos Containing Materials Guidance (EPA 340/1-90-018).
 - c. Asbestos/NESHAP: Adequately Wet Guidance (EPA 340/1-90-019).
 - d. Reporting and Record Keeping Requirements for Waste Disposal: A Field Guide (EPA 340/1-90-016).
12. Respiratory protection programs and medical surveillance programs.
13. Insurance and liability issues:
- a. Contractor issues, worker's compensation coverage, and exclusions.
 - b. Third-party liabilities and defenses.
 - c. Insurance coverage and exclusions.
14. Record keeping for asbestos abatement projects:
- a. Records required by federal, state, and local regulations.
 - b. Records recommended for legal and insurance purposes.
15. Supervisory techniques for asbestos abatement activities. Supervisory practices to enforce and reinforce the required work practices and to discourage unsafe work practices.
16. Contract specifications. Discussions of key elements that are included in contract specifications.
17. Course review. A review of key aspects of the training course.

Proposed Regulations

§ 16.6. Examinations: Asbestos abatement supervisors.

Upon completion of an approved initial training course a closed book examination will be administered. Demonstration testing will also be permitted as part of the examination. Each examination shall cover the topics included in the training course. Persons who pass the examination and fulfill the course requirements will receive a Certificate of Completion as specified in § 14.4. The following are the requirements for an examination:

1. 100 Multiple choice questions
2. Passing Score: 70% correct

§ 16.7. Refresher training course.

A. Refresher courses shall be one day (eight hours) for asbestos abatement supervisors. The course shall review federal and state regulations, discuss changes to the regulations if applicable and developments in state-of-the-art procedures. A review of the following topics from the initial course shall be included in the asbestos supervisor refresher course:

1. Potential health effects related to asbestos exposure;
2. Employee personal protective equipment; including medical monitoring and respiratory protection program.
3. State-of-the-art work practices (with emphasis on work practices for removal, encapsulation, enclosure and repair and proper working techniques for minimizing fiber release, use of wet methods, use of negative pressure ventilation equipment and the use of high efficiency particulate air (HEPA) vacuums);
4. Additional safety hazards and medical monitoring;
5. Review of the Asbestos NESHAP, OSHA and DOT requirements.
6. Review of Virginia regulations concerning asbestos licensing, removal and disposal.

B. A written closed book examination shall be included in the refresher course. The examination will consist of no fewer than 50 questions. The passing score will be 70% correct. Persons who pass the refresher course examination will receive a Certificate of Completion. The certificate shall conform to § 14.4.

§ 16.8. Inspector training.

A. Asbestos inspectors shall complete a three-day (24 hours) training course as outlined below. The course shall include lectures, demonstrations, four hours of hands-on training, course review and a written examination. The inspector training course shall address the following topics:

1. Course overview:

- a. The role of the inspector in the asbestos abatement industry.
- b. A discussion of inspection requirements and criteria for AHERA, NESHAPs and state agencies.

2. Background information on asbestos:

- a. Identification of asbestos, and examples and discussion of the uses and locations of asbestos in buildings.

- b. Physical appearance of asbestos.

3. Potential health effects related to asbestos exposure:

- a. The nature of asbestos-related diseases.
- b. Routes of exposure, dose-response relationships and the lack of a safe exposure level.
- c. The synergism between cigarette smoking and asbestos exposure.
- d. Latency period for asbestos-related diseases, a discussion of the relationship of asbestos exposure to asbestosis, lung cancer, mesothelioma and cancer of other organs.

4. Functions/qualifications for inspectors:

- a. Discussions of prior experience and qualifications for inspectors and management planners.
- b. Discussions of the functions of an accredited inspector as compared to those of an accredited management planner.
- c. Discussion of the inspection process including inventory of ACM and physical assessment.

5. Legal liabilities and defenses:

- a. Responsibilities of the inspector, a discussion of comprehensive general liability policies, claims made and occurrence policies, environment and pollution liability policy clauses; state liability insurance requirements.
- b. Bonding and relationship of insurance availability to bond availability.

6. Understanding building systems:

- a. The relationship between building systems, including: an overview of common building physical plan layout; heat, ventilation and air conditioning (HVAC) system types; physical organization; and where asbestos is found on HVAC components.

- b. Building mechanical systems, their types and organization and where to look for asbestos on such systems.
 - c. Inspecting electrical systems, including appropriate safety precautions.
 - d. Reading building plans and as-built drawings.
7. Public/employee/building occupant relations:
- a. Notification of employee organizations about the inspection.
 - b. Signs to warn building occupants.
 - c. Tactics in dealing with occupants and the press.
 - d. Scheduling inspections to minimize disruptions.
 - e. Education of building occupants about actions being taken.
8. Preinspection planning and review of previous inspection records:
- a. Scheduling the inspection and obtaining access.
 - b. Building record review; identification of probable homogeneous areas from building plans or as-built drawings.
 - c. Consultation with maintenance or building personnel.
 - d. Review of previous inspection, sampling, and abatement records of a building.
 - e. The role of the inspector in exclusions for previously performed inspections.
9. Inspection for friable and nonfriable asbestos-containing material (ACM) and assessment of the condition of friable ACM:
- a. Procedures to follow in conducting visual inspections for friable and nonfriable ACM.
 - b. Types of building materials that may contain asbestos.
 - c. Touching materials to determine friability.
 - d. Open return air plenums and their importance in HVAC systems.
 - e. Assessing damage, significant damage, potential damage, and potential significant damage.
 - f. Amount of suspected ACM, both in total quantity and as a percentage of the total area.
- g. Type of damage.
 - h. Accessibility.
 - i. Material's potential for disturbance.
 - j. Known or suspected causes of damage or significant damage, and deterioration as assessment factors.
10. Bulk sampling/documentation of asbestos in schools:
- a. Detailed discussion of the "Simplified Sampling Scheme for Friable Surfacing Materials" (USEPA 560/5-85-030a October 1985).
 - b. Techniques to ensure sampling in a randomly distributed manner for other than friable surfacing materials.
 - c. Techniques for bulk sampling.
 - d. Sampling equipment the inspector should use.
 - e. Patching or repair of damage done in sampling; an inspector's repair kit.
 - f. Discussion of polarized light microscopy.
 - g. Choosing an accredited laboratory to analyze bulk samples.
 - h. Quality control and quality assurance procedures.
11. Inspector respiratory protection and equipment:
- a. Classes and characteristics of respirator types.
 - b. Limitations of respirators.
 - c. Selection, inspection, donning, use, maintenance, and storage procedures for respirators.
 - d. Methods for field testing of the facepiece-to-face seal (positive and negative pressure fitting tests); qualitative and quantitative fit testing procedures.
 - e. Variability between field and laboratory protection factors.
 - f. Factors that alter respirator fit (e.g., facial hair, dental work, weight loss or gain).
 - g. The components of a proper respiratory protection program.
 - h. Selection and use of personal protective clothing.
 - i. Use, storage, and handling of nondisposable clothing.

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12. Record keeping and writing the inspection report:
- Labeling of samples and keying sample identification to sampling location.
 - Recommendations on sample labeling.
 - Detailing of ACM inventory.
 - Photographs of selected sampling areas and examples of ACM condition.
 - Information required for inclusion in the management plan by TSCA Title II section 203 (i)(1).

13. Regulatory review:

- USEPA Worker Protection Rule found at 40 CFR Part 763, Subpart G.
- TSCA Title II.
- OSHA Asbestos Construction Standard (29 CFR Part 1926.58).
- OSHA respirator requirements (29 CFR Part 1910.134).
- The friable ACM in Schools Rule found at 40 CFR Part 763 Subpart F.
- Applicable state and local regulations.
- Differences in federal and state requirements where they apply and the effects, if any, on public and nonpublic schools.

14. Field trip:

- Including a field exercise with a walk-through inspection.
- On-site discussion of information gathering and determination of sampling locations.
- On-site practice in physical assessment.
- Classroom discussion of field exercise.

15. Course review. A review of key aspects of the training course.

§ 16.9. Examinations: asbestos inspectors.

Upon completion of an approved inspector training course, a closed book examination will be administered. Each examination shall cover the topics included in the inspector training course. Persons who pass the examination and fulfill course requirements will receive a Certificate of Completion as specified in § 14.4. The

following are the requirements for examination:

- 100 Multiple choice questions
- Passing Score: 70% correct

§ 16.10. Refresher training course.

A. Refresher courses shall be one-half day (four hours) for inspectors. The course shall review federal and state regulations, discuss changes to the regulations if applicable, and review developments in state-of-the-art procedures. A review of the following topics from the initial course shall be included in the asbestos inspector refresher course:

- Inspection for friable and nonfriable asbestos-containing material (ACM) and assessment of the condition of friable ACM.
- Bulk sampling/documentation of asbestos in schools.
- Reinspection and reassessment techniques.

B. The use of exercises to encourage interactive learning and participation is suggested. These exercises may take the form of reviewing building plans, inspection reports, a video or photo walk-through of an area to be inspected and written interviews with maintenance personnel to draw upon items covered in the initial inspector course.

C. A written closed book examination will be administered covering the topics included in the asbestos inspector refresher training course. The examination will consist of no fewer than 50 questions. The passing score will be 70% correct. Persons who pass the asbestos inspector refresher training course examination will receive a Certificate of Completion as specified in § 14.4.

§ 16.11. Asbestos management planner training.

Asbestos management planners seeking accreditation must complete an inspector training course as outlined above and a two-day management planner training course. The two-day training program shall include lectures, demonstrations, course review, and a written examination. The management planner training course shall address the following topics:

- Course overview:
 - The role of the management planner.
 - Operations and maintenance programs.
 - Setting work priorities; protection of building occupants.

2. Evaluation/interpretation of survey results:

- Review of TSCA Title II requirements for inspection and management plans as given in section

203(i)(1) of TSCA Title II.

b. Summarized field data and laboratory results; comparison between field inspector's data sheet with laboratory results and site survey.

3. Hazard assessment:

a. Amplification of the difference between physical assessment and hazard assessment.

b. The role of the management planner in hazard assessment.

c. Explanation of significant damage, damage, potential damage, and potential significant damage and use of a description (or decision tree) code for assessment of ACM; assessment of friable ACM.

d. Relationship of accessibility, vibration sources, use of adjoining space, air plenums and other factors to hazard assessment.

4. Legal implications:

a. Liability; insurance issues specific to management planners.

b. Liabilities associated with interim control measures, in-house maintenance, repair, and removal.

c. Use of results from previous inspections.

5. Evaluation and selection of control options:

a. Overview of encapsulation, enclosure, interim operations and maintenance, and removal; advantages and disadvantages of each method.

b. Response actions described via a decision tree or other appropriate method; work practices for each response action.

c. Staging and prioritizing of work in both vacant and occupied buildings.

d. The need for containment barriers and decontamination in response actions.

6. Role of other professionals:

a. Use of industrial hygienists, engineers and architects in developing technical specifications for response actions.

b. Any requirements that may exist for an architect to sign-off on plans.

c. Team approach to designing of high-quality job specifications.

7. Developing an operations and maintenance (O&M) plan:

a. Purpose of the plan.

b. Discussion of applicable USEPA guidance documents.

c. What actions should be taken by custodial staff: proper cleaning procedures; steam cleaning and high efficiency particulate aerosol (HEPA) vacuuming.

d. Reducing disturbance of ACM.

e. Scheduling O&M for off-hours; rescheduling or canceling renovation in areas with ACM.

f. Boiler room maintenance.

g. Disposal of ACM.

h. In-house procedures for ACM: bridging and penetrating encapsulants, pipe fittings, metal sleeves, poly vinyl chloride (PVC), canvas, and wet wraps; muslin with straps; fiber mesh cloth; mineral wool, and insulating cement.

i. Discussion of employee protection programs and staff training.

j. Case study in developing an O&M plan (development, implementation process, and problems that have been experienced).

8. Regulatory review:

a. Focusing on the OSHA Asbestos Construction Standard found in 29 CFR Part 1926.58.

b. The National Emission Standard for Hazardous Air Pollutants (NESHAPS) found at 40 CFR Part 61, Subparts A (General Provisions) and M (National Emission Standard for Asbestos).

c. USEPA Worker Protection Rule found in 40 CFR Part 763, Subpart G; TSCA Title II.

d. Applicable state regulations.

9. Record keeping for the management planner:

a. Use of field inspector's data sheet along with laboratory results.

b. On-going record keeping as a means to track asbestos disturbance.

c. Procedures for record keeping.

10. Assembling and submitting the management plan:

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a. Plan requirements in TSCA Title II section 203(i)(1).

b. The management plan as a planning tool.

11. Financing abatement actions:

a. Economic analysis and cost estimates.

b. Development of cost estimates.

c. Present costs of abatement versus future operations and maintenance costs.

d. Asbestos School Hazard Abatement Act grants and loans.

12. A review of key aspects of the training course.

§ 16.12. Examinations: Asbestos management planners.

Upon completion of an approved management planner training course, a closed book examination will be administered. Each examination shall cover the topics included in the management planner training course. Persons who pass the examination and fulfill course requirements will receive a Certificate of Completion as specified in § 14.4. The following are the requirements for examination:

1. 100 Multiple choice questions

2. Passing Score: 70% correct

§ 16.13. Refresher training course.

A. Management planners shall attend the inspector refresher course of one-half day (four hours) plus an additional half-day (four hours) on management planning. The course shall review federal and state regulations, discuss changes if applicable, and review developments in state-of-the-art procedures. A review of the following topics from the initial management planner training course shall be included in the asbestos management planner refresher training course:

1. Evaluation and interpretation of survey results.

2. Hazard assessment.

3. Evaluation and selection of control options.

4. Developing an Operations and Maintenance plan.

B. The use of exercises to encourage interactive learning and participation is suggested. These exercises may take the form of reviewing inspection reports, a video or photo walk-through of a building to have a management plan prepared for and a review of reinspection or abatement reports to update or prepare a management plan to draw upon items covered in the inspector course and the initial

management planner course.

C. A written closed book examination will be administered covering the topics included in the asbestos inspector refresher course. The examination will consist of no fewer than 50 questions. The passing score will be 70% correct. Persons who pass the asbestos management planner refresher training course examination will receive a Certificate of Completion as specified in § 14.4.

§ 16.14. Asbestos project designers.

A. Asbestos project designers shall complete a three-day asbestos project designer training course as outlined below. The three-day asbestos project designer training program shall include lectures, demonstrations, a field trip, course review, and a written examination. The three-day asbestos project designer training course shall address the following topics:

1. Course overview:

a. The role of the project designer in the asbestos abatement industry.

b. Discussion of what a project design is.

2. Background information on asbestos:

a. Identification of asbestos; examples and discussion of the uses and locations of asbestos in buildings.

b. Physical appearance of asbestos.

3. Potential health effects related to asbestos exposure:

a. Nature of asbestos-related diseases.

b. Routes of exposure, dose-response relationships and the lack of a safe exposure level.

c. The synergistic effect between cigarette smoking and asbestos exposure.

d. The latency period of asbestos-related diseases; a discussion of the relationship between asbestos exposure and asbestosis, lung cancer, mesothelioma, and cancer of other organs.

4. Overview of abatement construction projects:

a. Abatement as a portion of a renovation project.

b. OSHA requirements for notification of other contractors on a multi-employer site (29 CFR 1926.58).

5. Safety system design specifications:

a. Construction and maintenance of containment barriers and decontamination enclosure systems.

- b. Positioning of warning signs.
 - c. Electrical and ventilation system lock-out.
 - d. Proper working techniques for minimizing fiber release.
 - e. Entry and exit procedures for the work area, use of wet methods, use of negative pressure exhaust ventilation equipment, use of high efficiency particulate aerosol (HEPA) vacuums, proper clean-up and disposal of asbestos, work practices as they apply to encapsulation, enclosure, and repair, use of glove bags and a demonstration of glove bag use.
6. Field trip:
- a. Visit an proposed abatement site or other suitable building site, including on-site discussions of abatement design.
 - b. Building walk-through inspection, and discussion following the walk-through.
7. Employee personal protective equipment:
- a. Classes and characteristics of respirator types.
 - b. Limitations of respirators, proper selection, inspection, donning, use, maintenance, and storage procedures.
 - c. Methods for field testing of the face-to-facepiece seal (positive and negative pressure fitting tests).
 - d. Qualitative and quantitative fit testing procedures.
 - e. Variability between field and laboratory protection factors, factors that alter respirator fit (e.g., facial hair dental work and weight loss or gain).
 - f. Components of a proper respiratory protection program.
 - g. Selection and use of personal protective clothing, use, storage and handling of nondisposable clothing.
 - h. Regulations covering personal protective equipment.
8. Additional safety hazards:
- a. Hazards encountered during abatement activities and how to deal with them.
 - b. Electrical hazards, heat stress, air contaminants other than asbestos, fire and explosion hazards.
9. Fiber aerodynamics and control:
- a. Aerodynamic characteristics of asbestos fibers.
 - b. Importance of proper containment barriers.
 - c. Settling time for asbestos fibers.
 - d. Wet methods in abatement.
 - e. Aggressive air monitoring following abatement.
 - f. Aggressive air movement and negative pressure exhaust ventilation as a clean-up method.
10. Designing abatement solutions.
- a. Discussions of removal, enclosure, and encapsulation methods.
 - b. Asbestos waste disposal.
11. Budgeting/cost estimation.
- a. Development of cost estimates.
 - b. Present costs of abatement versus future operations and maintenance costs.
 - c. Setting priorities for abatement jobs to reduce cost.
12. Writing abatement specifications.
- a. Means and methods specifications versus performance specifications.
 - b. Design of abatement in occupied buildings.
 - c. Modification of guide specifications to a particular building.
 - d. Worker and building occupant health/medical considerations.
 - e. Replacement of ACM with non-asbestos substitutes.
 - f. Clearance of work area after abatement.
 - g. Air monitoring for clearance.
13. Preparing abatement drawings:
- a. Use of as-built drawings.
 - b. Use of inspection photographs and on-site reports.
 - c. Particular problems in abatement drawings.
14. Contract preparation and administration.
15. Legal/liabilities/defenses.

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a. Insurance considerations, bonding, hold harmless clauses, use of abatement contractor's liability insurance.

b. Claims-made versus occurrence policies.

16. Replacement of asbestos with asbestos-free substitutes.

17. Role of other consultants:

a. Development of technical specification sections by industrial hygienists or engineers.

b. The multi-disciplinary team approach to abatement design.

c. The use and responsibilities of a project monitor on the abatement site.

18. Occupied buildings.

a. Special design procedures required in occupied buildings.

b. Education of occupants.

c. Extra monitoring recommendations.

d. Staging of work to minimize occupant exposure.

e. Scheduling of renovation to minimize exposure.

19. Relevant federal, state and local regulatory requirements. Procedures and standards including:

a. Requirements of TSCA Title II.

b. 40 CFR Part 61, National Emission Standards for Hazardous Air Pollutants, Subparts A (General Provisions) and M (National Emission Standard for Asbestos).

c. OSHA standards for permissible exposure to airborne concentrations of asbestos fibers and respiratory protection (29 CFR Part 1910.134).

d. USEPA Worker Protection Rule, found at 40 CFR Part 763, Subpart G.

e. OSHA Asbestos Construction Standard found at 29 CFR Part 1926.58.

20. A review of key aspects of the training course.

§ 16.15. Examinations: asbestos project designers.

Upon completion of an approved asbestos project designer training course, a closed book examination will be administered. Each examination shall cover the topics included in the asbestos project designer training course.

Persons who pass the examination and fulfill course requirements will receive a Certificate of Completion as specified in § 14.4. The following are the requirements for examination:

1. 100 Multiple choice questions

2. Passing Score: 70% correct

§ 16.16. Refresher training course.

A. Project Designer Refresher Training shall be one day (eight hours) in length. The course shall review federal and state regulations, discuss changes to the regulations if applicable, and review developments in state-of-the-art procedures. A review of the following topics from the initial project designer training course shall be included in the asbestos project designer refresher Training Course:

1. Safety system design specifications.

2. Writing abatement specifications.

3. Employee personal protective equipment.

4. Budgeting and cost estimation.

B. The use of exercises to encourage interactive learning and participation is suggested. These exercises may take the form of reviewing inspection reports, a video or photo walk-through of a building to prepare a response action, a review of a mock-up cost list of equipment and materials utilized for various response actions to be designed within certain budget constraints and recommending a response action based upon the cost, budget and material condition constraints.

C. A written closed book examination will be administered covering the topics included in the asbestos project designer refresher courses. The examination will consist of no fewer than 50 questions. The passing score will be 70% correct. Persons who pass the asbestos project designer refresher training course will receive a Certificate of Completion as specified in § 14.4.

§ 16.17. Project monitor training.

A. Asbestos Abatement Project Monitors shall complete a five-day (40 hours) training course as outlined below. All training courses shall be approved by the department. The training course shall include lecture, demonstrations, course review, examination, and at least six hours of hands-on training which allows project monitors the experience of performing actual tasks associated with asbestos project monitoring. Those applicants who hold current supervisors or project designers certification need not complete the entire 40-hour training course but may complete the 16-hour portion of the course beginning at topic number 11 and take the examination. The comprehensive 40-hour project monitor training course shall address the following topics:

1. *The physical characteristics of asbestos and asbestos-containing materials:*
 - a. *Identification of asbestos.*
 - b. *Typical uses and locations in buildings, physical appearance.*
 - c. *A review of hazard assessment control options.*
 - d. *A summary of abatement control options.*
2. *Potential health effects related to asbestos exposure:*
 - a. *The nature of asbestos-related diseases.*
 - b. *Routes of exposure, dose-response relationships and the lack of a safe exposure level.*
 - c. *Synergism between cigarette smoking and asbestos exposure.*
 - d. *Latency period for disease; a discussion of the relationship between asbestos exposure and asbestosis, lung cancer, mesothelioma, and cancer of the other organs.*
3. *Employee personal protective equipment:*
 - a. *Classes and characteristics of respirator types.*
 - b. *Limitations of respirators and their proper selection, inspection, donning, use, maintenance and storage procedures.*
 - c. *Methods for field testing of the face piece-to-face seal (positive and negative pressure fitting tests).*
 - d. *Qualitative and quantitative fit testing procedures.*
 - e. *Variability between field and laboratory protection factors.*
 - f. *Factors that alter respirator fit (e.g. facial hair, dental work, weight loss or gain).*
 - g. *The components of a proper respiratory protection program.*
 - h. *Selection and uses of personal protective clothing; use, storage, and handling of nondisposable clothing.*
 - i. *Regulations covering personal protection equipment.*
4. *State of the art work practices:*
 - a. *Work practices for asbestos abatement activities including description of proper construction and maintenance barriers and decontamination enclosure systems.*
 - b. *Positioning of warning signs.*
 - c. *Electrical and ventilation system lock-out.*
 - d. *Working techniques for minimizing fiber release, use of wet methods, use of negative pressure ventilation equipment, use of high efficiency particulate air (HEPA) vacuums. Entry and exit procedures for work area.*
 - e. *Clean-up and disposal procedures.*
 - f. *Work practices for removal, encapsulation, enclosure and repair. Use of glove bags and a demonstration of glove bag use.*
 - g. *Emergency procedures for sudden release.*
 - h. *Potential exposure situations.*
 - i. *Transport and disposal procedures.*
 - j. *Recommended and prohibited work practices.*
 - k. *Discussion of new abatement related techniques and methodologies.*
5. *Personal hygiene:*
 - a. *Entry and exit procedures for the work area; use of showers; avoidance of eating, drinking, smoking, and chewing (gum or tobacco) in the work area.*
 - b. *Potential exposures, such as family exposure, shall also be included.*
6. *Additional safety hazards as covered in OSHA CFR 1926 and 1910 to include:*
 - a. *Hazards encountered during the abatement activities and how to deal with them, including electrical hazards, heat stress, air contaminants other than asbestos, fire, and explosion hazards.*
 - b. *Scaffold and ladder hazards.*
 - c. *Slips, trips and falls.*
 - d. *Confined spaces.*
7. *Medical monitoring. OSHA requirements for a pulmonary function test, chest x-rays and a medical history for each employee.*
8. *Respiratory protection programs and medical surveillance programs.*
9. *Insurance and liability issues:*
 - a. *Contractor issues, worker's compensation coverage, and exclusions.*

Proposed Regulations

b. Third-party liabilities and defenses.

c. Insurance coverage and exclusions.

10. Relevant federal, state and local regulatory requirements, procedures and standards including;

a. Requirements of TSCA Title II.

b. 40 CFR Part 61 National Emission Standards for Hazardous Air Pollutants, Subparts A (General Provisions) and M (National Emission Standards for Asbestos).

c. OSHA Standards for permissible exposure to airborne concentrations of asbestos fibers and respiratory protection (29 CFR Part 1910.134).

d. OSHA Asbestos Construction Standard (29 CFR Part 1926.58).

e. OSHA Hazard Communication Standard (29 CFR Part 1926.59).

f. USEPA Worker Protection Rule, 40 CFR Part 763, Subpart G.

g. Section 8.1 of the Virginia Solid Waste Management Regulations (VR 672-20-10).

h. DOT 49 CFR Part 171 and Part 172 Subpart H.

i. Virginia asbestos licensing regulations.

B. The material outlined below encompasses the 16-hour project monitor training course. Those applicants who are currently accredited as supervisors or project designers need only to complete this 16-hour project monitors course and examination. The comprehensive 40-hour project monitor training program includes the preceding topics and continues below.

1. Air monitoring:

a. NIOSH Asbestos Monitoring Procedure. Procedures to determine airborne concentration of asbestos fibers, including a description of aggressive sampling, sampling equipment and methods.

(1) Explanation of analytical methods, measures of precision, control of errors, collecting measurement samples, fiber counts, sampling and calibration equipment, statistics, quality control techniques in sampling.

(2) Review of OSHA Asbestos Regulations 29 CFR Part 1926, Subpart F, 1-6.

b. Sampling strategy:

(1) Why samples are taken.

(2) Sampling inside and outside of containment area.

(3) Placement of pumps.

c. Reasons for air monitoring.

d. Types of samples and interpretation of results, specifically from analysis performed by polarized light, phase-contrast, and electron microscopy analyses.

e. Final clearance

2. Overview of supervisory techniques for asbestos abatement activities to include the information covered in the asbestos supervisor's training course. A review of the required work practices and safety considerations.

3. Field Trip:

a. Visit a proposed abatement site or other suitable building site, including on-site discussions of abatement design.

b. Building walk-through inspection, and discussion following the walk through.

4. Fiber aerodynamics and control:

a. Aerodynamic characteristics of asbestos fibers.

b. Importance of proper containment barriers.

c. Settling time for asbestos fibers.

d. Wet methods in abatement.

e. Aggressive air monitoring following abatement.

f. Aggressive air movement and negative pressure exhaust ventilation as a clean-up method.

5. Project specifications. Discussion of key elements that are included in contract specifications.

a. Means and methods specifications versus performance specifications.

b. Considerations for design of abatement in occupied buildings.

c. Worker and building occupant health/medical considerations.

d. Replacement of ACM with non-asbestos substitutes.

e. Clearance of work area after abatement.

f. Use of as-built drawings.

- g. Use of inspection photographs and on-site reports.
- h. Particular problems in abatement drawings.
- 6. Conducting inspections:
 - a. Inspection prior to containment to assure condition of items and proper pre-cleaning.
 - b. Inspection of containment prior to commencement of abatement to assure that containment is complete and proper.
 - c. Daily work and containment inspections
 - d. Final visual inspection and a discussion of the ASTM E1368 method.
- 7. Record keeping and documentation:
 - a. Project logs.
 - b. Inspection reports.
 - c. Waste Shipment Record Requirements (WSR).
 - d. Record keeping required by federal, state or local regulations.
 - e. Record keeping required for insurance purposes.
- 8. Role of project monitor in relation to:
 - a. Building owner.
 - b. Building occupants.
 - c. Abatement contractor.
 - d. other consultants.
- 9. Occupied buildings.
 - a. Special procedures recommended in occupied buildings.
 - b. Extra monitoring recommendations.
- 10. A review of NESHAP Guidance Documents:
 - a. Common Questions on the Asbestos NESHAP.
 - b. Asbestos NESHAP: Regulated Asbestos Containing Materials Guidance (EPA 340/1-90-018).
 - c. Asbestos NESHAP: Adequately Wet Guidance (EPA 340/1-90-019).
- 11. A review of key aspects of the training course.
- 12. Examination.

§ 16.18. Examination: asbestos project monitors.

Upon completion of an approved asbestos project monitor training course, a closed book examination will be administered. Each examination shall cover the topics included in the project monitoring training course. Persons who pass the examination and fulfill course requirements will receive a Certificate of Completion as specified in § 14.4. The following are the requirements for examination.

1. 100 multiple choice questions
2. Passing score: 70% correct

§ 16.19. Refresher training course.

A. Project monitor refresher training shall be one day (eight hours). The course shall review federal and state regulations, discuss changes to the regulations if applicable, and review developments in state-of-the-art procedures. A review of the following topics from the initial project monitor training course shall be included in the asbestos project monitor refresher training course:

1. State-of-the-art work practices.
2. Occupied buildings.
3. Employee personal protective equipment.
4. Fiber aerodynamics and control.
5. Record keeping and documentation.

B. The use of exercises to encourage interactive learning and participation is suggested. These exercises may take the form of reviewing inspection reports, a video or photo walk-through of a building to determine a sampling strategy, a review of a mock-up abatement area to determine that containment is adequate, or review of a mock-up abatement area where a visual inspection may be performed.

C. A written closed book examination will be administered covering the topics included in the asbestos project monitor refresher courses. The examination will consist of no fewer than 50 questions. The passing score will be 70% correct. Persons who pass the asbestos project monitor refresher training course examination will receive a Certificate of Completion as specified in § 14.4.

§ 16.20. RFS training course modules.

Each module shall consist of a minimum of four hours of actual instruction. This training does not replace the training requirements of OSHA in 29 CFR Part 1926.58.

A. Module I

Basic Training Information Required for all Supervisors and Workers.

Proposed Regulations

1. Physical Characteristics

- a. Identification of asbestos.
- b. Aerodynamic characteristics.
- c. Typical uses and physical appearance.

2. Health effects related to asbestos exposure

- a. Nature of asbestos related disease.
- b. Routes of exposure, dose-response relationships and the lack of a safe exposure level.
- c. Cigarette smoking and asbestos exposure.
- d. Latency period for asbestos related diseases.
- e. Need and importance of following all safety instructions.

3. Laws and Regulations

- a. Licensing requirements.
- b. Relevant federal, state, and local regulatory requirements, procedures and standards, including, but not limited to:
 - (1) OSHA regulations
 - (2) EPA/NESHAP regulations
 - (3) Department of Transportation regulations, (49 CFR Part 172 Subpart H)

4. Personal protection equipment

- a. Classes and characteristics of respirator types, limitations, selection, inspection, donning, use, maintenance, and storage procedures.
- b. Fit testing procedures.
- c. Components of a respiratory protection program.
- d. Selection and use of personal protection clothing; use, storage, and handling of nondisposable clothing, hard hats, safety glasses, nonslip shoes.

5. Air Monitoring

- a. Procedures to determine airborne concentrations of asbestos fibers.
- b. Discussion of how personal air sampling is performed and the reasons for it.

6. Personal Hygiene

- a. Entry and exit procedures for the work area.
- b. Avoidance of eating, drinking, smoking and chewing (gum or tobacco) in the work area.
- c. Potential exposures, such as family exposure.

B. Floorcovering specialty module.

1. Floorcovering materials and adhesives which may contain asbestos.

- a. Floorcovering materials.
- b. Adhesives - asbestos containing and non-asbestos containing.
- c. Dates of production of asbestos containing resilient floorcoverings.
- d. Alternatives to removal of existing floor and proper methods.

2. Recommended work practices.

- a. Work techniques for minimizing fiber releases; wetting, steaming, dry ice, hand tools, HEPA vacuumed tools, use of sealants, no grinding, no crushing, no breakage, use of mastic removers.

b. Instruction as to proper nonfriable techniques for:

- (1) Removal of tile.
- (2) Removal of sheet goods.
- (3) Removal of residual adhesives.

c. Clean up and disposal techniques, construction of leak tight containers, sealing of friable ACM edges or wetting of edges, HEPA vacuuming, wet wiping.

d. Safety practices and hazard prevention during removal of floorcoverings.

Discussion of hazards posed by wet working conditions, electrical hazards, slips, trips and falls.

e. Ventilation system lock-out, sealing of intake and exhaust vents, windows, doors, chimneys, and all openings.

f. Positioning of warning signs, critical barriers and designation of regulated areas.

g. Emergency procedures.

3. Course review.

4. Examination.

C. Roofing specialty module.

1. Identification of roofing materials which may contain asbestos.

Typical uses and physical appearance of asbestos roofing materials.

2. Recommended work practices

- a. Work techniques for minimizing fiber releases, wet methods, use of HEPA vacuums, procedures for removal of asbestos cement products versus built up roof products. Discussion of prohibited work practices.

- b. Work practices for nonfriable removal - wetting, hand tools, HEPA vacuumed tools, use of sealants.

- c. Ventilation system lock-out, sealing of intake and exhaust vents, windows, doors, chimneys and all openings.

- d. Clean up and disposal techniques, construction of leak tight chutes, sealing of friable ACM edges or wetting of edges.

- e. Discussion of additional safety hazards:

- (1) Scaffold and ladder hazards.

- (2) Slips, trips and falls.

- f. Positioning of warning signs, critical barriers and designation of regulated areas.

- g. Emergency procedures.

3. Recommended safe work practices for installation of asbestos containing roofing materials.

4. Course review.

5. Examination.

D. Siding specialty module.

1. Identification and discussion of siding materials which may contain asbestos.

Typical uses and physical appearance of asbestos siding materials.

2. Recommended work practices.

- a. Work techniques for minimizing fiber releases; wetting, procedures for removal of asbestos cement products. Discussion of prohibited work practices.

- b. Work practices for nonfriable removal, wetting, hand tools, HEPA vacuumed tools, use of sealants.

- c. Ventilation system lock-out, sealing of intake and exhaust vents, windows, doors, chimneys and all openings.

- d. Positioning of warning signs and designation of regulated areas.

- e. Clean up and disposal techniques, construction of leak tight containers, sealing of friable ACM edges or wetting of edges.

- f. Safety practices and hazard prevention during removal of siding.

- (1) Scaffold and ladder hazards.

- (2) Slips, trips, and falls.

3. Recommended safe work practices for installation of asbestos containing siding materials.

4. Course review.

5. Examination.

E. RFS Supervisor Module.

1. Pre-work activities and considerations.

- a. Determination of asbestos containing materials.

- (1) Methods of identification.

- (2) Inspection report.

- b. Air monitoring, specific methods and documentation procedures.

2. Assessment of the work area.

- a. Check for difficulty of isolating the work area.

- b. Necessary considerations if areas adjacent to the activity will be occupied.

- c. Check for items requiring special protection.

3. Site consideration and preparations.

Regulated areas, barricade set-up, warning signs, etc.

4. Supervisory techniques, worker training, cleanliness of the job site.

5. Record keeping, disposal of asbestos containing waste, review of federal, state and local laws, regulations, and standards, including:

- a. OSHA regulations.

- b. NESHAP requirements.

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c. Department of Transportation regulations (49 CFR Part 172, Subpart H)

6. Nonfriable removal techniques.

7. Course review.

8. Examination

§ 16.21. Length of RFS training.

A. Each RFS worker training course shall consist of at least eight hours (the basic module and one specialty module) of instruction.

B. Each RFS supervisor training course shall consist of at least 12 hours (the basic module, one specialty module and the supervisor module) of instruction.

§ 16.22. Examination.

Upon completion of an approved RFS training course, a closed book examination will be administered. Each examination shall cover the topics included in the instructed modules. Persons who pass the examination and fulfill course requirements will receive a Certificate of Completion as specified in § 14.4. Examinations shall consist of 25 questions for each module of instruction.

§ 16.23. Refresher training course.

A. RFS worker and supervisor refresher training shall be at least one-half day (four hours). The course shall review federal and state regulations and discuss changes if applicable, and review developments in state-of-the-art procedures. A review of the following topics from the initial RFS worker training course shall be included in the RFS worker refresher training course:

1. Physical characteristics.
2. Health effects related to asbestos exposure.
3. Personal protection equipment.
4. State-of-the-art work practices.
5. Recommended work practices.
6. Recommended safe work practices for installation.

B. A review of the following topics from the initial RFS supervisor training module course shall be included in the RFS supervisor refresher training course:

1. Prework activities.
2. Site consideration and preparation.
3. Record keeping and disposal of asbestos-containing waste.

C. A written closed book examination will be administered covering the topics included in the asbestos RFS worker or supervisor refresher courses. The examination will consist of no fewer than 50 questions. The passing score will be 70% correct. Persons who pass the asbestos RFS worker or supervisor refresher training course examination will receive a Certificate of Completion as specified in § 14.4.

§ 16.24. RFS inspector training requirements.

A. Asbestos RFS inspectors shall complete a three-day (24 hours) training course as outlined below or an individual who has successfully completed the RFS Supervisor training course shall complete the one and one-half day (12 hours) of training found in Part II of the outline which follows. The course shall include lectures, demonstrations, four hours of hands-on training, course review and a written examination. The RFS inspector training course shall address the following topics:

PART I (minimum 12 hours)

1. Background information on asbestos:
 - a. Identification of asbestos, and examples and discussion of the uses and locations of asbestos in buildings.
 - b. Physical appearance of asbestos.
2. Potential health effects related to asbestos exposure:
 - a. The nature of asbestos-related diseases.
 - b. Routes of exposure, dose-response relationships and the lack of a safe exposure level.
 - c. The synergism between cigarette smoking and asbestos exposure.
 - d. Latency period for asbestos-related diseases, a discussion of the relationship of asbestos exposure to asbestosis, lung cancer, mesothelioma and cancer of other organs.
3. Understanding of building systems:
 - a. The interrelationship between RFS projects and other building systems, ie., heating, ventilation and air conditioning systems.
 - b. Where asbestos is found in RFS components, where to look for ACM.
 - c. Identification of homogeneous areas.
4. Inspector respiratory protection and equipment:
 - a. Classes and characteristics of respirator types.

b. Limitations of respirators.

c. Proper selection, inspection, donning, use, maintenance, and storage procedures for respirators.

d. Methods of field testing of the facepiece-to-face seal (positive and negative pressure fitting tests); qualitative and quantitative fit testing procedures.

5. Regulations:

a. Virginia regulations and statutes.

b. Differences in federal/state requirements where applicable and effect on RFS projects.

c. A review of the National Emission Standards for Hazardous Air Pollutants (NESHAP) (40 CFR Part 61, Subpart M).

d. A review of the Regulated Asbestos Containing Material Guidance Document (EPA 340/1-90-018).

PART II (minimum 12 hours)

6. Functions, qualifications and role of RFS inspectors:

a. Discussions of prior experience and qualifications.

b. Discussions of the sanctions and purpose of licensure.

c. Discussion of the inspection process to include inventory of ACM and physical assessment of RFS materials.

7. Legal liability and defenses

a. Responsibilities of the RFS inspector, a discussion of comprehensive general liability policies, claims made and occurrence policies, environment and pollution liability policy clauses; state liability insurance requirements.

b. Bonding and relationship of insurance availability to bond availability.

8. Preinspection planning:

a. Employee, building occupants and building owner relations.

b. Building record review, identity of probable homogeneous areas.

c. Consultation with maintenance or building personnel.

d. Review of previous inspection, sampling and abatement records of a building.

9. Inspection for nonfriable asbestos containing material and assessment of the condition of friable ACM:

a. Procedures to follow in conducting visual inspections for nonfriable ACM.

b. Types of building materials that may contain asbestos.

c. Touching materials to determine friability.

d. Open return air plenums and their importance in HVAC systems.

e. Assessing damage, significant damage, potential damage, and potential significant damage.

f. Amount of suspected ACM, both in total quantity and as a percentage of the total area.

g. Type of damage.

h. Accessibility.

i. Material's potential for disturbance.

j. Known or suspected causes of damage or significant damage, and deterioration as assessment factors.

10. Bulk sampling/documentation of ACM:

a. Techniques to ensure sampling in a randomly distributed manner.

b. Techniques for bulk sampling.

c. Sampling equipment the inspector should use.

d. Patching or repair of damage done in sampling; an inspector's repair kit.

e. Discussion of polarized light microscopy.

f. Choosing an accredited laboratory to analyze bulk samples.

g. Quality control and quality assurance procedures.

h. Variability between field and laboratory protection factors.

i. Factors that alter respirator fit (e.g., facial hair).

j. The components of a proper respiratory protection program.

k. Selection and use of personal protective clothing.

l. Use, storage, and handling of nondisposable

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clothing.

11. Record keeping and writing the inspection report:

- a. Labeling of samples and keying sample identification to sampling location.
- b. Recommendations on sample labeling.
- c. Detailing of ACM inventory.
- d. Photographs of selected sampling areas and examples of ACM condition.

12. Regulations:

- a. USEPA Worker Protection Rule.
- b. OSHA Asbestos Construction Standard (29 CFR 1926.58.)
- c. OSHA Respirator Regulation (29 CFR 1910.134).
- d. Virginia asbestos regulations.

13. Field trip.

- a. Including a field exercise with a walk-through inspection.
- b. On-site discussion on information gathering and determination of sampling locations.
- c. On-site practice in physical assessment.
- d. Classroom discussion of field exercise.

14. Course review:

A review of key aspects of the training course.

15. Examination.

§ 16.25. Examination: Asbestos RFS inspectors.

Upon completion of an approved RFS Inspector training course, a closed book examination will be administered. The examination shall cover the topics included in the RFS inspectors training module. Persons who pass the examination and fulfill course requirements will receive a Certificate of Completion as specified in § 14.4.

- 1. 50 Multiple choice questions
- 2. Passing Score: 70% correct

§ 16.26. Refresher RFS inspector training course.

A. Refresher courses shall be one-half day (four hours) for RFS inspectors. The course shall review federal and state regulations, discuss changes to the regulations if

applicable, discuss developments in state-of-the-art procedures. A review of the following topics shall be included in the RFS Inspector Refresher training course:

- 1. Potential health effects related to asbestos exposure.
- 2. Inspection for nonfriable asbestos-containing material (ACM) and assessment of the condition of friable ACM.
- 3. Bulk sampling/documentation of ACM.
- 4. Record keeping and writing the Inspection Report.

B. A written closed book examination will be administered covering the topics included in the asbestos RFS Inspector refresher training course. The examination will consist of no fewer than 50 questions. The passing score will be 70% correct. Persons who pass the refresher examination will receive a Certificate of Completion as specified in § 14.4.

PART XVII. FEE SCHEDULE.

CATEGORY	FEE AMOUNT
Asbestos Contractors License Application	\$ 300
Renewal	\$ 300
Late Renewal	\$ 600
RFS Contractors License Application	\$ 300
Renewal	\$ 300
Late Renewal	\$ 600
Asbestos Workers License Application	\$ 35
Renewal	\$ 35
Late Renewal	\$ 70
Asbestos Supervisor License Application	\$ 35
Renewal	\$ 35
Late Renewal	\$ 70
Asbestos Inspectors License Application	\$ 35
Renewal	\$ 35
Late Renewal	\$ 70
Asbestos Management Planner License Application	\$ 35
Renewal	\$ 35
Late Renewal	\$ 70
Asbestos Project Designer License Application	\$ 35
Renewal	\$ 35
Late Renewal	\$ 70
Asbestos Project Monitor License Application	\$ 35
Renewal	\$ 35
Late Renewal	\$ 70
Asbestos Analytical Laboratory License Application	\$ 75
Renewal	\$ 75
Late Renewal	\$ 150

EVALUATION OF TRAINING COURSES

Asbestos Worker Training Training Courses (24 hours)	\$1200
Refresher Course (8 hours)	\$ 400
Asbestos Supervisor Training Course (32 hours)	\$1600

Proposed Regulations

Refresher Course (8 hours)	\$ 400
Asbestos Inspector Training Course (24 hours)	\$1200
Refresher Course (4 hours)	\$ 200
Asbestos Management Planner Training Course (16 hours)	\$ 800
Refresher Course (4 hours)	\$ 200
Asbestos Project Designer Training Course (24 hours)	\$1200
Refresher Course	\$ 400
Asbestos Project Monitor Training Course (40 hour comp.)	\$2000
Asbestos Project Monitor Training Course (16 hours)	\$ 800
Refresher Course	\$ 400
RFS Worker Basic Module	\$ 200
RFS Speciality Module	\$ 200
RFS Supervisor	\$ 200
RFS Worker Refresher	\$ 200
RFS Inspector Refresher	\$ 200
RFS Inspectors Training Course (24 hour comprehensive)	\$1200
RFS Inspectors Training Course (12 hours)	\$ 600
Dishonored check service fee	\$ 25

VA.R. Doc. No. R94-267; Filed November 24, 1993, 10:08 a.m.

Mail license to:

Commonwealth of Virginia
 Department of Professional and
 Occupational Regulation
 3600 West Broad Street
 Richmond, Virginia 23230-1066

Individual Asbestos License Application Instructions

APPLICATION FOR ASBESTOS LICENSING

Application fee: \$35.00

1. Name _____ Phone (____) _____
 2. Home Address _____
 Street _____
 City _____ State _____ Zip _____
 3. DATE OF BIRTH _____ 4. Social Security Number _____

5. TYPE OF LICENSE REQUESTED: (ONLY ONE PER APPLICATION)

Worker _____ Inspector _____ Project Designer _____
 Supervisor _____ Management Planner _____ Project Monitor _____
 RFS Inspector _____

APPLICANTS FOR INSPECTOR, MANAGEMENT PLANNER, PROJECT MONITOR OR
 PROJECT DESIGNER MUST ALSO COMPLETE FORM A

6. List all asbestos licenses held in any state:

Number _____ Type _____ State _____

7. Have you had any asbestos abatement licensure/authorization revoked or
 suspended by any jurisdiction? Yes _____ No _____

In the event any enforcement action has been taken against the applicant,
 provide a complete list of all enforcement actions, including any sanctions
 imposed on the applicant by any jurisdiction.

8. Attach a copy of the certificate obtained upon the successful completion
 of a Virginia or EPA approved initial asbestos training course and all
 subsequent Virginia or EPA approved refresher courses. See Section 3.1 of
 the Virginia Asbestos Licensing Regulations.

9. I hereby certify that the above information is correct to the best of my
 knowledge and belief and that no information has been suppressed that
 might affect this application.

Signature _____ Date _____

DO NOT USE THIS APPLICATION TO RENEW A LICENSE

1. PLEASE READ THE INSTRUCTIONS, STATUTE, REGULATIONS, AND APPLICATION CAREFULLY BEFORE COMPLETING THE APPLICATION FORM.
 2. Print in ink or type.
 3. All applications and renewal fees are not refundable.
 4. The acceptance of an application fee, by the Department of Professional and Occupational Regulation does not indicate approval of an application nor does it connote eligibility for licensure.
 5. Please be sure to provide your current home address. All correspondence and renewal cards will be mailed to this home address. The licensee may provide an alternate mailing address in the upper right corner of the application. This alternate address is not the address of record, and will only be considered in the mailing of the initial license.
 6. All applicable items must be properly completed and/or attached. If this is not done, the application will be returned and processing will be delayed. Inspector, Management Planner, Project Designer, and Project Monitor applicants must also complete Form A.
 7. Please keep these instructions for future reference, along with a copy of your application.
 8. MAIL the completed application form(s), attachments, and fee to:

Commonwealth of Virginia
 Department of Professional and Occupational Regulation
 Post Office Box 11066
 Richmond, Virginia 23230
 9. A check or money order should be made payable to "Treasurer of Virginia".
 10. Never use this form to renew a license. Please consult the Virginia Asbestos Licensing Regulations for instructions on license renewal.
- PLEASE REMEMBER: All applications should be completed according to these instructions. Incomplete applications will be returned to the applicant.

FEES RECEIVED WILL NOT BE REFUNDED

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION
3600 WEST BROAD STREET
RICHMOND, VIRGINIA 23230

APPLICATION FOR ASBESTOS CONTRACTOR LICENSE

PLEASE PRINT

1. Name _____

Mailing or Business Address _____

Address _____ Phone No. () _____

City _____ State _____ Zip Code _____

2. Virginia Contractor's License Number: _____ Tax Identification Number: _____

Type of Business: (check one)

Individual _____ Limited partnership _____ Corporation _____ Co-partnership _____ Other _____

3. LICENSE FEE \$300.00 Indicate type of license requested below:

Asbestos Contractor _____ Asbestos RFS Contractor _____

ALL CHECKS OR MONEY ORDERS SHALL BE MADE PAYABLE TO THE TREASURER OF VIRGINIA.

4. License or authorization to perform Asbestos Work currently or previously held:

Type _____ License No. _____ Issued by _____

5. (A) Has the applicant, within the past 36 months, had its license or authorization to perform abatement work suspended or revoked by any other state or jurisdiction?

_____ YES _____ NO

(B) Are there any disciplinary actions by any jurisdiction pending against the applicant?

_____ YES _____ NO

In the event an disciplinary action has been taken against the applicant, the following information will be required as the Board may deny an applicant's request for a license based on prior disciplinary actions which may indicate that the abatement work might not be performed in a manner that would protect the public health, safety and welfare.

1. A complete list of all prior disciplinary actions, including any sanctions imposed on the applicant by any jurisdiction or any state or federal court.
2. A description of any asbestos abatement activities conducted by the applicant that were terminated prior to completion including the circumstances of termination.
3. A copy of any reports compiled by an disciplinary agency.

The reverse side of this application must be completed before license will be issued.

CHAPTER 5 Section 54.1-505 OF THE CODE OF VIRGINIA STATES AN ASBESTOS CONTRACTOR OR RFS CONTRACTOR SHALL:

Demonstrate to the satisfaction of the Board that the applicant and his employees or agents are familiar with and are capable of complying fully with all applicable requirements, procedures and standards of the United States Environmental Protection Agency, the United States Occupational Safety and Health Administration, the Department of Labor and Industry, and the State Air Pollution Control Board covering any part of an asbestos project.

BY MY SIGNATURE BELOW, I UNDERSTAND AND AGREE TO MY DUTIES AND OBLIGATIONS AND I AM FAMILIAR WITH THE STATUTES AND REGULATIONS OF THE COMMONWEALTH OF VIRGINIA APPLICABLE TO ASBESTOS CONTRACTORS OR RFS CONTRACTORS.

6. THIS PORTION MUST BE COMPLETED BY APPLICANT.

I hereby certify that the above information is correct to the best of my knowledge and belief and that no information has been suppressed that might affect this application.

Typewritten or Printed Name _____

Signature _____

Title _____

Date _____

Applicant's Tradename _____

Proposed Regulations

Commonwealth of Virginia
 Department of Professional and Occupational Regulation
 3600 West Broad Street
 Richmond, Virginia 23230

GENERAL INSTRUCTIONS

1. PLEASE READ THE INSTRUCTIONS, STATUTE, REGULATIONS AND APPLICATION CAREFULLY BEFORE COMPLETING THE APPLICATION FORM.
2. Applications may be filed at any time.
3. PRINT IN INK OR TYPE.
4. All application and renewal fees are non-refundable.
5. Acceptance by the Department of Professional and Occupational Regulation of an application does not indicate approval of an application nor connote eligibility for licensure.
6. All applicable items must be properly completed and/or attached or the application will be returned and processing will be delayed.
7. Please keep instructions for future reference, along with a copy of your application and related papers.
8. Include a check or money order payable to "Treasurer of Virginia" in the amount of \$300.00.
9. MAIL THE COMPLETED APPLICATION FORM, FEE AND ALL ATTACHMENTS TO:
 Commonwealth of Virginia
 Department of Professional and Occupational Regulation
 P.O. Box 11066
 Richmond, Virginia 23230

FORM INSTRUCTIONS

1. Complete both sides of the application form.
2. Provide your current address; a street address must be provided unless you have a rural route and box number. All correspondence and your renewal application will be mailed to the address listed on the address line.
3. Provide your Virginia Contractor's License number.
4. If your license or other authorization to perform asbestos abatement work has been suspended or revoked by any jurisdiction and if any disciplinary action by any jurisdiction is pending, provide the information requested in 1, 2, and 3.
5. Please read the back page of the application carefully and complete the affidavit.

PLEASE REMEMBER: ALL APPLICATIONS SHOULD BE COMPLETED ACCORDING TO THESE INSTRUCTIONS. INCOMPLETE APPLICATIONS WILL BE RETURNED TO THE APPLICANT; HOWEVER, FEES RECEIVED WILL NOT BE REFUNDED.

Commonwealth of Virginia
 Department of Professional and Occupational Regulation
 Department of Professional and Occupational Regulation
 Richmond, Virginia 23230
 Application for Asbestos Analytical Laboratory License

Please Print or Type

1. Name: _____
 Addresses of all laboratory site locations: _____

 Phone number(s) of all laboratory facilities: _____

 Mailing address if different from above: _____

 City _____ State _____ Zip Code _____

2. Contact person Name _____
 Phone number _____

3. Type of analysis and accreditations provided with application
 Please check the appropriate box(es)
 PLM _____ PCM _____
 NIOSH PAT _____
 AIHA _____
 TEM _____
 NVLAP(Airborne Asbestos Fiber Analysis)
 NVLAP(Airborne Asbestos Fiber Analysis)

Please enclose proof of current accreditation(s) with this application
 Please enclose NIOSH 582 or equivalent training for macroscopists

4. For each on-site analysts enclose a copy of their NIOSH 582 training certificate.
5. (A). Has the applicant(s), within the past 36 months, had their license or authorization to perform asbestos analytical laboratory services suspended or revoked by any federal, state or private accreditation program.

_____ YES _____ NO

- (B). Are there any disciplinary actions by any jurisdiction pending against the applicant(s).

_____ YES _____ NO

In the event disciplinary actions have been taken against the applicant, the Board may deny an applicant's request for a license based on prior disciplinary actions which may indicate that the asbestos analytical laboratory might not perform its services in a manner that would protect the safety of its employees, or that the analytical testing results might lack credibility and/or reliability.

In order to make a determination, the following information will be required:

1. A complete list of all prior disciplinary actions, including any sanctions imposed on the applicant by any jurisdiction or any state or federal court.
 2. A copy of any reports of disciplinary actions compiled by an enforcement agency or jurisdiction against the applicant.
6. License fee of \$ 75.00. ALL CHECKS OR MONEY ORDERS SHALL BE MADE PAYABLE TO THE TREASURER OF VIRGINIA.

BY MY SIGNATURE BELOW, I UNDERSTAND AND AGREE TO MY DUTIES AND OBLIGATIONS AND I AM FAMILIAR WITH THE STATUTES AND REGULATIONS OF THE COMMONWEALTH OF VIRGINIA APPLICABLE TO ASBESTOS ANALYTICAL LABORATORIES.

CERTIFICATE

7. THIS PORTION MUST BE COMPLETED BY AN OFFICER OF THE LABORATORY OR A RESPONSIBLE PARTY.

I hereby certify that the above information is correct to best of my knowledge and belief and that no information has been suppressed that might affect this application.

Typewritten or
printed name _____

Signature _____

Title _____

Date _____

VIRGINIA ASBESTOS LICENSING PROGRAM
Department of Professional and Occupational Regulation
3600 West Broad Street
Richmond, Virginia 23230

GENERAL INSTRUCTIONS

1. PLEASE READ THE INSTRUCTIONS, STATUTE, REGULATIONS AND APPLICATION CAREFULLY BEFORE COMPLETING THE APPLICATION FORM.
2. Applications may be filed at any time.
3. PRINT IN INK OR TYPE.
4. All application and renewal fees are non-refundable.
5. Acceptance by the Department of Professional and Occupational Regulation of an application fee does not indicate approval of an application nor connote eligibility for licensure.
6. All applicable items must be properly completed and/or attached or the application will be returned and processing will be delayed.
7. Please keep instructions for future reference, along with a copy of your application and related papers.
8. Include a check or money order payable to "Treasurer of Virginia" in the amount of \$75.00.
9. MAIL THE COMPLETED APPLICATION FORM, FEE AND ALL ATTACHMENTS TO:

Commonwealth of Virginia
Department of Professional and Occupational Regulation
P.O. Box 11066
Richmond, Virginia 23230

FORM INSTRUCTIONS

1. Complete both sides of the application form.
2. Provide your current address; a street address must be provided unless you have a rural route and box number. All correspondence and your renewal application will be mailed to the address listed on the address line.
3. If your license or other authorization to perform asbestos analytical services has been suspended or revoked by any jurisdiction or if any disciplinary actions by any jurisdiction is pending, provide the information requested in 1 and 2.
4. Please read the back page of the application carefully and complete the affidavit.

PLEASE REMEMBER; ALL APPLICATIONS SHOULD BE COMPLETED ACCORDING TO THESE INSTRUCTIONS. INCOMPLETE APPLICATIONS WILL BE RETURNED TO THE APPLICANT; HOWEVER; FEES RECEIVED WILL NOT BE REFUNDED.

Proposed Regulations

7. Description and an example of numbered certificates that will be issued to students who successfully complete the course.

B. Fee. (See Section XVI of the Virginia Apprentice Licensing Regulations)

It is imperative that all items (1-A) and the required fee be included with your request to ensure prompt review. The Department of Professional and Occupational Regulation will notify you in writing of the preliminary findings and approval status of your course. If the training course is found to meet established standards after the preliminary evaluation, an audit will be scheduled. In order for this audit to be conducted, the student's name must be listed in Virginia's Occupational and Professional Regulation's (OPR) database. The OPR will schedule the audit of the training course. The decision regarding the approval of the training course will be based on the examination report received following the audit.

The U.S. Environmental Protection has granted full approval of the Virginia apprentice accreditation program. The approval includes all disciplines, except Project Monitor which is not recognized by EPA. All training courses approved under the Virginia regulations, with the exception of Project Monitor, will also be EPA approved. The Department of Professional and Occupational Regulation also approves PHS contractors, PHS Worker's PHS Inspector Initial Training and Refresher courses.

The applicant's signature below indicates that all material and information submitted is true and accurate.

Date

Applicant's signature

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF PROFESSIONAL AND
OCCUPATIONAL REGULATION
3600 WEST DRUM ST.
RICHMOND, VA 23218

APPLICATION FOR TRAINING COURSE APPROVAL

1. Name _____
Address _____
Phone number _____

2. Faculty Instruct for _____

3. Course Discipline _____ Initial _____ Refresher _____

4. Date of course (Preferred Audit Date) _____

5. Location of course _____

6. The following is a list of materials required to be submitted for preliminary approval. Please submit the material at least 45 days prior to the audit date. Check all items enclosed.

- _____ 1. Course Curriculum
- _____ 2. A narrative explanation that clearly indicates how the course meets the requirements for approval in the following areas:
 - a. Length of training in hours.
 - b. Content and type of hands on training. (limited only)
 - c. Examinations (length, format, passing score).
 - d. Topics covered in the course.
 - e. Assurance as to test security and how exams are administered.
- _____ 3. A copy of all course materials (student manuals, instructor manuals, handouts, etc.).
- _____ 4. A detailed statement about the development of the curriculum used in the course.
- _____ 5. Names, titles, phone numbers, resumes and/or contact information and subject area that each instructor will teach.
- _____ 6. Test per student (ATD)

Virginia Department of Professional and Occupational Regulation

Asbestos Licensing Application

FORM A

Required with each asbestos inspector, management planner, project monitor and project designer application.

NAME _____ SSN# _____

EMPLOYER: _____

BUSINESS ADDRESS STREET _____

CITY _____ STATE: _____ ZIP: _____ PHONE _____

HOME ADDRESS: STREET: _____

CITY: _____ STATE: _____ ZIP: _____

Do you have a high school degree or equivalent? Yes _____ No _____

INSTRUCTIONS

- 1. The applicant shall be responsible for reading the current Virginia Asbestos Licensing Regulations before completing this application.
2. Forms must be legible. The applicant shall assume full responsibility for filing all required documentation, references, and verifications.
3. EDUCATION: If a degree verification is required, the degree verification form must be sent directly from the school. The applicant should enclose a stamped, addressed envelope for return directly to:
Virginia Asbestos Licensing Program
3600 W. Broad St.
Richmond, VA 23230-4917.
4. TRAINING: Attach a copy of the training certificate obtained upon successful completion of your initial EPA/AHERA or Virginia approved training course and all subsequent EPA/AHERA or Virginia approved refresher course appropriate to the discipline you are applying for. See Section 3.1 of the Virginia Asbestos Licensing Regulations.
5. EXPERIENCE: In the section of this form, designated EXPERIENCE, please provide evidence of your experience as required by the Virginia Asbestos Licensing Regulations. Use this form. Resumes are not accepted. Periods of self-employment may be verified by associates or clients. List your experience in chronological order with the most recent employment first. The verifying signatures must be original, not copies or facsimiles.

APPLICATIONS MUST COMPLY WITH THESE INSTRUCTIONS AND THE VIRGINIA ASBESTOS LICENSING REGULATIONS. INCOMPLETE AND NON-COMPLYING APPLICATIONS WILL BE RETURNED.

FORM A CONTINUED. APPLICANT'S NAME _____

EXPERIENCE: Please complete in accordance with the Virginia Asbestos Licensing Regulations.

BUSINESS NAME _____

ADDRESS _____

PHONE _____

JOB TITLE _____

SPECIFIC JOB DUTIES AND RESPONSIBILITIES _____

DATES OF THIS EXPERIENCE _____

SIGNATURE OF VERIFICATION BY SUPERVISOR _____

TYPED/PRINTED NAME OF SUPERVISOR _____

BUSINESS NAME _____

ADDRESS _____

PHONE _____

JOB TITLE _____

SPECIFIC JOB DUTIES AND RESPONSIBILITIES _____

DATES OF EXPERIENCE _____

SIGNATURE OF VERIFICATION BY SUPERVISOR _____

TYPED/PRINTED NAME OF SUPERVISOR _____

NOTE: IF MORE SPACE FOR EXPERIENCE IS NEEDED, PLEASE DUPLICATE THIS FORM

INSPECTOR/PROJECT DESIGNER/CONTRACTOR DISCLOSURE FORM

I understand the Virginia Licensed Asbestos Contractor or RFS Contractor has an employee/employer relationship with or financial interest in the Virginia licensed Asbestos Inspector, RFS Inspector or Virginia licensed Project Designer working on this asbestos project. I understand that according to Virginia Asbestos Licensing Regulations this form must be signed and dated by the building owner or his agent and the asbestos contractor or RFS contractor prior to bid and contract submission. I understand as the building owner, I must provide this form to all parties involved on the project should the building owner award the contract to this contractor. The complete form must be available upon demand at the asbestos project site.

Building owner or agent:

_____ Date _____

I understand that any falsification of information made in conjunction with this disclosure form, regardless of time of discovery, may result in enforcement action by the Board under Section 5.4 or Section 6.4 of the Virginia Asbestos Licensing Regulations.

Contractor:

_____ Date _____

FORM A

VIRGINIA ASBESTOS LICENSING PROGRAM
LICENSE APPLICATION FOR ASBESTOS INSPECTOR
AND/OR MANAGEMENT PLANNER/OR PROJECT MONITOR

VERIFICATION OF DEGREE GRANTED

(Applicant shall complete the upper portion of this form)

Name _____

Residence Address _____

Business Address _____

Birth Date _____ Social Security Number _____

College or University Attended _____

Applicant's Signature _____

(After completion of the information above, applicant shall send this form to the college from which he/she obtained a degree. Please request that the following certificate be completed and this form be returned directly to the Virginia Asbestos Licensing Program)

CERTIFICATE

I hereby certify that the above named applicant has been graduated from this institution with a degree of:

_____ Major _____
on _____

Signature _____

Official Position _____

Institution _____

Date _____

APPLICANT: Enclose a stamped, addressed envelope for return directly to:

Virginia Asbestos Licensing Program
Department of Professional and Occupational Regulation
1600 West Broad Street
Richmond, Virginia 23230-4917

BOARD FOR BRANCH PILOTS

Title of Regulation: VR 535-01-00. Public Participation Guidelines (REPEALING).

VA.R. Doc. No. R94-273; Filed November 24, 1993, 11:32 a.m.

Title of Regulation: VR 535-01-00:1. Public Participation Guidelines.

Statutory Authority: §§ 9-6.14:7.1, 54.1-201 and 54.1-902 of the Code of Virginia.

Public Hearing Date: N/A – Written comments may be submitted until February 23, 1994.

(See Calendar of Events section for additional information)

Basis: Sections 9-6.14:7.1, 54.1-201 and 54.1-902 of the Code of Virginia provide the Board for Branch Pilots with the statutory authority to promulgate Public Participation Guidelines. The board is empowered to promulgate regulations to establish entry requirements for licensure and standards of practice and conduct for branch pilots.

Purpose: The purpose of this regulatory action is to implement the requirements of the Administrative Process Act (APA) and the legislative changes to the APA made by the 1993 Virginia General Assembly by establishing regulatory board (agency) procedures for soliciting, receiving and considering input from interested parties in the formulation, adoption and amendments to new and existing regulations governing the licensure of branch pilots in Virginia.

Substance: Legislative changes enacted to the Administrative Process Act prompted the repeal of the existing public participation guidelines and the adoption of new emergency public participation guidelines for the Board for Branch Pilots on June 15, 1993. The proposed Public Participation Guidelines for the Board for Branch Pilots have been amended to include definitions in § 1. There is no substantial change from the current status of the law.

Issues: The proposed PPG's will give interested parties as well as the general public the opportunity to participate in the formation and development of the branch pilots regulations. Such participation will be advantageous to the public since they will become more familiar with the contents and expectations of the licensure requirements and regulations. The advantage to the agency is such that with public knowledge of the regulations, the agency should save considerable staff time in explaining, implementing and enforcing the regulations.

Estimated Impact: The proposed Public Participation Guidelines affect approximately 50 licensed branch pilots. Since the proposed public participation guidelines are substantially similar to the current emergency public participation guidelines, there will be no additional cost to

the agency in the implementation and compliance of these regulations.

Summary:

The Board for Branch Pilots Public Participation Guidelines (PPG's) mandate public participation in the formulation, adoption and amendments to new and existing regulations governing the licensure of branch pilots. The Department of Professional and Occupational Regulation (the agency) will maintain a mailing list of persons and organizations to notify of any intended regulatory action by the board. The agency will mail such documents as "Notice of Intended Regulatory Action," "Notice of Comment Period," and a notice that final regulations have been adopted. The proposed PPG's outline the necessary procedures for being placed on or deleted from the mailing list. The "Notice of Intended Regulatory Action" will provide for a comment period of at least 30 days and will state whether or not the agency will hold a public hearing. Specific instances are given as to when the agency must hold a public hearing and when the agency must reevaluate the effectiveness and continued need of the regulations. The PPG's also establish the procedures for the formulation and adoption of regulations and the guidelines for when substantial changes are made prior to final adoption of regulations, and include the formation of an appointed advisory committee for input regarding board regulations. Finally, the PPG's specify what meetings and notices will be published in The Virginia Register.

VR 535-01-00:1. Public Participation Guidelines.

§ 1. Definitions.

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

"Administrative Process Act" means Chapter 1.1:1 (§ 9-6.14:1 et seq.) of Title 9 of the Code of Virginia.

"Agency" or "board" means the Board for Branch Pilots.

"Person" means an individual, a corporation, a partnership, an association, a governmental body, a municipal corporation, or any other legal entity.

§ 2. Mailing list.

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

1. *"Notice of Intended Regulatory Action" to promulgate or repeal regulations.*

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2. "Notice of Comment Period" and public hearings, the subject of which is proposed or existing regulations.

3. Notice that the final regulations have been adopted.

Failure of these persons and organizations to receive the documents for any reason shall not affect the validity of any regulations otherwise properly adopted under the Administrative Process Act.

§ 3. Placement on the mailing list; deletion.

Any person wishing to be placed on the mailing list may do so by writing the agency. In addition, the agency, at its discretion, may add to the list any person, organization, or publication it believes will serve the purpose of responsible participation in the formation or promulgation of regulations. Persons on the list will be provided all information stated in § 2. Individuals and organizations may be periodically requested to indicate their desire to continue to receive documents or be deleted from the list. When mail is returned as undeliverable, individuals and organizations will be deleted from the list.

§ 4. Petition for rulemaking.

Any person may petition the agency to adopt or amend any regulation. Any petition received shall appear on the next agenda of the agency. The agency shall consider and respond to the petition within 180 days. The agency shall have sole authority to dispose of the petition.

§ 5. Notice of intent.

At least 30 days prior to the filing of the "Notice of Comment Period" and the proposed regulations as required by § 9-6.14:7.1 of the Code of Virginia, the agency will publish a "Notice of Intended Regulatory Action." This notice will provide for at least a 30-day comment period and shall state whether or not they intend to hold a public hearing. The agency is required to hold a hearing on proposed regulation upon request by the Governor or from 25 or more persons. Further, the notice shall describe the subject matter and intent of the planned regulation. Such notice shall be transmitted to the Registrar of Regulations for inclusion in The Virginia Register.

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

Within two years of the promulgation of a regulation, the agency shall evaluate it for effectiveness and continued need. The agency shall conduct an informal proceeding which may take the form of a public hearing to receive public comment on existing regulation. Notice of such proceedings shall be transmitted to the Registrar of Regulations for inclusion in The Virginia Register. Such

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

§ 7. Notice of formulation and adoption.

At any meeting of the agency or a subcommittee where it is anticipated the formation or adoption of regulation will occur, the subject matter shall be transmitted to the Registrar of Regulations for inclusion in The Virginia Register.

If there are one or more changes with substantial impact on a regulation, any person may petition the agency within 30 days from the publication of the final regulation to request an opportunity for oral or written submissions on the changes to the regulations. If the agency received requests from at least 25 persons for an opportunity to make oral or written comment, the agency shall suspend the regulatory process for 30 days to solicit additional public comment, unless the agency determines that the changes made are minor or inconsequential in their impact.

If the Governor finds that one or more changes with substantial impact have been made to proposed regulation, he may suspend the regulatory process for 30 days to require the agency to solicit further public comment on the changes to the regulation.

A draft of the agency's summary description of public comment shall be sent by the agency to all public commenters on the proposed regulation at least five days before final adoption of the regulation.

§ 8. Advisory committees.

The board intends to appoint advisory committees as it deems necessary to provide adequate participation in the formation, promulgation, adoption, and review of regulations. Such committees are particularly appropriate when other interested parties may possess specific expertise in the area of proposed regulation. The advisory committee shall only provide recommendations to the agency and shall not participate in any final decision making actions on a regulation.

When identifying potential advisory committee members the agency may use the following:

1. Directories of organizations related to the profession,
2. Industry, professional and trade associations' mailing lists, and
3. Lists of persons who have previously participated in public proceedings concerning this or a related issue.

§ 9. Applicability.

Sections 2 through 4, 6, and 8 shall apply to all regulations promulgated and adopted in accordance with § 9-6.14:9 of the Code of Virginia except those regulations promulgated in accordance with § 9-6.14:4.1 of the Administrative Process Act.

VA.R. Doc. No. R94-272; Filed November 24, 1993, 11:32 a.m.

CHILD DAY-CARE COUNCIL

Title of Regulation: VR 175-01-01. Public Participation Guidelines (REPEALING).

Statutory Authority: §§ 9-6.14:7.1, 63.1-202 and 63.1-202.1 of the Code of Virginia.

Public Hearing Date: N/A – Written comments may be submitted until February 13, 1994.

(See Calendar of Events section for additional information)

Basis: Section 63.1-202 of the Code of Virginia gives the Child Day-Care Council authority to promulgate regulations for child day centers. Chapter 5, Acts of Assembly of 1984, made amendments to the Administrative Process Act, § 9-6.14:1 et seq. of the Code of Virginia which includes statutory requirements for participation guidelines.

Purpose: The purpose of repealing these public participation guidelines is to allow them to be replaced by a new regulation which addresses the changes made by the 1993 General Assembly session to the Administrative Process Act. This allows the council to carry out its statutory responsibility to develop regulations.

Substance: This regulation is being repealed so it can be replaced by a new regulation which addresses the changes made by the 1993 General Assembly session to the Administrative Process Act.

Issues: The issues which this regulation addresses are the policy and purpose of the public participation guidelines; who will be notified when making a substantial change to a regulation and the method of notification; the items to be included in the notice of intent published by The Virginia Register; the creation and maintenance of an advisory list; the formation of ad hoc advisory committees; the items to be included in the training of ad hoc committees; and the basis for the regulation.

The advantage of repealing this regulation for the public is that it allows a new regulation to be developed which assures continued opportunities for the public to provide comments to the council. The advantage of repealing this regulation for the council is that it allows a new regulation to be developed which addresses the changes made by the 1993 General Assembly session. This allows the council to carry out its statutory responsibility to develop regulations.

Estimated Impact: Individuals, public and private

organizations, businesses and governmental bodies with an interest in child day centers licensed by the Department of Social Services and for which regulations are required will continue to be able to provide comments to the council according to the new regulations that will replace this repealed regulation. As of October 29, 1993, there were 1,388 licensed child day centers in Virginia. There is no fiscal impact.

Summary:

This regulation describes the way the Child Day-Care Council will obtain public input when developing, revising or repealing a regulation. The regulations are being repealed so new guidelines can be promulgated.

VA.R. Doc. No. R94-278; Filed November 24, 1993, 11:17 a.m.

Title of Regulation: VR 175-01-01:1. Public Participation Guidelines.

Statutory Authority: §§ 9-6.14:7.1, 63.1-202 and 63.1-202.1 of the Code of Virginia.

Public Hearing Date: N/A – Written comments may be submitted until February 13, 1994.

(See Calendar of Events section for additional information)

Basis: Section 63.1-202 of the Code of Virginia gives the Child Day-Care Council authority to promulgate regulations for child day centers. Chapter 5, Acts of Assembly of 1984, made amendments to the Administrative Process Act, § 9-6.14:1 et seq. of the Code of Virginia, which includes statutory requirements for participation guidelines.

Purpose: The purpose of the public participation guidelines is to establish written procedures to solicit input from "interested parties" prior to formation and drafting of the regulations and during the formation, promulgation and final adoption process of the regulations. This regulation addresses the changes made by the 1993 General Assembly session to the Administrative Process Act.

Substance: Public comment on regulations will be obtained in the following ways:

- establishing and maintaining a list of interested persons;
- distributing Notices of Intended Regulatory Action and proposed regulations to the Registrar of Regulations;
- distributing Notices of Intended Regulatory Action and notices of comment periods to persons on the interested persons list;
- holding a public hearing when there is sufficient

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public interest in a proposed regulation;

- assuring publication of a Notice of Comment Period in a newspaper of general circulation published at the state capital and such other newspapers as appropriate; and
- permitting public comment about regulations during the council's regularly scheduled public comment period of its authorized meetings.

In addition, the following may occur:

- establishing an ad hoc advisory group or standing advisory committee to address a regulatory issue; and
- allowing public comment about a proposed regulation at a committee meeting of the council.

The agency will also provide a written response to a person who petitions the agency to develop a new regulation or to adopt, amend or repeal a regulation.

Issues: The issues which this regulation address are: petitions from interested parties, solicitation of input, public hearings, and withdrawal of regulations. The advantage of this regulation for the public is that it allows the public opportunities to provide comments to the council on regulatory issues. The advantage of this regulation for the council is that it allows the council to carry out its statutory responsibility to develop regulations and it facilitates obtaining public comments so appropriate regulations can be developed.

Estimated Impact: Individuals, public and private organizations, businesses and governmental bodies with an interest in child day centers licensed by the Department of Social Services and for which regulations are required will be affected by this regulation. As of October 29, 1993, there were 1,388 licensed child day centers in Virginia. This regulation was developed to comply with the Administrative Process Act with maximum administrative efficiency, effectiveness and economy. There is no fiscal impact.

Summary:

This regulation describes the way the Child Day-Care Council will obtain public input when developing, revising or repealing a regulation. The regulation covers the following topics: petition from interested parties, solicitation of input, public hearings, and withdrawal of regulations.

VR 175-01-01:1. Public Participation Guidelines.

PART I. GENERAL PROVISIONS.

§ 1.1. Definitions.

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

"Administrative Process Act (APA)" means Chapter 1:1:1 (§ 9-6.14:1 et seq.) of Title 9 of the Code of Virginia.

"Agency" means Department of Social Services.

"Approving authority" means Child Day-Care Council.

"Commissioner" means the Commissioner of the Department of Social Services or his designee.

"Council" means Child Day-Care Council.

"Department" means Department of Social Services.

"Division" means organizational entity within the department, designated by the commissioner, which develops regulations subject to the Administrative Process Act.

"Governor's Executive Order" means any policy or procedure issued by the Governor under § 2.1-41.1 or § 9-6.14:9.1 A of the Code of Virginia establishing the administrative policy and procedures for gubernatorial review and regulatory actions governed by the Administrative Process Act.

"Person" means an individual, a corporation, a partnership, an association, a governmental body, a municipal corporation, or other legal entity.

§ 1.2. Application.

These guidelines apply to all regulations promulgated by the council.

PART II. PUBLIC PARTICIPATION.

§ 2.1. General.

A. The procedures in § 2.3 of this regulation shall be used for soliciting the input of interested persons in the initial formation and development, amendment or repeal of regulations in accordance with the Administrative Process Act. This regulation does not apply to regulations exempted or excluded from the provisions of the Administrative Process Act (§ 9-6.14:4.1).

B. The department shall follow the policies and procedures established by the Administrative Process Act and the Governor's Executive Order in developing emergency, proposed and final adoption, amendment or repeal of regulations.

C. At the discretion of the approving authority or the agency, the public participation procedures in § 2.3 may be supplemented to provide additional public participation.

in the regulation adoption process or as necessary to meet federal requirements.

D. The failure of any person to receive any notice or copies of any documents provided under these guidelines shall not affect the validity of any regulations otherwise adopted in accordance with this regulation.

§ 2.2. Petitions from interested parties.

Any person may petition the agency to develop a new regulation or to adopt, amend or repeal a regulation. The petition, at a minimum, shall contain the following information:

1. Name of petitioner;
2. Petitioner's mailing address and telephone number;
3. Petitioner's interest in the proposed action;
4. Recommended new regulation or addition, deletion, or amendment to a specific regulation or regulations;
5. Statement of need and justification for the proposed action;
6. Statement of impact on the petitioner and other affected persons; and
7. Supporting documents, as applicable.

The agency shall provide a written response to such petition.

§ 2.3. Solicitation of input.

A. Each division of the agency shall establish and maintain a list or lists consisting of persons expressing an interest in the adoption, amendment or repeal of regulations under its administration, management or supervision. Persons may request the addition of their name and address to the list at any time. The lists will be updated as additional interested parties are identified. Deletions will be made when lack of interest is determined by the division as a result of periodic contact initiated by the division.

B. The department may form an ad hoc advisory group or utilize a standing advisory committee to assist in the drafting, formation or review of a proposal when expertise is necessary to address a specific regulatory interest or issue, or when persons register an interest in the subject of the regulation and in working with the agency.

C. Whenever a division identifies a need for the adoption, amendment or repeal of regulations under its administration, management or supervision, it may commence the regulation adoption process according to these procedures.

D. The agency shall issue a Notice of Intended Regulatory Action (NOIRA) which describes the subject matter and intent of the planned regulation for all regulatory proposals in accordance with the Administrative Process Act. The NOIRA shall state whether the agency intends to hold a public hearing.

E. The commissioner shall disseminate the NOIRA to the public by:

1. Distribution to the Registrar of Regulations for publication in The Virginia Register, and
2. Distribution by mail to parties on the list established under subsection A of this section.

F. The agency shall consider public comment in drafting proposed regulations.

G. Upon approval by the council of the proposed regulations prepared by the department, the department shall solicit public comment through:

1. Distribution to the Registrar of Regulations for publication in The Virginia Register,
2. Publication of a Notice of Comment Period in a newspaper of general circulation published at the state capital and such other newspapers as the department may deem appropriate, and
3. Distribution of a notice of comment by mail to persons on the list(s) established under subsection A of this section.

§ 2.4. Public hearings.

A. The council shall permit public comment concerning the adoption, amendment, or repeal of a regulation submitted for its promulgation during the council's regularly scheduled public comment period of its authorized meetings in conformity with the established rules of the council. The council may allow public comment about a proposed regulation at a committee meeting when the proposed regulation is under consideration by the committee.

B. When the NOIRA states that the agency does not plan to hold a hearing on the proposed regulation, the agency shall schedule a hearing when it determines that there is sufficient public interest in a proposed regulation through receipt of requests for a hearing from 25 people or more. The hearing(s) may be held at any time during the public comment period and at such times and locations as the department decides will best facilitate input from interested persons.

§ 2.5. Withdrawal of regulations.

If the agency determines that the process to adopt, amend or repeal any regulation should be terminated after

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promulgation of the proposed regulation by the approving authority, the agency shall present a recommendation and rationale for the withdrawal of the proposed regulation to the approving authority.

VA.R. Doc. No. R94-279; Filed November 24, 1993, 11:15 a.m.

DEPARTMENT OF EDUCATION (STATE BOARD OF)

Title of Regulation: VR 270-01-0006. Regulations Governing Pupil Transportation Including Minimum Standards for School Buses in Virginia.

Statutory Authority: Article VIII, § 4 of the Constitution of Virginia; §§ 22.1-16, 22.1-176, 22.1-177, and 22.1-178 of the Code of Virginia.

Public Hearing Date: January 27, 1994 - 8 a.m.

Written comments may be submitted until February 13, 1994.

(See Calendar of Events section for additional information)

Basis: Article VIII, § 4 of the Constitution of Virginia gives the Board of Education general supervision of the public school system. Section 22.1-177 of the Code of Virginia gives the board general authority to make regulations relating to the construction, design, operation, equipment and color of public school buses and the authority to issue an order prohibiting the operation on public street and highways of any public school bus which does not comply with such regulation.

Purpose: These proposed regulations amend the existing regulations governing pupil transportation in Virginia which are promulgated to provide safe and economical transportation to eligible individuals participating in programs and activities. Included in the proposed amendments are changes reflecting federal and state statutes, federal regulations and recommendations from the National Standards Conference relative to standards for school buses and operations.

Substance: The proposed changes affect all sections of the regulations to include:

PART I - DEFINITIONS

§ 1.1 - The emergency equipment compartment which was allowed on the inside header of the bus has been deleted. Emergency equipment should be mounted in easily accessible areas near the driver. Provisions for storage have been made in § 5.81 to allow additional storage compartments outside of the bus on an optional basis.

PART II - GENERAL REGULATIONS

§ 2.2 - Amended to conform with the ability of school buses to travel 55 mph on interstate highways. Other applicable sections in the regulations have also been

amended for this change.

§ 2.4 - Allows school divisions to have employment agreements rather than contracts for the hiring of bus drivers.

§ 2.10 - No longer requires parents to return an acknowledgment of receipt of bus rider safety rules to the principal.

§ 2.12 - Removes references to buses manufactured prior to April 1, 1977 (Pre-DOT buses), as they are no longer allowed in Virginia. Other applicable sections in the regulations have also been amended for this change.

§ 2.13 - Revises procedures used by local school divisions to notify the department of school bus accidents. Allows for a new automated accident program and quicker notification of serious accidents.

§ 2.22 - Requires all vehicles used to transport students to and from school or school-related activities to carry emergency equipment as defined in § 5.58.

PART III - DISTRIBUTION OF FUNDS

§ 3.1 - Subsection H is added to conform to the funding set forth in the Annual Appropriations Act. Subsection I has been moved from another section in the regulations for consistency purposes.

§ 3.2 - Subsection D is revised to conform to the funding set forth in the Annual Appropriations Act. Subsection E has been moved from another section in the regulations for consistency purposes.

§ 3.3 - References to special provisions for the City of Radford in subsection B have been deleted as the provision is no longer applicable. Subsection F is revised to conform to the funding set forth in the Annual Appropriations Act.

§ 3.4 - Previous subsections D and F have been deleted and new subsection E added to conform to the funding set forth in the Annual Appropriations Act.

PART IV - REQUIREMENTS FOR SCHOOL BUS DRIVERS

§ 4.1 - Requires persons operating activity buses to meet the same requirements as regular school bus drivers.

Amends all language for driver requirements to conform to the ADA requirement for reasonable accommodation.

Section E requires all drivers to submit to testing for alcohol and controlled substances in compliance with the federal Omnibus Transportation Employee Testing Act of 1991. Such testing will include Preemployment/Preduty, Post Accident, Random, Reasonable Suspicion, and Return-to-Duty/Follow-up Testing.

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§ 4.7 - Requirements for a Commercial Driver's License (CDL) have been added consistent with § 46.2-325 of the Code of Virginia.

§ 4.8 - Increases the level of driver training required from 12 hours each of classroom instruction and behind-the-wheel training to 20 hours each.

§ 4.15 - Requires all driver trainers to attend a recertification course every five years.

§ 4.16 - Requires all driver names and license numbers to be submitted to the Department of Motor Vehicles rather than the Department of Education. This change was made due to a revision in the governing statute during the 1993 session of the General Assembly.

PART V - MINIMUM STANDARDS FOR SCHOOL BUSES

Numerous changes have been made in this section to make the regulations conform to Federal Motor Vehicle Safety Standards (FMVSS). Where possible, rather than repeat language contained in those standards, a reference is made to the appropriate standard.

Article 1 - General Requirements

§ 5.6 - Requirement for consecutive numbering was deleted as it served no useful purpose.

§ 5.8 - All references to Pre-DOT buses were deleted.

§ 5.8 - Regulations were included to allow for vehicles powered by alternative fuels.

§ 5.9 - Allows for road speed controls to be set at a maximum of 55 mph to permit compliance with the statutory change for school buses traveling on interstates. This places the burden of compliance with 45 mph maximums on noninterstate highways on the driver and local school division.

Article 2 - The Bus Chassis

A series of technical changes were made to reference FMVSS requirements, make the language more understandable, improve safety features, and delete unnecessary requirements. No major changes are included in this section, with the exception of § 5.26 which allows for road speed controls to be set at a maximum of 55 mph to permit compliance with the statutory change for school buses traveling on interstates. This places the burden of compliance with 45 mph maximums on noninterstate highways on the driver and local school division.

Article 3 - The Bus Body

§ 5.51 - Allows for the roof of a bus to be painted white (at local option), consistent with the statutory change made during the 1993 session of the General Assembly.

Requires retroreflective tape on all buses ordered after July 1, 1994, in accordance with federal standards and previous Virginia practice.

§ 5.52 - Addresses the use of two-way communication systems and video cameras on school buses. Due to the variety of equipment and installations available, the department is not recommending one standard, but divisions must receive advance approval of the type and installation to ensure safety of passengers. For safety purposes, some general installation standards are included.

§ 5.56 - Requires all doors to be equipped with padding at the top of each door opening. Other applicable sections are also amended for this change.

§ 5.58 - Section D requires all buses to carry a body fluid clean-up kit.

§ 5.59 - Amends the regulations to ensure compliance with FMVSS 217 regarding the number and placement of emergency exits.

Requires roof exits/vents on all school buses ordered after July 1, 1994.

§ 5.66 - Requires all lights and reflectors to be approved by the Superintendent of the Department of State Police.

§ 5.68 - Amends the regulations to ensure compliance with FMVSS 111 regarding the mirror systems used on buses.

§ 5.76 - Due to the break down of seats on buses and the expense incurred by local school divisions for replacement to ensure safety, the regulations will require manufacturers to honor seat cushion and back replacement warranty for a period of six years.

§ 5.81 - Requires two metal storage compartments outside the bus, one of which must be moisture proof and equipped with a lock and suitable for storage of cleaning supplies. This allows the deletion of the emergency equipment compartment inside the bus.

Allows for luggage compartments in the body skirt as long as ground clearance is not reduced and the gross vehicle weight restriction is not exceeded.

§ 5.85 - Allows air conditioning on an optional basis.

PART VI - STANDARDS FOR LIFT-GATE BUSES

§ 6.1 D - Requires specific training for drivers transporting children with special needs.

§ 6.4 - Increases the force that fastening devices for wheelchairs must withstand in accordance with FMVSS 222.

§ 6.5 - This section is deleted as it is covered in Part V.

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§ 6.7 - Increases the minimum pay load of lifting mechanisms as some divisions have experienced problems with the current standard.

Requires the installation of handrails on the power lift.

PART VII - ACTIVITY VEHICLES

§ 7.1 - Requires local school divisions to remove school bus lettered identification and traffic warning devices after receipt of vehicle. This section was amended to protect body dealers who cannot by federal law remove these items.

Allows the name of the individual school to be placed on the side of the bus at local option.

The allowance for fewer hours of training for drivers of activity vehicles was deleted. These drivers will be subject to the same classroom and behind-the-wheel instruction as regular bus drivers.

Subdivisions C 2, 4, 5, and 6 which dealt with speed limits, luggage compartments, tinted glass and air conditioning have been deleted as it is now covered in Part V of the regulations.

Issues: The 1993 session of the Virginia General Assembly revised several sections of the Code of Virginia, including § 22.1-177, as amended to address vehicles powered by alternative fuels; and § 22.1-178, Requirements for Persons Employed To Drive School Buses. Also, revisions to Motor Vehicle statutes included § 46.2-871, Maximum Speed Limit for School Buses; § 46.2-340, Information concerning School Bus Drivers; and § 46.2-1089.1, Signs and Markings On School Buses Using Alternative Fuels.

Federal regulations, including amended Federal Motor Vehicle Safety Standards, FMVSS #111 (mirror), FMVSS #217 (emergency exits) and FMVSS 222 (passenger seating); The Omnibus Transportation Employee Testing Act, mandating controlled substance testing; and expanded OSHA regulations addressing bloodborne and airborne pathogens made regulations revisions imperative.

Driver requirements, bus chassis and bus body standards and School Bus Operation Standards were revised to reflect the 1990 National Standards for School Buses and National Standards for School Bus Operations. In addition, needs of local divisions, as attested during advisory committee meetings, were addressed in the revisions.

Expanded programs for children with special needs including infants and toddlers required special revisions and the Annual Appropriations Act set forth funding elements, requiring changes in the proposed regulations.

Estimated Impact:

A. Entities Affected: All local school divisions throughout the Commonwealth will be affected by these regulations.

B. Fiscal Impact:

Costs to Affected Entities: The proposed regulations would require buses manufactured after July 1, 1994, to have the following components at the stated approximate costs:

Emergency roof exit/screened vent @ \$ 300

Retroreflective markings on front, rear and sides @ \$250

Back-up alarm @ \$40

12 cubic foot compressor @ \$50

Metal storage compartment @ \$175

Padding above doors @ \$20

Driver safety belt system @ \$25

Hand rails on Lifts @ \$75

Body Fluid Clean-up Kits @ \$20

New mirror system @ \$40

Given an approximate 750 new bus sales per year at approximately \$1,000, the projected cost will be \$750,000.

In addition, testing for alcohol and controlled substances has been estimated to cost \$28-30 per person per test; however, final federal regulations regarding components of the testing may cause the costs to change. The state has approximately 12,500 covered employees in local school divisions who will be subject to the Federal Highway Administration's (FHWA) alcohol and controlled substance testing regulations, giving a projected start-up cost of \$375,000.

Costs to Agency: There are no direct costs attributable to the State Board of Education or the Department of Education.

Source of Agency Funds: The minimal costs projected to be incurred for reproducing and mailing the revised regulations can be absorbed through the department's general fund allocation.

Summary:

The proposed amendments address revisions to federal and state statutes and federal regulations. These regulations are divided into seven major parts: Definitions, General Regulations, Distribution of Pupil Transportation Funds, Requirements for School Bus Drivers, Minimum Standards for School Buses in Virginia (the bus chassis and the bus body), Standards for Lift Gate Buses, and Activity Buses.

The proposed revisions provide amendments to reflect

automation of accident reporting; changes in distribution of pupil transportation funds; changes in driver requirements to address the Americans With Disabilities Act, testing for alcohol and controlled substances, and driver training; technological advances in design of school bus chassis and school bus body and to conform to Federal Motor Vehicle Safety Standards; new standards regarding transporting children with special needs to include infants and toddlers; and changes in regulations regarding use of school activity vehicles.

VR 270-01-0006. Regulations Governing Pupil Transportation Including Minimum Standards for School Buses in Virginia.

PART I. DEFINITIONS.

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

"Color-black" means federal standard No. 595, black enamel No. 17038 .

"Color-yellow" means national school bus yellow SBMI color standard 008.

"Emergency equipment compartment" means an approved compartment which is labeled to indicate what is contained therein. If equipped with a lock, a buzzer shall be activated when locked. Lock shall be capable of holding plunger of buzzer in when unlocked. The compartment shall be boxed in and have suitable rear panel for mounting of emergency equipment.

"School bus" means any motor vehicle described herein as "Type A," "Type B," "Type C," or "Type D," which is designed and used for the transportation of pupils, which is painted yellow with the words "School Bus" in black letters of specified size on front and rear, and which is equipped with the required warning devices.

Note: This definition includes school buses owned and operated by school boards, private contractors, local governments, and transit systems which are used for the transportation of public school pupils.

"School bus Type A" means a conversion or body constructed upon a van-type compact truck or a front-section vehicle, with a gross vehicle weight rating of 10,000 pounds or less, designed for carrying more than four persons. Range from four to 20 passenger capacity.

"School bus Type B" means a conversion or body constructed and installed upon a van or front-section vehicle chassis, or stripped chassis, with a gross vehicle weight rating of more than 10,000 pounds, designed for carrying more than 10 persons. Part of the engine is beneath or behind the windshield, or both, and beside the driver's seat. The entrance door is behind the front

wheels. Range from 16 to 25 71 passenger capacity.

"School bus Type C" means a body installed upon a flat back cowl chassis with a gross vehicle weight rating of more than 10,000 pounds, designed for carrying more than 10 persons. All of the engine is in front of the windshield and the entrance door is behind the front wheels. Range from 34 to 64 passenger capacity.

"School bus Type D" means a body installed upon a chassis, with the engine mounted in the front, midship, or rear, with a gross vehicle weight rating of more than 10,000 pounds, designed for carrying more than 10 persons. The engine may be behind the windshield and beside the driver's seat; it may be at the rear of the bus behind the rear wheels, or midship between the front and rear axles. The entrance door is ahead of the front wheels. Range from 72 to 84 passenger capacity.

"School activity vehicle" means any school bus as defined in this section with the modifications authorized in Part VII of these regulations. Type A, B, C, D school buses are recommended for transporting pupils to and from school activity events; however, a school activity vehicle may be used solely for extra-curricular activities, when deemed necessary and appropriate by the local school board.

Note: A standard or mini-size passenger van which has not been reconstructed to meet Virginia state and federal school vehicle construction standards does not meet this definition.

"Undercoating modified test procedure" means test panels are to be prepared in accordance with paragraph 4.6.12 of TT-C-520a of the Federal Code, incorporated by reference, with modified procedure requiring that test be made on a 48-hour air cured film at thickness recommended by compound manufacturer.

PART II. GENERAL REGULATIONS.

§ 2.1. The greatest care shall be exercised at all times in the transportation of school children.

§ 2.2. A school bus transporting school pupils shall be operated at a safe speed not in excess of 35 miles per hour, or minimum legal speed allowable; except, 55 miles per hour on interstate highways and . However, when no stops are made to pick up or discharge pupils between the point of origin and the point of destination the speed shall not be in excess of 45 miles per hour.

§ 2.3. The number of pupils who may ride a school bus shall be determined by the total number who can be seated. During the first 30 instructional days of the school year standees may be permitted for short distances in the aisle back of the driver's seat. Pupils may not be permitted to stand after the first 30 instructional days, except under unforeseen emergency conditions as

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identified by the local school board.

§ 2.4. ~~Written contracts~~ *An employment agreement shall be made by the school board, on a form to be prescribed by the Superintendent of Public Instruction, with all regular school bus drivers before they begin their duties. Such contracts shall be signed in duplicate, each party holding a copy thereof. Substitute drivers shall meet the requirements prescribed for regular bus drivers and shall be approved and paid by the local school board.*

§ 2.5. The school bus driver shall open and close the entrance door and keep it securely closed while the bus is in motion. This responsibility shall not be delegated to any other person.

§ 2.6. Every school bus operated at public expense for the purpose of transporting school children shall be equipped with traffic warning devices of the type prescribed in the standards and specifications of the Board of Education. The warning lights shall indicate when the bus is about to stop, is stopped, and when it is loading or discharging children. The warning lights shall be in operation for a distance of not less than 100 feet before the bus stops, if the lawful speed limit is less than 35 miles per hour, and for a distance of at least 200 feet before the bus stops if the lawful speed limit is 35 miles per hour or more. ~~When the school bus is equipped with a~~ *The warning sign or and crossing control arm or both, these devices shall be extended when, and only when, the bus is stopped to load or discharge children.*

§ 2.7. When loading or discharging pupils on the highway, stops shall be made in the right-hand lane and shall be made only at designated points where the bus can be clearly seen for a safe distance from both directions. While stopped, the driver shall keep the school bus warning devices in operation to warn approaching traffic to stop and allow pupils to cross the highway safely. Pupils who must cross the road shall be required to cross in front of the bus. They shall be required to walk to a point 10 feet or more in front of the bus, stop before reaching a position in line with the left side of the bus, and wait for a signal from the bus driver before starting across the highway.

On dual highways divided by a physical barrier or , unpaved area, or five lane highway with turning lane, buses shall be routed so that pupils will be picked up and discharged on the side of the road on which they live.

§ 2.8. Persons operating a school bus ~~equipped with a safety belt assembly shall wear it while school children are being transported the appropriate safety belt system while bus is in motion~~ . (§ ~~46.1-287.2~~ 46.2-1091 of the Code of Virginia)

§ 2.9. Pupils riding in Type A school buses equipped with passenger restraint belts shall wear them while the bus is in motion.

§ 2.10. Pupil rider safety instruction shall be included in the school curriculum, including demonstration and practices of safety procedures.

1. At the K-1 ~~Pre-K-1~~ grade levels, initial safety training shall occur during the first week of school and additional training on a periodic basis during the year.

2. Emergency exit drills shall be practiced by all pupil riders at least twice a year, the first occurring during the first 30 instructional days.

3. A copy of bus rider safety rules shall be sent to parents at the beginning of the school year ~~with an acknowledgement to be returned to the school principal~~ . The information shall include a request that parents or their designee accompany their young children to and from the bus stop.

§ 2.11. Every vehicle used in transporting school pupils and personnel at public expense shall be covered by insurance that will provide financial assistance to pupils and personnel in case of injuries or deaths resulting from an accident. Insurance is required by law in the following minimum amounts:

1. Public liability or bodily injury, including death:
 - a. per person, or lower limit \$50,000
 - b. per accident, or upper limit \$200,000
2. Property damage liability \$20,000
3. Uninsured motorists coverage - equal to aforesaid limits of liability
4. Medical payment - per person \$1,000

(§§ 22.1-188 to 22.1-198 of the Code of Virginia)

§ 2.12. All school buses and school activity vehicles ~~manufactured since April 1, 1977, used to transport public school pupils to and from school and school activity events shall be inspected and maintained by competent mechanics immediately before being used in the fall and at least once every 30 operating days or every 2,500 miles traveled, whichever occurs first. All school buses and school vehicles manufactured prior to April 1, 1977, shall be inspected at least every 30 days or every 1,500 miles travelled, whichever occurs first. The inspections and maintenance shall be conducted in accordance with provisions of the "Preventive Maintenance Manual for Virginia School Buses" and recorded on the prescribed inspection forms. If the inspection and maintenance are not made in a shop operated by the school board or the local governing body, the school board shall designate one or more inspection centers to make the inspections and require a copy of the results of the inspections to be furnished to the division superintendent.~~

§ 2.13. A ~~written~~ report, on forms or on the format furnished by the Department of Education, of any

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accidents involving school buses, pupils, and personnel who ride school or activity buses (including injury or death while crossing the road, waiting at bus stops, etc.) shall be sent to the Pupil Transportation Service, Department of Education by the division superintendent ~~within five days from the date of the accident, or designee at least once a month.~~ The report shall give the apparent cause of the accident, the extent of injuries to pupils or others ; ~~and the amount of property damage.~~ . *The division superintendent or designee shall notify the Pupil Transportation Service of any school bus accident involving serious injuries, requiring professional medical treatment, or death within the next working day from the date of the accident.*

§ 2.14. All school buses in operation shall be carefully scheduled on routes to schools. The schedule shall show the time the bus starts in the morning, the time it leaves each point at which pupils are taken on, and the time of arrival at school. ~~It shall also show the bus's odometer reading at the beginning of the route where the first pupil is picked up, where other stops are made, and the reading upon arrival at school.~~ One copy of such schedule shall be kept in the bus and one copy shall be kept in the office of the division superintendent or designee of schools.

§ 2.15. School bus routes, school sites, and safety of pupils at bus stops shall be reviewed at least once each year. Bus routes shall be reviewed for safety hazards, fuel conservation, and to assure maximum use of buses. Local school administrators shall evaluate the safety of pupils at bus stops periodically ~~and report the results annually to the school board.~~ A written vehicular and pedestrian traffic control plan for each existing school site shall be ~~developed and reviewed annually for safety hazards.~~ All new school site plans shall include provisions which promote vehicular and pedestrian safety.

§ 2.16. School buses shall stop, as required by law, at railway grade crossings. *The 4-way hazard lights shall be activated when approaching the railway grade crossing and deactivated before crossing the track.* The bus driver shall open the entrance door of the bus and determine when it is safe for the vehicle to cross the railroad tracks. The entrance door shall be closed when the bus is in motion. No stop need be made at any grade crossing where traffic is directed by a police officer or a green traffic-control signal.

§ 2.17. School boards shall require that a report on the number of pupils transported and miles traveled be made by all school bus drivers to principals or other designated school officials.

§ 2.18. Local school boards shall adopt policies, consistent with provisions of Virginia School Laws, before establishing a practice of collecting transportation fees from pupils or receiving contributions from other sources for activities sponsored by schools under their authority. No pupil whose parent or guardian is financially unable to pay the pro rata cost of the trip may be denied the opportunity to

participate. See § 22.1-176 of the Code of Virginia.

§ 2.19. The lettered identification and traffic warning lights on the front and rear of school buses shall be covered with opaque detachable material when they are used for purposes other than to transport pupils on regular routes to and from school, or on special trips to participate in contests of various kinds, and for supplementary education purposes. This does not apply when the bus is being used to transport elderly or mentally or physically handicapped persons. (See § 22.1-183 of the Code of Virginia)

§ 2.20. The use of posters, stickers, or advertising material of any kind is prohibited in or on school buses.

§ 2.21. No object shall be placed in the bus that will restrict the passage to the entrance or emergency doors.

§ 2.22. *All vehicles used to transport students to and from school or school-related activities shall carry reflective triangles, first aid kit, body fluid clean-up kit and fire extinguisher. (See § 5.58.)*

PART III. DISTRIBUTION OF PUPIL TRANSPORTATION FUNDS.

Article 1. Regular Approved Bus Fund.

§ 3.1. The regular approved school bus fund shall be allocated for pupils transported on approved school buses to the extent that these provisions are consistent with the annual Appropriation Act:

A. School divisions shall be eligible for reimbursement for transportation of pupils in kindergarten through grade 12 and for ~~handicapped children~~ *students with disabilities* age ages two to 21 as defined in § 22.1-213 of the Code of Virginia, paragraph 1.

B. No reimbursement shall be made for pupils transported on any bus or for any bus which does not meet the provisions of the annual inspections required by the Department of State Police, the fleet assessment by the Department of Education and regulations of the Board of Education.

NOTE: Any required reduction in the fund will be based on a pro-rata share of the total "Regular Approved Bus Fund" allocation.

C. No reimbursement shall be made for pupils or buses unless the pupils are transported and the bus is used both from home to school and from school to home.

D. No reimbursement shall be made from this fund for pupils or buses if transportation assistance is received from other state or federal sources. Fares/fees shall not be collected from the pupil/parent, except as provided for in §§ 22.1-6 and 22.1-176 of the Code of Virginia, and

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E. The computation for reimbursement shall be based on the number of pupils transported in average daily attendance (average number transported daily) and the prevailing number of buses for a prior years.

F. The computation for reimbursement of school divisions during their first year of school bus operation shall be based on the number of pupils and buses for the current year.

G. Before final reimbursement for the transportation of pupils to and from public schools is made to a school division, a report shall be submitted by the division superintendent to the Superintendent of Public Instruction certifying the number of pupils transported, the correct net operating cost of transporting pupils (actual expenditure, less gas tax refunds), and the average daily mileage of each bus meeting the standards and specifications of the Board of Education used in transporting pupils for the preceding school year. Such report shall include information covering the type of bus, make and model of the body and chassis, and the number of bus inspections. Information for the review of pupil transportation programs shall be furnished annually on forms provided by the Department of Education. Records of vehicle inspections and maintenance shall be presented for review at the time of the annual fleet assessment conducted by the Department of Education or at other times necessary to ensure compliance with §§ 2.12 and 4.11 of these regulations.

H. Regular fund reimbursement will be included in basic aid payment.

I. For purposes of costing the Standards of Quality, the Board of Education assumes a 12-year school bus replacement cycle.

Article 2.

Fund for Exclusive Transportation of Handicapped Pupils Students with Disabilities on Approved School Buses.

§ 3.2. The Fund for Exclusive Transportation of Handicapped Pupils Students with Disabilities shall be allocated on the following bases to the extent that these provisions are consistent with the annual Appropriations Act:

A. All provisions in § 3.1 "Regular Approved Bus Fund" shall apply to the computation of the reimbursement from this fund.

B. Reimbursement shall be allowed only for transportation of handicapped pupils students with disabilities who have been classified as such in Public Law 94-142, the Rehabilitation Act of 1973, § 504, the Individual with Disabilities Education Act of 1975, the Code of Virginia, and regulations of the Board of

Education, and for those pupils who have not been identified but whose handicapping condition conditions dictate exclusive transportation.

C. No reimbursement authorized by this article shall be made when both nonhandicapped pupils and handicapped pupils students with disabilities are transported on the same trip.

~~D. Reimbursement for exclusive transportation shall be subject to the availability of state funds appropriated for this purpose. Exclusive fund reimbursement will be included in basic aid payment.~~

E. For purposes of costing the Standards of Quality, the Board of Education assumes a 12-year school bus replacement cycle.

Article 3. Special Transit Fund.

§ 3.3. The special transit fund shall be allocated for pupils transported on public transit systems.

A. The amount of reimbursement shall be based on the number of pupils riding public transit buses multiplied by the comparable prevailing regular program per pupil cost consistent with the Annual Appropriations Act.

B. Transit funds shall be available to school divisions for eligible pupils transported in transit buses through contracts with public transit systems listed and recognized as public transit systems by the Virginia Department of Transportation. School divisions will not be eligible to include pupils transported in vehicles commonly referred to or licensed as passenger cars, cabs, vans, taxis, school activity vehicles, and school buses ; ~~except that Radford City Public Schools, the only school division currently receiving special transit funds for transporting students on school buses, may continue to qualify for special transit funds for transportation of such students on any school bus, which is currently in operation, until that bus becomes 12 years of age (see note, § 5.8 of these regulations .~~

Note: A two year transitional period which ends June 30, 1990, is approved for the city school boards of Colonial Heights and Radford to receive "special transit funds" for the transportation of public school children who pay a fare/fee to ride approved yellow school buses operated by or for city council.

C. The local school board shall make provisions when such transportation is provided that each vehicle be operated and maintained so as to ensure safe service to the pupils. Insurance shall be provided by the owner of such vehicle(s) in amount not less than those provided for in § 22.1-190 of the Code of Virginia. Evidence of such insurance shall be on file in the school board office.

D. Reimbursement shall be available for pupils who are

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transported to and from public schools for the regular school session and will not be available for special trips and extracurricular activities.

E. In no case, shall reimbursement exceed local school board expenditures for transporting such pupils.

F. ~~In the event sufficient funds are not available to reimburse local school divisions for the total number of pupils eligible, this fund shall be allocated on a pro rata basis. Transit fund reimbursement will be included in basic aid payment.~~

Article 4.

Special Arrangements Fund for Transportation of Handicapped Pupils. *Students with Disabilities.*

§ 3.4. The special arrangements fund for transportation of ~~handicapped pupils~~ *students with disabilities* shall be allocated on the following bases to the extent that these provisions are consistent with the annual Appropriations Act:

A. Funds shall be available to school divisions for eligible ~~handicapped pupils~~ *students with disabilities*, ages 2 to 21 inclusive, transported by contract with approved private schools, taxicabs, airlines, intercity/interstate passenger buses, school ~~board owned~~ *board-owned* cars, or for the transportation by parents in lieu of the school board providing transportation services.

B. No reimbursement shall be allocated for pupils transported on vehicles which are not in compliance with all applicable federal school vehicle regulations.

C. Data on attendance, actual cost, and type of vehicles related to the special arrangement transportation to public, approved private, and regional schools shall be submitted each semester on forms provided by the Department of Education.

~~D. Reimbursement for eligible handicapped pupils shall be based on 60% of the actual cost up to an established maximum amount.~~

~~E. D. Pupils eligible for or claimed in reimbursement from any other transportation fund, state or federal, shall not be eligible for reimbursement from the special arrangements fund.~~

~~F. In the event sufficient funds are not available, reimbursement shall be allocated on a pro rata basis.~~

~~E. Special arrangements fund reimbursement will be included in basic aid payment.~~

PART IV.

REQUIREMENTS FOR SCHOOL BUS DRIVERS.

§ 4.1. ~~No school board shall hire, employ, or enter into any agreement with any person for the purposes of~~

~~operating a school bus transporting pupils unless the person Drivers of school and activity buses shall:~~

A. Have a physical examination of a scope prescribed by the Board of Education with the advice of the Medical Society of Virginia and furnish a form prescribed by the Board of Education showing the results of such examination.

1. No person shall drive a school bus unless that person is physically qualified to do so and has submitted a School Bus Driver's Application For Physician's Certificate signed by the applicant and the doctor for the applicable employment period.

2. A person is physically qualified to drive a school bus if the individual:

a. Has no loss of a foot, a leg, a hand, or an arm which interferes with the ability to control and safely drive a school bus *without reasonable accommodations* ;

b. Has no impairment of the use of a foot, a leg, a hand, fingers, or an arm, and no other structural defect or limitation likely to interfere with the ability to control and safely drive a school bus *without reasonable accommodations* ;

c. Has no known medical history or clinical diagnosis of diabetes mellitus currently requiring insulin for control likely to interfere with the ability to control and safely drive a school bus *without reasonable accommodations* ;

d. Has no current clinical diagnosis of myocardial infarction, angina pectoris, coronary insufficiency, thrombosis, or any other cardiovascular disease of a variety known to be accompanied by syncope, dyspnea, collapse, or congestive cardiac failure;

e. Has no known medical history or clinical diagnosis of a respiratory dysfunction likely to interfere with the ability to control and drive a school bus safely *without reasonable accommodations* ;

f. Has no known current clinical diagnosis of high blood pressure likely to interfere with the ability to operate a school bus safely *without reasonable accommodations* ;

g. Has no known medical history or clinical diagnosis of rheumatic, arthritic, orthopedic, muscular, neuromuscular, or vascular disease which would interfere with the ability to control and operate a school bus safely *without reasonable accommodations* ;

h. Has no known medical history or clinical diagnosis of epilepsy or any other condition which is

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likely to cause loss of consciousness or any loss of ability to control a school bus *without reasonable accommodations* ;

i. Has no known mental, nervous, organic, or functional disease or psychiatric disorder likely to interfere with the ability to drive a school bus safely *without reasonable accommodations* ;

j. Has both distant and near visual acuity of at least 20/40 (Snellen) in each eye with or without corrective lenses, and field of vision of at least 70 degrees in the horizontal meridian in each eye, and the ability to recognize the colors of traffic signals and devices showing standard red, green, and amber;

k. First perceives a forced-whispered voice in the better ear at not less than five feet with or without the use of a hearing aid or, if tested by use of an audiometric device, does not have an average hearing loss in the better ear greater than 40 decibels at 500 Hz, 1,000 Hz, and 2,000 Hz with or without a hearing aid when the audiometric device is calibrated to American National Standard (formerly ASA Standard) Z24.5-1951; and

l. Does not use an amphetamine, narcotic, or any habit-forming drug without appropriate physician supervision.

B. Furnish a statement or copy of records from the Department of Motor Vehicles showing that the person, within the preceding five years, has not been convicted of a charge of driving under the influence of intoxicating liquors or drugs, convicted of a felony, or assigned to any alcohol safety action program or driver alcohol rehabilitation program pursuant to § 18.2-271.1 of the Code of Virginia or, within the preceding 12 months, has not been convicted of two or more moving traffic violations or has not been required to attend a driver improvement clinic by the Commissioner of the Department of Motor Vehicles pursuant to § 46.2-497 of the Code of Virginia.

C. Furnish a statement signed by two reputable residents of the school division that the person is of good moral character.

D. Exhibit a license showing the person has successfully undertaken the examination prescribed by § 46.2-339 of the Code of Virginia.

E. ~~Has~~ *Have* reached the age of 18.

F. *Submit to testing for alcohol and controlled substances which is in compliance with the Omnibus Transportation Employee Testing Act of 1991 (Public Law 102-143, Title V) and the amendments.*

§ 4.2. Any school board may require successful completion of the ~~American Red Cross~~ a first-aid course as a

condition to employment to operate a school bus transporting pupils.

§ 4.3. The documents required pursuant to §§ 4.1 A and 4.1 B of these regulations shall be furnished annually ~~within 30 days~~ prior to the anniversary date of the employment to operate a school bus. ~~A school board may require the statement set forth in § 4.1 C to be furnished periodically.~~

§ 4.4. The documents required pursuant to this section shall be filed with, and made a part of, the records of the school board employing such person as a school bus operator.

§ 4.5. The Department of Education shall furnish to the division superintendents the necessary forms for applicants to use to provide the information required by this section. Insofar as practicable, such forms shall be designed to limit paperwork, avoid the possibility of mistakes, and furnish all parties involved with a complete and accurate record of the information required. (§ 22.1-178 of the Code of Virginia)

§ 4.6. As a condition to employment, every school bus driver shall submit a certificate signed by a licensed physician stating that the employee appears free of communicable tuberculosis. The school board may require the submission of such certificates annually, or at such intervals as it deems appropriate, as a condition to continued employment. (§ 22.1-300 of the Code of Virginia)

§ 4.7. No person shall drive a school bus upon a highway in the Commonwealth unless such person has had a reasonable amount of experience in driving motor vehicles, and shall have passed a special examination indicating the ability to operate a school bus without endangering the safety of pupil passengers and persons using the highway. To prepare for the examination required by this section, any person holding a valid operator's license *and Commercial Driver's License (CDL) Instruction Permit* issued under the provisions of § ~~46.1-369~~ 46.2-325 of the Code of Virginia, may operate, under the direct supervision of a person holding a valid school bus license endorsement, a school bus which contains no pupil passengers. The Department of Motor Vehicles is required to adopt such rules and regulations as may be necessary to provide for the examination of persons desiring to qualify to drive such buses in this Commonwealth and for the granting of permits to qualified applicants. (§ 46.2-339 of the Code of Virginia)

§ 4.8. No person shall operate a school bus transporting pupils unless the person shall have:

1. Received classroom, demonstration, and behind-the-wheel instruction in accordance with the minimum provisions of the "Virginia School Bus Driver Training Curriculum Guide."

2. Completed a minimum of ~~12~~ 20 classroom hours

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and ~~12~~ 20 hours of behind-the-wheel training. A minimum of ~~six~~ 10 of the ~~12~~ 20 hours of behind-the-wheel time shall involve the operation of a bus with pupils on board while under the direct supervision of a designated bus driver trainer.

The superintendent or his designee shall maintain a record showing that the applicant has completed the training and has been approved to operate a school bus.

§ 4.9. In-service training, (at least two hours before opening of schools and at least two hours during the second half of the school year) devoted to improving the skills, attitudes, and knowledge including orientation to maximize benefits of using safety programs and safety components shall be provided to all school bus drivers.

§ 4.10. The driver of a school bus shall be under the general direction and control of the superintendent and school board or the supervisor of transportation, and shall also be accountable to the principal of the school to which transportation is provided.

§ 4.11. The driver of a school bus shall perform a daily pretrip safety inspection of the vehicle immediately prior to transporting children. The items checked and recorded shall be at least equal to the pretrip inspection procedure contained in the "Preventive Maintenance Manual for Virginia School Buses, November 1983," as prescribed by the Department of Education.

§ 4.12. The driver of a school bus shall report to the principal the misconduct of pupils on the school bus or at waiting stations or stops on the way to or from school and shall be guided by the principal's advice and direction, subject to the regulations of the school board. When it becomes necessary for the driver to correct pupils, the driver shall stop at the nearest and safest place and restore order before proceeding. In no case shall a driver put a pupil off the bus between the home and school as a disciplinary measure.

§ 4.13. The performance of each school bus driver shall be evaluated by the transportation director or designee at least once each year. The results of the evaluation shall be discussed with the driver and included in the driver's personnel file.

§ 4.14. The driver of activity or extracurricular trip buses shall advise the pupils and sponsors of the location of the required emergency equipment *and exits* prior to the beginning of any such trip.

§ 4.15. Local school bus driver training instructors shall hold a certificate for completion of an instructor course conducted or sponsored by the Department of Education and shall attend a recertification course every five years.

§ 4.16. The name and driver license number of persons operating a school bus used to transport pupils shall be submitted to the Department of Education *Motor Vehicles*

annually. These data for each new driver employed during the school year shall be submitted by the 10th of each month.

PART V. MINIMUM STANDARDS FOR SCHOOL BUSES IN VIRGINIA.

Article I. General Requirements.

§ 5.1. The responsibility for compliance with these school bus and activity vehicle specifications rests with dealers and manufacturers. If any dealer or manufacturer sells school buses or school activity vehicles which do not conform to any or all of these specifications, a general notice will be sent to all school divisions advising that equipment supplied by such dealer or manufacturer will be disapproved for school transportation until further notice. A copy of the notice will be sent to the dealer or manufacturer and will remain in effect until full compliance by the dealer or manufacturer is assured.

Dealers and manufacturers shall be given at least 30 days' notice of any changes in the specifications.

§ 5.2. Minimum standards are applicable to all school buses and school activity vehicles, new or used, procured by purchase, lease or operational contract from another person or entity.

§ 5.3. Buses and school activity vehicles must conform to the specifications relative to construction and design effective on the date of procurement. Any variation from the specifications, in the form of additional equipment or changes in style of equipment, without prior approval of the Pupil Transportation Service, Department of Education, is prohibited.

§ 5.4. The Superintendent of Pupil Instruction is authorized to make such adjustments from time to time in technical specifications as are deemed necessary in the interest of safety and efficiency in school bus operation. This includes the issuance of chassis specifications by size, type and model year. Authority is also granted for conducting investigations and field tests of certain pertinent vehicle components.

§ 5.5. All publicly owned, part publicly owned, or contract school buses, transporting pupils to and from public school, shall be painted a uniform color, national school bus yellow, and shall be identified and equipped as outlined in the standards and specifications.

§ 5.6. Each school bus shall be given a number starting at one and continuing consecutively to the highest number which will be the total number of buses used. The number shall conform with that contained in the school bus inventory and record report. When a bus is sold or discarded, the number assigned to it should be given to a new bus. The numbers should remain consecutive with as

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few unassigned numbers as possible.

§ 5-7. 5.6. The responsibility for purchasing school buses and school activity vehicles which meet state and federal requirements rests with division superintendents and local school boards.

§ 5-8. All school buses, including spare buses and school activity vehicles, manufactured prior to April 1, 1977, the effective date of the Federal School Vehicle Regulations (referred to as "Pre-DOT" buses), shall be replaced by June 30, 1991. A plan providing for the replacement of these Pre-DOT buses by June 30, 1991, was required to be submitted to the Department of Education by August 1, 1988. In addition, a schedule for the replacement of buses on a continuing basis shall be developed and implemented by each school division.

NOTE: For purposes of costing the Standards of Quality, the Board of Education assumes a 12-year school bus replacement cycle.

§ 5-9. 5.7. Sale of surplus school buses.

A. Before a surplus school bus is sold or released for nonschool transportation purposes, the bus shall have the traffic warning signal system and crossing control arm removed and all school bus lettering shall be covered by an opaque paint. A written notice shall be attached to the Certificate of Title stating that the vehicle does not meet the requirements of §§ 46.2-100 and 46.2-1089 and that its operation on the highway would be in violation of § 46.2-917 of the Code of Virginia.

B. In the event that the bus is sold to a private school or a licensed dealer, the written notice shall contain a reminder that the bus shall be painted a different color, and shall have the bus signal systems and lettering removed before release for nonschool transportation purposes.

§ 5.8. Vehicles powered by alternative fuels.

A. The Board of Education will continue to promote the use of alternative fuels for school buses. Any vehicle powered by alternative fuels will be subject to inspection and approval by the Virginia Department of Education.

B. Local school divisions, in consultation with the Department of Education, may purchase and use school buses using alternative fuels. (§ 22.1-177 of the Code of Virginia)

C. Installation of alternative fuel tanks and fuel systems shall comply with all applicable Federal Motor Vehicles Safety Standards (FMVSS) 301 and all applicable fire codes.

D. A sign with black letters on clear or school bus yellow background, indicating the type of alternative fuel being used, may be placed on the side of the bus near

the entrance door. No sign shall be more than 4-3/4 inches long or more than 3-1/4 inches high.

§ 5.9. School divisions may, at their discretion, set road speed control to a maximum of 55 mph.

Article 2. The Bus Chassis.

§ 5.10. Air cleaner.

Bus shall be equipped with adequate oil-bath, dry element, or equivalent air cleaner mounted outside the passenger compartment.

A. The engine intake air cleaner system shall be furnished and properly installed by the chassis manufacturer to meet the engine manufacturer's specifications.

B. An air cleaner restriction indicator shall be furnished and installed by chassis manufacturer.

§ 5.11. Alternator.

Alternator of heavy duty design with rectifier shall have minimum output of at least 90 amperes with charge at idle type (12-volt system), and shall be ventilated, voltage-controlled, and current-controlled. Dual belt drive or a single serpentine belt of equal or greater transmission capacity shall be used. Actual required amperage to be specified on annual chassis specifications.

Exception Type A vehicles:

Alternator with rectifier shall have minimum output of at least amperes with 12-volt system and shall be ventilated, voltage-controlled, and current controlled. Dual belt drive is not required.

A. All Type A and B buses up to 15,000 pounds gross vehicle weight rating (GVWR) shall have a minimum 90 ampere alternator.

B. Type B buses over 15,000 pounds GVWR and all Type C and D buses shall be equipped with a heavy duty truck or bus type alternator meeting Society of Automotive Engineers (SAE) J-180; having a minimum output rating of 100 amperes, alternator shall be capable of producing a minimum of 50% of its maximum rated output at the engine manufacturer's recommended idle speed.

C. All buses equipped with an electrical power lift shall have an alternator capable of producing a minimum 75 amperes at engine manufacturer's recommended idle speed.

D. Belt drive shall be capable of handling the rated capacity of the alternator with no detrimental effect on other driven components. Direct-drive alternator is

permissible in lieu of belt drive.

§ 5.12. Axles. (See table 1.)

A. Front axle or suspension shall be of sufficient capacity at ground to support a load which would be 10% in excess of actual gross axle weight. The front axle and rear differential, including suspension assemblies, shall have a gross axle weight rating at ground, at least equal to that portion of the load as would be imposed by the chassis manufacturer's maximum gross vehicle weight rating.

B. Rear axle shall be single speed, full-floating type. Rear axle or other type of suspension assembly shall have gross weight rating at ground equal to or exceeding that portion of total weight which is supported by rear-suspension assembly.

1. Exception Type A vehicles:

Requirement for full-floating rear axle does not apply to small vehicles (conversion type) approved as school buses.

2. Exception Type D vehicles:

a. Front axle shall be wide-track, heavy-duty, bus type and shall have gross weight rating at ground equal to or exceeding that portion of total load which is supported by front axle.

b. Rear axle shall be single speed, full-floating, heavy-duty, bus type and shall have gross weight rating at ground equal to or exceeding that portion of total load which is supported by rear axle.

§ 5.13. Battery.

A. Storage battery, as established by manufacturer's rating, shall be of sufficient capacity to handle starting, lights, signal devices, heating, and other electrical equipment.

B. A. No bus shall be equipped with a battery of less than 535 700 amperes cold cranking current at 0°F with 120 170 minutes reserve capacity at 80°F.

B. Battery shall be mounted in the engine compartment or in a body compartment in an adequate carrier and be readily accessible for servicing or removal temporarily mounted to chassis. When battery is temporarily mounted to chassis by chassis manufacturer, the chassis manufacturer shall furnish and install one-piece cables of sufficient length to allow battery to be mounted in slide-out tray in body skirt on left side of bus. Cable shall be at least one gauge color coded (positive-red, negative-black). Annual chassis requirements will specify battery location for different types of chassis.

D. When battery is to be mounted outside of engine

compartment, it may be temporarily mounted to chassis. Body company will permanently mount battery on sliding tray located in the left side of body skirt. Battery shall be connected with one-piece cables of sufficient length to allow tray to be pulled out for servicing. Cables shall be at least one gauge color coded; red positive-black ground. Chassis manufacturers to supply proper length cables for body skirt mounting.

§ 5.14. Brakes.

A. Four-wheel brakes, adequate at all times to control bus when fully loaded, shall be provided in accordance with Federal Motor Vehicle Safety Standards. (See table 1.)

B. Foot or Service brakes shall meet Federal Motor Vehicle Safety Standard FMVSS 105 for hydraulic brakes, and Standard FMVSS 121 for air brakes except for deletion of anti-skid system on air brake models. Brake lining shall not contain asbestos.

C. Chassis shall be equipped with auxiliary brakes capable of locking rear wheels, and capable of holding vehicle on any grade on which it is operated under any conditions of loading on a surface free from snow or ice. Operating controls of such auxiliary brakes shall be independent of operating controls of service brakes.

D. Chassis designed for any bus body shall be equipped with full compressed air brakes, split hydraulic vacuum actuated power, or assister-type brakes.

1. Such installation shall be made by authorized representative of chassis or brake manufacturer and shall conform to recommendation of that manufacturer.

2. Hydraulic line pressure shall not exceed recommendation of chassis or brake manufacturer.

3. Reservoir capacity shall be at least 1,650 cubic inches for full compressed air systems, and at least 1,000 cubic inches, or equivalent, for vacuum actuated systems.

4. D. Buses having full compressed air systems shall be equipped with:

a. At least two reservoirs for the service brake (or one vessel divided into two compartments connected in series) and one 1,000 inch reservoir for the auxiliary braking system; 1. A minimum 12 cubic feet per minute engine oil-fed air compressor.

b. Safety valve mounted on the first reservoir to protect air brake system against excessive air pressure, and check valve mounted in optional location; 2. Air supply for air compressor shall be taken from the clean side of engine air cleaner system.

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e. Air gauge mounted on instrument panel to register air pressure in air brake system; (See § 5.27 A 8 of these regulations) and 3. An air dryer with automatic purge and drain cycle and a heating element.

d. Audible low pressure indicator to warn driver if air pressure in air brake system falls below 60 pounds per square inch.

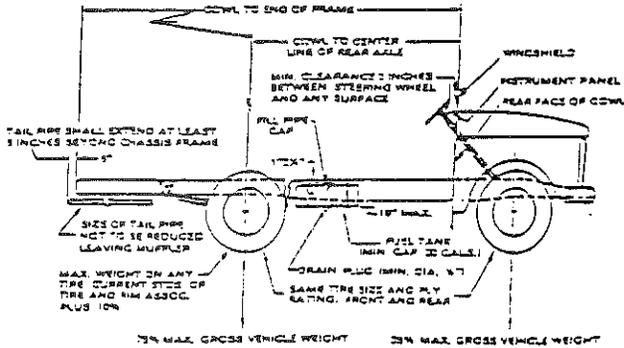
5. Buses having vacuum actuated systems shall be equipped with check valve located between source of supply and reservoir.

E. Buses using hydraulic brakes shall have power assist brakes. Hydraulic line pressure shall not exceed recommendation of chassis or brake manufacturer.

6. Exception Type A vehicles.

Reserve vacuum tank not required.

Diagram 1.
CHASSIS ELEVATION



§ 5.15. Bumper, front.

A. Front bumper shall be heavy-duty, channel steel at least seven *eight* inches in width *height* with 3/16-inch thickness, painted black, and shall be furnished by chassis manufacturer as part of chassis.

B. Front bumper shall extend to outer edges of fenders at bumper top line (to assure maximum fender protection) and be of sufficient strength to permit pushing vehicle of equal gross weight, *lifting or towing* without permanent distortion to bumper, chassis, or body.

C. Exception Type A vehicles.

Bumper shall be manufacturer's standard painted black.

D. Exception Type D vehicles.

Same as above, except that front bumper shall be furnished by body manufacturer.

§ 5.16. Clutch.

Torque capacity shall be equal to or greater than the engine torque output. *Clutch facing shall be nonasbestos.*

§ 5.17. Color.

A. Chassis, including wheels, and front bumper shall be black.

B. Hood, cowl, and fenders shall be national school bus yellow.

C. Grill shall be national school bus yellow, if painted; otherwise, it shall be chrome or anodized aluminum.

D. All paint shall meet the lead-free standards.

§ 5.18. Drive shaft.

A. Drive shaft shall be protected by metal guard or guards to prevent it from whipping through floor or dropping to ground if broken.

B. Exception Type A conversion van.

Standard does not apply.

§ 5.19. Electrical system.

1. A. Battery - see § 5.13.

2. B. Alternator - see § 5.11.

3. C. Lights and signals - see § 5.30.

4. D. Wiring - see § 5.92.

5. Chassis manufacturer shall install readily accessible electrical terminal so that body and chassis electrical load can be recorded through chassis ammeter or voltmeter without dismantling or disassembling chassis component. Chassis wiring system to terminal shall have minimum 100-ampere capacity. Chassis ammeter or voltmeter and wiring shall be compatible with generating capacity, and ammeter shall be capable of recording continuous draw of 100 amperes.

E. Power terminal.

Chassis manufacturer shall provide an electric power source terminal for bus body power connection. Wiring from the power source in wiring terminal shall have a current carrying capacity of 125 amperes continuous (minimum 4 gauge wire).

This conductor shall be of continuous size uninterrupted by fusible links, fuses, or circuit breakers. The terminal shall be of the single post-type, minimum of one-fourth inch (1/4") stud and located on the fire wall above the toeboard on the left-hand side, subject to approval of the

Pupil Transportation Service, Department of Education.

F. Light terminal.

The chassis manufacturer shall provide a wire terminal adjacent to or in the under dash area of the left side panel accessible to the body company for connection of rear brake lights, tail lights, turn signal lights, and back-up lights.

G. Fuse.

All fuses shall be located in fuse block and properly identified for the circuit protected.

6. H. Each chassis circuit shall be color coded and a diagram of the circuits shall be included with the chassis.

I. Wiring harness.

All conductors from the alternator to the battery shall be continuous in length. The conductors shall be sized to provide at least a 25% greater current carrying capacity than the design output of the alternator (minimum 4 gauge wire). The conductor between the alternator and the battery shall be routed in a manner that will provide the least distance between points of termination. A separate ground conductor from alternator to engine shall be provided (minimum four-gauge).

J. Safety switch shall be installed on the clutch linkage and prohibit engine from being started unless clutch pedal is depressed.

§ 5.20. Engine.

The engine shall be of the internal-combustion, four-stroke cycle type, having not less than six cylinders. Thermostats with not less than 175° - 195°F rating shall be provided. Engine shall be equipped with a crankcase ventilating system to meet federal requirements. (See table 1)

§ 5.21. Exhaust system.

1. A. Exhaust pipe, muffler, and tail pipe shall be outside bus body attached to chassis.

2. B. Tail pipe shall be constructed of seamless or electrically welded tubing of 16-gauge steel or equivalent, and shall extend at least five inches beyond chassis frame. (See § 5.83)

3. C. Size of tail pipe shall not be reduced after it leaves muffler.

4. D. Exhaust system shall be properly insulated from fuel tank and tank connections by securely attached metal shield at any point where it is 12 inches or less from tank or tank connections.

5. E. Muffler shall be constructed of corrosion-resistant material.

6. F. Exception Type A and B Vehicles less than 15,000 pounds (GVWR).

Tail pipe may exit behind rear wheel.

§ 5.22. Fenders, front.

1. A. Total spread of outer edges of front fenders, measured at fender line, shall exceed total spread of front tires when front wheels are in straight-ahead position.

2. B. Front fenders shall be properly braced and free from any body attachment.

3. C. Chassis sheet metal shall not extend beyond rear face of cowl.

§ 5.23. Frame.

1. A. Frame or equivalent shall be of such design as to correspond at least to standard practice for trucks of same general load characteristics which are used for severe service.

2. B. When frame side members are used, they shall be of one-piece construction. If frame side members are extended, such extension shall be designed and furnished by chassis manufacturer with a guarantee, and installation shall be made by either chassis or body manufacturer and guaranteed by company making installation. Extensions of frame lengths are permissible only when such alterations are behind rear hanger of rear spring, and shall not be for purpose of extending wheel base.

3. C. Holes in top or bottom flanges of frame side rails shall not be permitted except as provided in original chassis frame. There shall be no welding to frame side rails except by chassis or body manufacturer.

§ 5.24. Frame length - (See § 5.46)

§ 5.25. Fuel tank.

1. A. Fuel tank equipped with protective cage to meet FMVSS 301 shall have minimum fill capacity of 30 gallons, with a minimum draw of 25 gallons, and be mounted directly on right side of chassis frame, filled and vented entirely outside body. All fuel tanks shall be vented from the top of the tanks.

2. B. Fuel filter with replaceable element shall be installed between fuel tank and carburetor engine.

3. Fuel tank, fittings or lines, C. No portion of the fuel system which is located to the rear of the engine compartment, except the filler tube, shall not extend above top of chassis frame rail.

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4. *D.* If tank sizes other than 30 gallons are supplied, location of front of tank and filler spout must remain as specified below by the *School Bus Manufacturer's Institute Design Objectives, January 1985 edition, and have a minimum draw of 83% of fill capacity.*

5. Drain plug at least 1/4 inch in diameter shall be located in center of bottom of tank.

6. *E.* Measurements shown below are for guidance of chassis manufacturers and serve only to prevent need for replacement of original tank. (Inspectors concerned with state or local approval of vehicle need not consider them unless tank does not fit.)

a. 1. Tank or cage shall not extend in height above side member of chassis.

b. 2. Distance from center line of chassis to outside of tank cage shall not be more than 44 inches.

c. 3. Bottom of tank cage shall not be more than 19.0 inches below top of frame.

d. 4. Center of fillpipe cap shall be one inch below top of frame with plus or minus tolerance of 1/4 inch permitted.

7. *F.* Exceptions.

a. 1. For Type A vehicles, the fuel tank shall be manufacturer's standard, mounted, filled, and vented outside of body.

b. 2. For Type B of body-on-chassis ; or vehicles constructed with a power lift unit, the fuel tank may, due to space limitation, be mounted behind rear wheels with fillpipe on right or left side of body and have capacity of less than 30 gallons.

c. 3. For Type D vehicles , the fuel tank may be mounted between frame rails with fuel filler pipe extending to right side of body between frame rails and body floor. Center of tank shall not be more than 65 inches to rear of center line of front axle. Bottom of cage shall not extend below the level of the front axle.

§ 5.26. Governor.

1. *A.* An approved engine governor set at ~~3,400~~ RPM by engine manufacturer is required on vehicles equipped with gasoline engines.

2. *B.* An approved road speed control governor shall be required on all buses and set at a maximum speed of ~~45~~ 55 mph.

§ 5.27. Heating system, provision for.

The chassis engine shall have plugged openings for the

purpose of supplying hot water for the bus heating system. The opening shall be suitable for attaching 3/4-inch pipe thread/hose connector. The engine shall be capable of supplying water having a temperature of at least 170°F at a flow rate of 50 pounds/per minute at the return end of 30 feet of one-inch inside diameter automotive hot water heater hose. (SBMI Standards No. 001-Standard Code for Testing and Rating Automotive Bus Hot Water Heating and Ventilating Equipment.)

§ 5.28. Horn.

Bus shall be equipped with dual horns of standard make which meet requirements of Federal Motor Vehicle *Safety* Standards.

§ 5.29. Instrument and instrument panel.

A. Chassis shall be equipped with following instruments and gauges:

1. Speedometer which will show speed;
2. Odometer which will show accrued mileage, including tenths of miles;
3. Ammeter or voltmeter with graduated scale;
4. Oil-pressure gauge;
5. Water-temperature gauge;
6. Fuel gauge;
7. Upper-beam headlamp indicator; and
8. ~~Air-pressure or vacuum gauge, where air or vacuum brakes are used, and audible low-pressure indicator to warn driver if air pressure in air brake system falls below 60 pounds per square inch.~~

8. *Tachometer.*

B. All instruments or gauges shall be mounted on instrument panel in such manner that each is clearly visible to driver in normal seated position. Lights in lieu of gauges are not acceptable.

C. Exceptions.

On all Type A vehicles, both the ammeter or voltmeter and its wiring are to be compatible with generating capacity ; also, § 5.29 A 8 does not apply .

§ 5.30. Lights and signals.

1. *A.* Each chassis shall be equipped with not less than two sealed beam headlights - beam controlled, and stop and tail lights, and two front turn signal lamps mounted on front fenders.

2. B. Lights shall be protected by fuse or circuit breakers.

3. C. Self-canceling directional signal switch shall be installed by the chassis manufacturer. The directional signals shall activate only when ignition is in "on" position.

4. An approved back-up alarm signal complying with the Society of Automotive Engineers published Backup Alarm Standards (SAE 904b) for rubber tired vehicles is permitted.

§ 5.31. Oil filter.

Oil filter of replaceable element or cartridge type shall be provided and shall be connected by flexible oil lines if it is not of built-in engine-mounted design. Oil filter shall have oil capacity of at least one quart.

§ 5.32. Openings.

All openings in floorboard or firewall between chassis and passenger-carrying compartment, such as for gearshift lever and auxiliary brake lever, shall be sealed unless altered by body manufacturer. (See § 5.53 10)

§ 5.33. Overall length.

Overall length of a conventional bus shall not exceed 36 feet and metropolitan type not to exceed 40 feet. Annual body specifications shall specify overall length.

§ 5.34. Passenger load.

Gross vehicle weight (i.e., wet weight, plus body weight, plus driver's weight of 150 pounds, plus weight of maximum seated pupil load based on not less than 120 pounds per pupil) shall not exceed maximum gross vehicle weight rating as established by manufacturer.

§ 5.35. Power or gradeability. Retarder system (optional).

Chassis shall be so geared and powered as to be capable of surmounting 3.7% grade at speed of at least 20 miles per hour with full load on continuous pull in direct drive. Retarder system, if used, shall maintain the speed of the fully loaded school bus at 19 mph on a 7.0% grade for 3.6 miles and shall be approved by the Department of Education.

§ 5.36. Shock absorbers.

Bus shall be equipped with front and rear double-acting shock absorbers compatible with manufacturer's rated axle capacity.

§ 5.37. Springs.

1. A. Springs or suspension assemblies shall be of ample resiliency under all load conditions and of adequate strength to sustain loaded bus without evidence of

overload. (See table 1)

2. B. Springs or suspension assemblies shall be designed to carry their proportional share of gross vehicle weight in accordance with requirement for "Weight Distribution" as shown in § 5.42.

3. C. Rear springs shall be of progressive or variable type.

4. D. Stationary eye of the front spring shall be protected by full wrapper leaf in addition to main leaf.

Exception Type A vehicles.

Springs that are regular equipment on vehicle to be purchased may be used.

§ 5.38. Steering gear.

1. A. Steering gear shall be approved by chassis manufacturer and designed to assure safe and accurate performance when vehicle is operated with maximum load and maximum speed.

2. Steering mechanism shall provide for an easy adjustment for lost motion.

3. B. No changes shall be made in steering apparatus which are not approved by chassis manufacturer.

4. C. There shall be clearance of at least two inches between steering wheel and cowl instrument panel, windshield, or any other surface.

5. D. Power steering is required : It shall contain a provision to automatically bleed air from unit and shall be of the integral type with integral valves.

§ 5.39. Tires and rims.

1. A. Tire and rim sizes, based upon current standards of Tire and Rim Association, shall be required. (See table 1)

2. B. Total weight imposed on any tire shall not be above current standard of Tire and Rim Association.

3. C. Dual rear tires shall be provided on all vehicles.

4. D. All tires on given vehicles shall be of same size and ply rating.

5. E. Spare tire, if required, shall be suitably mounted in accessible location outside passenger compartment.

Exception Type A conversion van.

Same as above, except that dual rear tires are not required and spare tire rack may be inside passenger compartment provided it does not interfere with aisle

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width of passenger seating .

§ 5.40. Transmission.

1. A. Mechanical type transmission shall be synchromesh except first and reverse gears. Its design shall provide not less than four forward and one reverse speeds. With five-speed transmission, fifth gear shall be direct.

2. Transmission overdrive is not permitted.

3. B. Automatic transmissions are permissible when equipped with a parking pawl or when installed on a bus equipped with an air or hydraulic spring operated approved parking brake system.

Exception Type A vehicles.

Three-speed transmissions are acceptable.

§ 5.41. Turning radius.

Chassis with a wheel base of 264 inches or less shall have a right and left turning radius of not more than 42-1/2 feet, curb to curb measurement. Chassis with a wheel base over 264 inches shall have a right and left turning radius of not more than 44-1/2 feet curb to curb measurement.

§ 5.42. Weight distribution.

A. Weight distribution of fully loaded bus on level surface shall be such that not more than 75% of gross vehicle weight is on rear tires, and not more than 35% is on front tires.

B. Exception Type D vehicles.

With engine inside front of body, if entrance door is ahead of front wheels, not more than 75% of gross vehicle weight shall be on rear tires, nor more than 50% on front tires. If entrance door is behind front wheels, not more than 75% of gross vehicle weight shall be on rear tires, nor more than 40% on front tires. With engine in rear, not more than 75% of gross vehicle weight shall be on rear tires, nor more than 40% on front tires.

§ 5.43. Wheels.

Disc wheels are required. (See table 1)

Wheel Base	170-180	180-190	190-200	200-210	210-220	220-230	230-240	240-250	250-260	260-270	270-280	280-290	290-300
Minimum Clearance	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0
Minimum Clearance	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0
Minimum Clearance	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0
Minimum Clearance	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0
Minimum Clearance	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0
Minimum Clearance	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0
Minimum Clearance	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0
Minimum Clearance	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0
Minimum Clearance	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0
Minimum Clearance	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0

Article 3. The Bus Body.

§ 5.44. Aisle.

1. A. Minimum clearance of all aisles, including aisle (or passageway between seats) leading to emergency door, shall be 12 inches. Aisles shall be unobstructed at all times. (See § 5.56 B 6)

2. B. Aisle supports of seat backs shall be slanted away from aisle sufficiently to give aisle clearance of 15 inches at top of seat backs.

3. C. Exceptions.

- a. 1. Type D vehicles with engine inside front of body. Minimum distance between barrier at rear of entrance stepwell and engine cover shall be 14 inches, measured at floor level.
- b. 2. Type A vehicles to have minimum aisle width of 15 inches.
- c. 3. Type B F.C. B, Forward Control to have minimum aisle width of 14 inches.
- d. 4. Buses equipped with wheelchair positions. See § 6.2 of these regulations.

§ 5.45. Battery.

The battery shall be located in the engine compartment, except when otherwise specified on annual chassis specifications. (See § 5.13 C and D B) when mounted outside engine compartment.

§ 5.46. Body sizes.

Sizes are based on knee-room clearance between rows of forward-facing seats, overall width, center aisle width, and average rump width. Body lengths for various capacity units will be designated in Specification Notices, issued periodically by the Pupil Transportation Service, Department of Education.

§ 5.47. Bumper, front. See § 5.15 of these regulations.

§ 5.48. Bumper, rear.

Table 1.

TABLE SHOWING MINIMUM WIDTHS OF THE CHASSIS AND TIRE AND THE BODY

Bus Type	A	B	C	D	E	F	G	H
Minimum Clearance	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0
Minimum Clearance	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0
Minimum Clearance	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0
Minimum Clearance	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0
Minimum Clearance	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0
Minimum Clearance	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0
Minimum Clearance	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0
Minimum Clearance	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0
Minimum Clearance	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0
Minimum Clearance	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0

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1. A. Rear bumper shall be of pressed steel channel at least 3/16 inch by 8 9.5 inches.

2. B. It shall be wrapped around back corners of bus. It shall extend forward at least 12 inches, measured from rear-most point of body at floor line.

3. C. Bumper shall be attached to chassis frame in such manner that it may be easily removed, shall be so braced as to develop full strength of bumper section from rear or side impact, and shall be so attached as to prevent hitching of rides.

4. D. Rear bumper shall extend beyond rear-most part of body surface at least one inch, measured at floor line.

Exception Type A vehicles.

Rear bumper shall be standard type furnished by chassis manufacturer as part of chassis on conversion vans. Body manufacturer will furnish bumper on cutaway chassis.

§ 5.49. Ceiling. See insulation and interior §§ 5.64 and 5.65.

§ 5.50. Chains. See wheel housings § 5.88 4.

§ 5.51. Color.

1. A. School bus body including hood, cowl, external speakers and fenders shall be painted uniform color, national school bus yellow; according to specifications available from General Services Administration.

2. B. Grill shall be national school bus yellow, if painted; otherwise it shall be chrome or anodized aluminum.

3. C. Rear bumper and lettering, body trim, and required rub rails shall be painted black.

4. Body trim shall be painted black. This includes B under § 5.74 2.

D. The roof of the bus may be painted white extending down to the drip rails on the sides of the body except that front and rear roof caps shall remain national school bus yellow.

5. Front turn signal lamp shall be painted black. Side body turn signals shall be black or cast aluminum.

E. All paint shall meet the lead-free standards.

F. Retroreflective tape.

Reflective material shall be installed on all buses ordered after July 1, 1994. Material shall be Type IV or better, as determined by the American Society of Testing Materials (ASTM): D4956-90. "Standard specifications for reflective sheeting for traffic control."

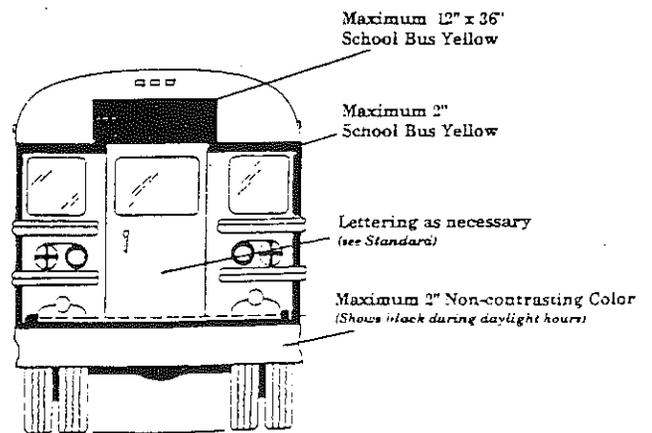
1. The material shall retain at least 50% of reflectance

values for a minimum of seven years.

2. Reflective materials and markings shall include all of the following:

a. On the rear, a strip of reflective yellow material two inches in width to be applied on the back of the bus, extending from the left lower corner of the "SCHOOL BUS" lettering, across to left side of the bus, then vertically down to the top of the bumper, across the bus on a line immediately above the bumper to the right side, then vertically up to a point even with a horizontal strip terminating at the right lower corner of the "SCHOOL BUS" lettering. (See diagram 2.)

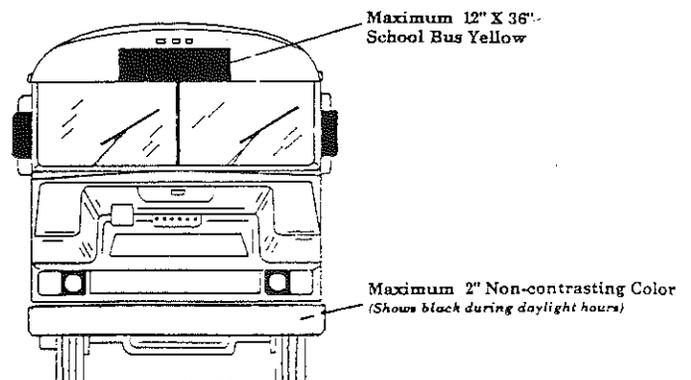
Diagram 2



PLACEMENT OF REFLECTIVE MARKINGS

b. "SCHOOL BUS" signs shall be marked with reflective yellow material comprising background for lettering of the front and rear "SCHOOL BUS" signs. (See diagrams 2 and 3.)

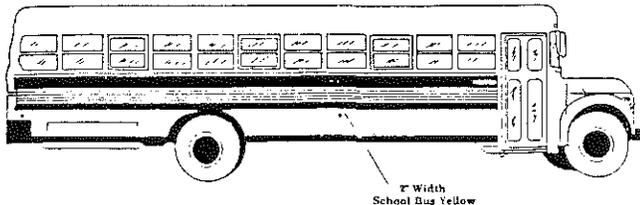
Diagram 3



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c. Sides of the bus body shall be marked with reflective yellow material, two inches in width, extending the length of the bus body and located (vertically) as close as practicable to the beltline. (See diagram 4.)

Diagram 4



3. Reflective material shall be installed on the rear and sides of school activity buses, following the same specifications in subdivisions 2 a and 2 c of this subsection. There will be no "SCHOOL BUS" signs on either the front or the rear of the vehicle. Color of the reflective material shall match, as closely as possible, the color of the bus body.

OPTION: Front or rear bumpers or both may be marked with a three-inch wide continuous black strip of reflective material which continues around corners to the ends of the bumpers. (See diagrams 2 and 3.)

§ 5.52. Communication system - optional equipment.

A. Two-way communication systems.

For installation and use on Virginia school buses subject to the following provisions: When two-way communication equipment is needed on school buses for administrative or operational safety, private frequencies assigned specifically to local governmental agencies by the Federal Communications Commission should be used. Two-way equipment utilizing public citizens band channels may also be used where needed to enhance the safety of school bus operation. The use of the public citizens band type shall be restricted to those owned and licensed by the school board for official use only. Such mobile units If two-way communication systems are installed on school buses, the systems shall be subject to written policies adopted by the local school board. Installation shall be subject to the State School Bus Standards and Department of Education Annual Fleet Assessment.

1. The radio mounting shall be in the driver's compartment in a safe, secure location, so as not to interfere with normal bus operation.

2. Mounting shall be permanent type (temporary or slide-in mounting will not be acceptable.)

3. Wiring shall be protected by a proper fuse or circuit breaker and permanently connected to an accessory circuit shut off by ignition switch. Plug-in type connections are not acceptable.

4. Antenna shall be permanently mounted to cowl or roof so as not to interfere with driver's vision of roadway. Antenna lead-in cable shall be permanently secured with the proper clamps, grommets, and sealant. Antenna cable may not pass through window opening.

B. Public address system.

For use by driver, the system contains an inside speaker and an external speaker which is of special use when driver needs to caution young pupils about surrounding dangers at school bus stops. Inside speakers shall be recessed type.

C. AM/FM radios and cassette players.

If AM/FM radios or cassette players are installed, they shall be properly mounted by the body manufacturer or local shop personnel. All wiring shall be properly connected and concealed and any speakers in the passenger compartment shall be of recessed type.

D. Video camera.

Advanced approval must be received from the Department of Education when video camera equipment use on school buses is desired by the local school division. Both equipment and installation shall be subject to the Department of Education Annual Fleet Assessment.

1. Equipment shall not extend more than six inches from the front header panel into the driver's compartment.

2. Camera boxes shall be mounted securely to the header without use of brackets or other supports.

3. Mounted equipment shall be located on the left side of the front header and shall not interfere with passenger ingress and egress.

§ 5.53. Construction. Type B, C, and D vehicles.

1. A. Construction of body shall meet all requirements of Federal Motor Vehicles Safety Standards Number FMVSS 220 (Roll-over), Number FMVSS 221 (Joint Strength), and all other applicable federal standards.

2. B. Construction shall be of prime commercial quality steel or other metal with strength at least equivalent to all-steel as certified by bus body manufacturer. All such construction materials shall be fire-resistant.

3. C. Construction shall provide reasonable dustproof and watertight unit.

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4. *D.* Bus body (including roof bows, body posts, strainers, stringers, floor, inner and outer linings, rub rails and other reinforcements) shall be of sufficient strength to support entire weight of fully loaded vehicle on its top or side if overturned. Bus body as unit shall be designed and built to provide impact and penetration resistance.

5. *E.* Side posts and roof bows. There shall be a body side post and roof bow fore and aft of each window opening. This may be a continuous bow or two separate pieces effectively joined.

6. *F.* Floor shall be of prime commercial quality steel of at least 14-gauge or other metal or other material at least equal in strength to 14-gauge steel. Floor shall be level from front to back and from side to side except in wheel housing, toeboard, and driver's seat platform areas. When plywood is used, it shall be of 1/2-inch exterior B . B . Grade or equivalent and securely fastened to the existing steel floor.

7. *G.* Roof strainers. Two or more roof strainers or longitudinal members shall be provided to connect roof bows, to reinforce flattest portion of roof skin, and to space roof bows. These strainers may be installed between roof bows or applied externally. They shall extend from windshield header and, when combined with rear emergency door post, are to function as longitudinal members extending from windshield header to rear floor body cross member. At all points of contact between strainers or longitudinal members and other structural material, attachment shall be made by means of welding, riveting or bolting.

8. *H.* Side strainer(s). There shall be one or more side strainers or longitudinal members to connect vertical structural members and to provide impact and penetration resistance in event of contact with other vehicles or objects. Such strainer(s) shall be formed (not in flat strip) from metal of at least 16-gauge and three inches wide.

a. *I.* Side strainer(s) shall be installed in area between bottom of window and bottom of seat frame and shall extend completely around bus body except for door openings and body cowl panel. Side strainer(s) shall be fastened to each vertical structural member in any one or any combination of the following methods as long as stress continuity of members is maintained:

(1) *a.* Installed between vertical members;

(2) *b.* Installed behind panels but attached to vertical members; and

(3) *c.* Installed outside external panels.

b. *2.* Fastening method employed shall be such that strength of strainer(s) is fully utilized.

c. *3.* Side strainer(s) of longitudinal member(s) may

be combined with one of required rub rails (see § 5.74), or be in form of additional rub rail, as long as separate conditions and physical requirements for rub rails are met. No portion of side strainer or longitudinal member is to occupy same vertical position as rub rail.

9. *I.* Rear corner reinforcements. Rear corner framing of bus body between floor and window sill and between emergency door posts and last side posts shall consist of at least three structural members applied horizontally or vertically, two of which shall be vertical, to provide additional impact and penetration resistance equal to that provided by frame members in areas of sides of body. Such structural members shall be securely attached at each end.

Exception -

Extra vertical member required in 9 above may be deleted on units of less than 90 inches in width.

10. *J.* Floor sills. There shall be one main body sill at each side post and two intermediate body sills on approximately 10-inch centers. All sills shall be of equal height, not to exceed three inches. All sills shall extend width of body floor except where structural members or features restrict area.

Main body sill shall be equivalent to or heavier than 10-gauge and each intermediate body sill shall be equivalent to or heavier than 16-gauge, or each of all body sills shall be equivalent to or greater than 14-gauge. All sills shall be permanently attached to floor.

Connections between sides and floor system shall be capable of distributing loads from vertical posts to all floor sills.

11. *K.* All openings between chassis and passenger-carrying compartment made due to alterations of body manufacturer shall be sealed. (See § 5.70)

12. *L.* A cover shall be provided for the opening to the gasoline tank fillpipe.

13. *M.* A moisture and rustproof removable panel shall be provided in the floor for access to the fuel tank sender gauge. It shall be designed for prolonged use and adequate fastening to the floor.

Exception Type B vehicles.

Item 13 above Subsection M of this section does not apply.

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windshield clear of fog, ice, and snow and to defog the window to the left of the driver. (See § 5.61) An auxiliary fan of sufficient capacity to defog the entrance door glass shall be installed above the windshield on the right side. An additional fan to the left of the driver is permissible. Fans shall be placed so as not to block driver's view of outside rearview mirrors.

Exception Type A vehicle.

Auxiliary fan not required.

§ 5.56. Doors.

A. Service door.

1. Service door shall be manually ~~operated~~ or *power-operated*, under control of driver, and so designed as to afford easy release and prevent accidental opening. No parts shall come together so as to shear or crush fingers.
2. Service door shall be located on right side of bus opposite driver and within his direct view.
3. Service door shall have minimum horizontal opening of 24 inches and minimum vertical opening of 68 inches.
4. Service door shall be of split-type, jack-knife type, or sedan-type. (Split-type door includes any sectioned door which divides and opens inward or outward.) If one section of split-type door opens inward and other opens outward, front section shall open outward. The jack-knife-type shall fold inward at the front of the door opening.
5. Lower as well as upper panels shall be of approved safety glass. (See § 5.89 1) Bottom of lower glass panel shall not be more than 35 inches from ground when bus is unloaded. Top of upper glass panel shall not be more than six inches from top of door.
6. Vertical closing edges shall be equipped with flexible material to protect children's fingers.
7. There shall be no door left of driver.

Exception Type A vehicles.

Standard does not apply.

8. Exception Type B and D vehicles.

Service doors may be hydraulically or electrically operated and shall be located as far forward as possible on the right side. All doors shall be equipped with padding at the top of each door opening. Pad shall be at least three inches wide and one-inch thick and extend the full width of the door opening.

B. Rear emergency door Type B, C, and D vehicles.

1. Emergency door shall be located in center of rear end of bus.
2. *Rear* emergency door shall have minimum horizontal opening of 24 inches and minimum vertical opening of 45 inches measured from floor level.
3. *Rear* emergency door shall be hinged on right side and shall open outward and be equipped with an adequate strap or stop to prevent door from striking lamps or right rear of body. Such strap or stop shall allow door to open at least a 90 degree angle from closed position.

Exception Type D vehicles with rear engines.

Emergency door shall be located on the left side in the rear half of the body, shall be hinged on the left side and open outward. Door shall meet all requirements of FMVSS 217 § 5.4.2.16 .

4. Upper portion of *rear* emergency door shall be equipped with approved safety glass, exposed area of which shall not be less than 400 square inches. (See § 5.89 1) Lower portion of door ; if in rear end of bus; ~~may~~ shall be equipped with approved safety glass, area of which shall not be less than 12 inches in height and 20 inches in width. This glass ; if used, shall be protected by metal guard on inside. This guard shall be free of any sharp edges that may cause injury to passengers.
5. There shall be no steps leading to emergency door.
6. No seat or other object shall be so placed in bus as to restrict any part of passageway leading to emergency door to opening smaller than rectangle of 12 inches in width and 48 inches in height, measured from floor level.
7. When not fully latched, emergency door shall actuate signal audible to driver by means of mechanism actuated by latch.
8. Words "EMERGENCY DOOR," both inside and outside in black letters two inches high , *painted or vinyl*, shall be ~~painted~~ *installed* directly above emergency door. Words may be placed on the top of door outside if space is available.

9. The emergency door shall be designed to open from inside and outside bus. It shall be equipped with a slide bar and cam-operated lock located on left side of door and fastened to the door framing.

The slidebar shall be approximately 1-1/4 inches wide and 3/8 inch thick and shall have a minimum stroke of 1-1/4 inches. The slidebar shall have a bearing surface of a minimum of 3/4 inch with the door lock

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in a closed position. Control from driver's seat shall not be permitted. Provision for opening from outside shall consist of nondetachable device so designed as to prevent hitching-to, but to permit opening when necessary. Door lock shall be equipped with interior handle and guard that extends approximately to center of door. It shall lift up to release lock.

10. All doors shall be equipped with padding at the top edge of each door opening. Pad shall be at least three inches wide and one-inch thick and extend the full width of the door opening.

C. Rear emergency door Type A vehicles.

1. Emergency door shall be located in center of rear end of bus and shall be equipped with fastening device for opening from inside and outside body, which may be quickly released but is designed to offer protection against accidental release. Control from driver's seat shall not be permitted. Provision for opening from outside shall consist of device designed to prevent hitching-to but to permit opening when necessary.

2. When not fully closed, emergency door shall actuate signal audible to driver.

3. Emergency door shall be marked "EMERGENCY DOOR" on inside and outside in painted or vinyl black letters two inches high immediately above the emergency door.

4. There shall be no steps leading to emergency door.

5. No seat or other object shall be placed in bus which restricts passageway to emergency door to less than 15 inches.

6. All doors shall be equipped with padding at the top edge of each door opening. Pad shall be at least three inches wide and one-inch thick and extend the full width of the door opening.

D. Security locking system.

A door locking system designed to prevent vandalism, which is approved by the Pupil Transportation Service, Department of Education, may be installed provided it is equipped with an interlock in the chassis starting circuit and an audible alarm to indicate to the driver when an emergency door exit is locked while the ignition is in the "on" position. A cutoff switch on the interlock circuit or a lock and hasp on the rear door emergency exits shall not be permitted.

§ 5.57. Electrical system.

1. Battery - see § 5.13.

2. Alternator - see § 5.11.

3. Lights and signals - see § 5.30.

4. Wiring - see § 5.92.

§ 5.58. Emergency equipment.

A. Fire extinguisher.

1. Bus shall be equipped with one dry-chemical fire extinguisher of at least 2-1/2 five pound capacity with pressure indicator, mounted in extinguisher manufacturer's bracket of automotive type, and located in full view and in an accessible place in the front of the bus excluding floor and area above bottom line of windshield.

2. Fire extinguisher shall bear label of Underwriters' Laboratories, Inc., showing rating of not less than 2A 10-B.C.

3. Fire extinguisher shall have aluminum, brass, or steel valves, heads, check stems, siphon tubes, levers, safety pins, chain, handles and metal hanging brackets. Plastic shall not be used for those named parts.

B. First-aid kit.

1. Bus shall carry Grade A metal first-aid kit, unit-type, mounted in full view and in accessible place in the front of the bus and identified as a first-aid kit.

2. The first-aid kit shall contain the following items:

Item	Unit
Bandage compress (sterile gauze pads) 4-inch	13
Bandage compress (sterile gauze pads) 2-inch	12
Adhesive absorbent bandage (nonadhering pad) 1 X 3 inch	12
Triangular bandage, 40-inch	12
Gauze bandage, 4-inch	12
Absorbent-gauze compress	11
Antiseptic applicator (swab type) 10 per unit (Zephiran Chloride/Green Soap type)	12
Bee sting applicator (swab type) 10 per unit	11

C. Flare Warning devices.

1. Bus shall be equipped with a kit containing three red bidirectional reflectorized triangular flares warning devices meeting requirements of FMVSS-125.

2. Kit shall be securely mounted on the right of toeboard as far forward as practical or in the area to the left of the driver's seat.

Exception Type A vehicles.

Flares Kit may be mounted behind left rear seat.

D. Body fluid clean-up kit.

1. Each bus shall carry a Grade A metal kit, mounted in an accessible place and identified as a body fluid clean-up kit.

2. The kit shall be moisture proof and properly mounted or secured in a storage compartment.

3. Contents shall include but not be limited to the following items:

- a. 1 pair latex gloves
- b. 1 pick-up spatula or scoop
- c. 1 face mask
- d. Infectious liquid spill control powder
- e. Anti-microbial hand wipes - individually wrapped
- f. Germicidal disinfectant wipes
- g. Plastic disposal bag with tie

§ 5.59. ~~Floor~~ - (See § 5.53) Emergency exits.

Each emergency exit shall comply with FMVSS 217 regarding the number of exits, types of exits and location of exits based on the capacity of the vehicle.

1. Side emergency exit doors.

a. A dedicated aisle of at least 12 inches in width, referenced to the rear of the emergency exit door is required.

b. Side emergency exit doors shall be hinged on the forward edge.

c. A one-inch wide strip of yellow retroreflective tape shall be placed around the outside perimeter of the emergency opening, not the emergency exit itself.

d. When not fully latched, side emergency exit door shall actuate a signal audible to the driver by means of a mechanism actuated by the latch when the ignition switch is on.

e. A security locking system designed to prevent vandalism may be installed provided it meets all specifications of § 5.56 D of the regulations.

2. Roof exits/vents.

a. All Type A, B, C, and D vehicles shall be equipped with a minimum of one emergency roof exit/screened vent approved by the Department of Education.

b. When not fully latched, this exit shall actuate a signal audible to the driver by means of a mechanism actuated by the latch when the ignition switch is on.

c. A roof exit/vent security locking system designed to prevent vandalism may be installed provided it meets all specifications of § 5.56 D.

d. A one-inch wide strip of yellow retroreflective tape shall be placed around the outside perimeter of the emergency exit opening, not the emergency exit itself.

NOTE: If the roof is painted white, the one-inch wide strip shall be white retroreflective material.

e. When a single roof exit is installed, it shall be located as near as practicable to the longitudinal midpoint of the passenger compartment, and shall be installed such that the centerline of the hatch is on the longitudinal centerline of the bus.

f. If two roof exits are utilized, they shall be located as near as practicable to the points equidistant between the longitudinal midpoint of the passenger compartment and the front and the rear of the passenger compartment.

NOTE: No removal or cutting of any roof structural component shall occur during installation. If the installation required by subdivisions 2 e and 2 f of this section cannot be accomplished as described, then prior approval by the Pupil Transportation Service will be required through a written request from the local school division.

g. Roof exits/vents shall have rust-proof hardware.

h. Roof exits/vents shall be hinged in the front and be equipped with an outside release handle.

3. Emergency exit windows.

a. Push-out emergency windows are permissible, if required by FMVSS 217.

b. When not fully latched, the emergency exit window shall actuate a signal audible to the driver by means of a mechanism actuated by the latch.

c. A one-inch wide strip of yellow retroreflective tape shall be placed around the outside perimeter of each emergency exit opening, not the emergency exit itself.

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d. No emergency exit window shall be located directly in front of a side emergency exit door.

§ 5.60. Floor covering.

A. Floor (See § 5.53.)

1. *B. Floor in underseat area, including tops of wheel housings, driver's compartment and toeboard shall be covered with fire-resistant rubber floor covering or an approved equivalent, having minimum over-all thickness of .125 inch. Driver's compartment and toeboard area shall be trimmed with molding strips behind the cowl face line.*

2. *C. Floor covering in aisle shall be of aisle-type fire-resistant rubber or an approved equivalent, nonskid, wear-resistant and ribbed. Minimum overall thickness shall be .1875 inch measured from tops of ribs. Rubber floor covering shall meet federal specifications ZZ-M71d.*

3. *D. Floor covering shall be permanently bonded to floor, and shall not crack when subjected to sudden changes in temperature. Bonding or adhesive material shall be waterproof and shall be of the type recommended by manufacturer of floor-covering material. All seams shall be sealed with waterproof sealer.*

§ 5.61. Heaters.

1. *A. Hot water heaters of fresh-air or combination fresh-air and recirculating type, with power defrosters, are required.*

2. ~~They~~ *B. Heaters shall bear name plate rating affixed by heater manufacturer on top of heater shell.*

3. *C. Heaters shall be capable of maintaining inside temperature of 50°F, with an outside temperature of 20°F when the bus is loaded to one-half capacity.*

4. *D. The heater wiring shall be connected to the cold side of the ignition switch through a continuous duty solenoid relay Cole Hersee No. 24106 or equivalent. (See § 5.92 4 D.)*

5. *E. The power defroster shall deliver a sufficient amount of heated air distributed through a windshield duct, nozzle or nozzles to defog and deice the entire windshield, and to defog the driver's window. The duct, nozzle, or nozzles shall be designed to prevent objects from being placed in any manner which would obstruct the flow of air.*

6. *F. Water circulation cut-off valves in the supply and return lines, a minimum of 3/4 inch diameter, shall be at or near the engine. A water flow regulating valve in the pressure line for convenient operation by the driver is also required.*

7. *G. Heater hoses, including those in engine compartment, shall be supported in such manner that hose*

chafing against other objects will not occur nor shall suspended water lines interfere with routine vehicle maintenance.

8. *H. All water hoses in driver or passenger area shall be shielded.*

9. *I. An auxiliary heater of recirculating type, having a minimum capacity of 60,000 BTU output, shall be installed under the second seat behind the wheelhousing. There shall be a grille or guard over exposed heater cores to prevent damage by pupils' feet.*

10. *J. A booster pump in the intake heater line shall be provided on all Type C and D buses.*

11. *K. Exception Type A vehicles.*

a. *1. Front heater with high output and defroster shall be furnished by the chassis manufacturer.*

b. *2. The body manufacturer shall provide an additional underseat heater near the rear of the bus.*

§ 5.62. Identification - See Diagrams 4 7 and 5 8 .

For purpose of identification school buses shall be lettered as follows:

1. Lettering shall be placed according to Diagrams 4 7 and 5 8 . Lettering shall be of black paint *or vinyl* and conform to "Series B" for Standard Alphabets for Highway Signs.

2. Both the front and rear of the body shall bear the words, "SCHOOL BUS" in black letters eight inches in height.

3. All school buses shall have a number ~~printed in black letters~~ *black painted or vinyl number* four inches high on the rear of the body, on the right side just back of the entrance door, and on the left side just back of the warning sign. (See Diagrams 4 7 and 5 8 .) The number shall also be placed on the front bumper, approximately 18 inches from the right end in yellow letters four inches high.

4. The name of the school division shall be on each side of the bus in black letters four inches high - as "... COUNTY PUBLIC SCHOOLS," or "... CITY PUBLIC SCHOOLS."

5. Options.

a. The bus number may be placed in the center of the bus roof with black (12-inch minimum) numbers.

b. A black number (four-inch maximum) may be placed on the inside rear header. Shall not interfere with emergency door lettering.

§ 5.63. Inside height.

Inside body height shall be 72 inches or more, measured metal to metal, at any point on longitudinal center line from front vertical bow to rear vertical bow.

Exception Type A conversion van.

Inside body height shall be 63 inch minimum.

§ 5.64. Insulation.

Ceilings and walls shall be coated with proper materials to deaden sounds and to reduce vibrations to a minimum. Fiber glass thermal insulation (minimum thickness one inch) shall be used to insulate walls and roof between inner and outer panels.

§ 5.65. Interior.

1. Interior of bus shall be free of all unnecessary projections likely to cause injury. This standard requires inner lining on ceilings and walls. Ceiling panels shall be constructed so as to contain lapped joints with all exposed edges hemmed to minimize sharpness. If lateral panels are used, forward panels shall be lapped by rear panels.

2. Ceilings in passenger compartment shall be free of all projections.

§ 5.66. Lights and signals - see Diagrams 4 7 and 5 8 .

No lights or signals other than herein specified shall be installed on school buses, except those required by Federal Regulations. *All lights and reflectors shall be approved by the Superintendent, Department of State Police, Commonwealth of Virginia.*

1. Clearance lights. Body shall be equipped with two red clearance lamps at rear, two amber clearance lamps at front, and intermediate side marker lamps on buses 30 feet or more in length.

They shall be of armour type.

2. Identification lamps. Three amber lamps shall be mounted on front and three red lamps on rear of body.

3. Stop and tail lamps. Bus shall be equipped with two matched stop and tail lamps of heavy duty type, which shall be in combination, emitting red light plainly visible from a distance of at least 500 feet to rear, and mounted on rear end with their centers not less than 12 nor more than 24 inches from plane side of body, and not less than six nor more than 18 inches below D-glass in rear of body. They shall be approximately seven inches in diameter. These lights shall be on the same horizontal line with the turn signal units and shall not flash. A pilot light shall be installed on the left side of the instrument panel and

connected to the cold side of the brake light switch so that it will indicate when the stop lights are activated. A list of approved stop and tail lights will be supplied to the body manufacturers by the Pupil Transportation Service, Department of Education. The use of lights not on this list will not be approved.

4. For illumination of rear license plate, the type of stop and tail light with which the chassis is equipped may be used. The stop light connection will be made to this light.

5. Back-up ~~lamp lamps~~ . Back-up ~~lamp lamps~~ shall be mounted on the rear of the body and shall be illuminated when the ignition switch is energized and reverse gear is engaged.

6. Interior lamps. Interior lamps shall be provided which adequately illuminate aisles and stepwell.

7. Turn signal units. Bus shall be equipped with Class A, flashing turn signal units of heavy-duty type. These signals shall be independent units equipped with amber lens on all faces. The turn signals/directional signal units shall activate only when ignition is in "on" position. A pilot light or lights shall indicate when these lights are activated. The front lights shall be mounted near the front corners of chassis on each side. The rear lights shall be seven inches in diameter and mounted not less than six nor more than 18 inches from plane of the side of the body and not less than six nor more than 18 inches below D-glass in rear of body. They shall be on the same horizontal line with the stop and tail lights required in 3 above.

a. In addition to the turn signals described above, two amber lens metal turn signal lamps of armour-type with a minimum of four candlepower each shall be mounted on the body side at approximate seat level height and located just to the rear of the entrance door on the right side of the body and approximately the same location on the left side. They are to be connected to and function with the regular turn signal lamps. Such lamps shall provide 180° angle vision and if painted, they shall be black.

b. A list of approved turn signal lights will be supplied to the body manufacturers by the Pupil Transportation Service, Department of Education. The use of lights not on this list will not be approved.

c. Exception Type A conversion vans.

Turn signals shall be chassis manufacturer's standard.

8. Hazard warning signal. The turn signal units shall also function as the hazard warning system. The system shall operate independently of the ignition

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switch and, when energized, shall cause all turn signal lamps to flash simultaneously.

9. Reflex reflectors. (Class A) Two amber lights and two amber reflectors (they may be combined) shall be mounted, one on each side, near the front of the chassis. Two four-inch red reflectors shall be mounted, one on each side near the rear of the body and two four-inch red reflectors shall be mounted on the rear above the bumper. Two intermediate amber four-inch reflectors, one on each side near the middle of the bus, shall be mounted on buses 30 feet or more in length. They shall be mounted on panel above floor line rub rail and be metal encased.

10. School bus traffic warning lights.

a. Buses shall be equipped with four red lamps and four amber lamps. One amber lamp shall be located near each red lamp, at the same level, but closer to the vertical center line of the bus. Lamps to be 80 watts, 12-volt sealed beam clear spot units five inches in diameter with seven inch acrylic lens, including component parts and location necessary for their operation. All lamps shall comply with SAE standards for school bus warning lamps. Information on such approved components will be supplied by the Pupil Transportation Service, Department of Education.

b. The traffic warning light system shall be wired so that the amber lamps are activated manually by a hand operated switch. When door is opened, amber lamps will be automatically deactivated and red lamps, warning sign with flashing lamps and crossing control arm shall be activated. When door is closed, all lamps shall be deactivated. No lamps shall come on when door is reopened unless the manual switch is depressed. There shall also be a cancellation switch in case lamps are accidentally activated or when no stop needs to be made.

c. The control circuit shall be connected to the cold side of the ignition switch with the master push button cancel switch mounted on the accessory console, clearly distinguished, visible and accessible to the driver.

d. The ~~motor-driven~~ flasher and the relay shall be fastened in a compartment in the driver area and be easily accessible for servicing. *The location of the flasher shall be approved by Pupil Transportation Service, Department of Education.*

e. System shall contain an amber pilot light for amber lamps and a red pilot light for red lamps, clearly visible to the driver, to indicate when system is activated.

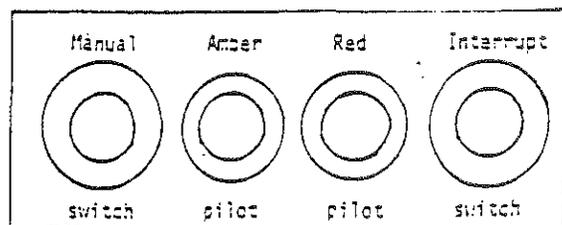
f. A three-inch black painted border around the lamps is required if not equipped with a black

painted housing.

g. All *joints electrical connections* shall be soldered or *jointed by equally effective connectors connected by an acceptable SAE method*.

h. The traffic warning lamp system shall require a separate control panel. This panel shall be as small as practicable, and switches and pilot lamps shall be located in conformance with the diagram below. All switches shall be properly identified by labels.

Diagram 3 6 .
Traffic Warning Lamp Controlled Panel



i. The panel shall be located at or near the entrance door control handle within easy reach, visible, and be readily accessible to the driver.

j. There shall be an interrupt feature in the system: to interrupt the traffic warning sign and the crossing control arm when their use is not desired. This feature shall consist of a double throw relay and a push button momentary switch.

k. Manual switch, cancel switch and interrupt switch shall be push button or flip-type momentary switches.

11. School bus traffic warning sign.

a. Warning sign shall be mounted on the left side near the front of the bus immediately below the window line.

b. Sign shall be of the Octagon series, 18 inches in diameter, 16-gauge cold rolled steel, and be equipped with windguard. The sign shall have a red background with a 1/2 inch white border, and the word "STOP" on both sides in white letters, six inches high and one inch wide. *The sign may be reflective.*

c. Sign shall have double-faced alternately flashing red lamps, four inches in diameter, located at the top and bottommost portions of the sign, one above the other.

d. The sign shall be connected and energized through the red traffic warning lamps.

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e. Air operated signs require air pressure regulator in addition to control valve. Source of supply to be the main air tank with a pressure protection valve at the tank.

f. Sign and components shall comply with all provisions of SAEJ1133. A list of approved traffic warning signs and components will be supplied by the Pupil Transportation Service, Department of Education.

12. School bus crossing control arm.

a. An approved crossing control arm shall be mounted on the right end of the front bumper with mounting brackets appropriate for the bumper configuration. Information on such approved arms will be supplied by the Pupil Transportation Service, Department of Education.

b. The arm shall be activated in conjunction with the traffic warning sign.

c. Wiring for an electric powered arm shall be grounded to a metal base at a suitable place on the bumper.

d. Source of supply for air operated arms to be the main air supply tank with pressure protection valve at tank.

e. Appropriate grommets or a loom shall be used where wires or tubes go through holes in bumper and firewall.

13. Optional strobe warning light.

a. A white flashing strobe light may be installed on the roof of a school bus not to exceed 1/3 of the body length from the rear of the roof edge. Light shall have a single clear lens emitting light 360 degrees around its vertical axis and may not extend above the roof more than 6-1/2 inches. A manual switch and a pilot light must be included to indicate when the light is in operation.

b. The strobe light must operate only when the bus transports students during periods of reduced visibility caused by conditions other than darkness.

c. A list of approved of strobe light lights and components will be supplied by the Pupil Transportation Service, Department of Education.

Diagram 4 7 .

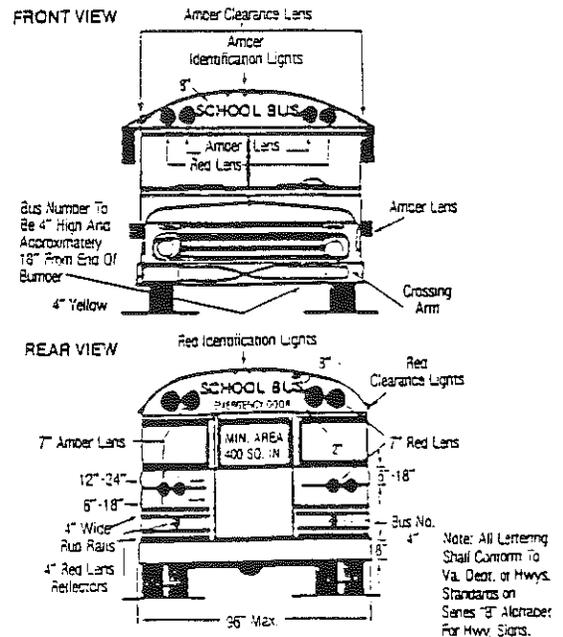
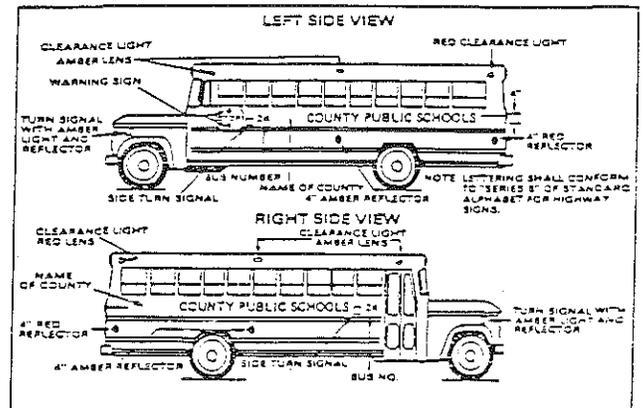


Diagram 5 8 .



§ 5.67. Metal treatment.

All metal parts that will be painted shall be chemically cleaned, etched, zinc-phosphate-coated, and zinc-chromate or epoxy-primed or conditioned by equivalent process.

§ 5.68. Mirrors.

1. A. Interior rear view mirror at least 6 X 30 inches, metal encased safety glass of at least 1/8 inch thickness, which will afford good view of pupils and roadway to rear and shall be installed in such a way that vibration will be reduced to a minimum. It shall have rounded corners and protected edges.

2. Two exterior rear view silver electro-plated copper back or chrome faced mirrors shall be provided, one

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to left and one to right of driver.

Each mirror shall be not less than 6 X 11 inches and shall be Junior West Coast Type. Mirrors shall be firmly supported by tripod type brackets fastened to top corners of bus body. Left and right mirrors shall be on same level and shall be mounted so that they can be adjusted to give driver clear view to left rear and right rear of bus.

a. Exterior crossview mirror at least 7-1/2 inches in diameter shall be located on left front fender of bus in such manner that seated driver may observe, through its use, areas to front of bus where direct observation is not possible. It shall not obstruct the left turn signal. A hemispherical mirror shall be mounted on the right front fender in a corresponding position.

B. All buses shall have a mirror system which conforms to FMVSS 111 as amended.

b. C. An adjustable convex mirror with a minimum diameter of four inches and a maximum diameter of five inches may be mounted on each side on a separate arm attached to the mounting of the regular outside mirror. This convex mirror shall be mounted so that it can be positioned immediately below the regular outside mirror. Stick on convex type mirrors to the face of regular outside mirrors are prohibited.

3. D. A list of approved mirrors will be supplied to body manufacturers by the Pupil Transportation Service, Department of Education. The use of mirrors not on this list will not be approved.

Exception Type A vehicles.

Interior mirror to be 6 X 16 inches minimum and outside 6 X 9-1/2 inches mounted on doors.

E. Heated exterior mirrors are permissible.

§ 5.69. Mounting.

1. A. Chassis frame shall extend to rear edge of rear body cross member. Bus body shall be attached to chassis frame in such manner as to prevent shifting or separation of body from chassis under severe operating conditions.

2. B. Body front shall be attached and sealed to chassis cowl in such manner as to prevent entry of water, dust, and fumes through joint between chassis cowl and body.

3. C. Insulating material shall be placed at all contact points between body and chassis frame. Insulating material shall be approximately 1/4 inch thick ; shall have quality of sidewall of automobile tire, and shall be so attached to chassis frame or body member that it will not move under severe operating conditions.

4. D. Exception Type A conversion vans.

Standard does not apply.

§ 5.70. Openings.

Any openings in body or front fenders of chassis resulting from change necessary to furnish required components shall be sealed. (See §§ 5.32 and 5.53 ~~to K.~~)

§ 5.71. Overall length.

Overall length of bus shall not exceed 36 feet for conventional flat faced cowl units or 40 feet for metropolitan type.

§ 5.72. Overall width.

Overall width of bus shall not exceed 100 inches, including traffic warning sign in closed position. Outside rearview mirrors are excluded.

§ 5.73. Posts - See §§ 5.53 and 5.89 ~~to C.~~

§ 5.74. Rub rails.

1. A. There shall be one rub rail located on each side of bus immediately below window level which shall extend from rear side of entrance door completely around bus body (except for emergency door) to point of curvature near outside cowl on left side. If floor level rub rail extends to emergency door post in rear, this rub rail may stop at rear side post.

Exception -

This rub rail is not required between the front body post and rear side post if an internal frame member (fortress rail) of greater strength is positioned immediately below the window level. The rub rail shall be applied from the last sidepost to the emergency doorpost.

2. B. There shall be one rub rail located on each side of bus approximately at seat level which shall extend from rear side of entrance door completely around bus body (except for emergency door) to point of curvature near outside cowl on left side. This rail shall be painted black.

3. C. There shall be one rub rail located approximately at floor line which shall extend from rear side of entrance door completely around bus body (except for emergency door) to point of curvature near outside cowl on left side, except at wheel housings. If the window level rub rail extends to emergency door post in rear, this rub rail may stop at rear side post.

4. D. All rub rails shall be attached at each body post and all other up-right structural members.

5. E. All rub rails shall be of four inches or more in width, shall be of 16-gauge steel, and shall be constructed

in corrugated or ribbed fashion.

6. *F.* All rub rails shall be applied outside body or outside body posts. Pressed-in or snap-on rub rails do not satisfy this requirement.

7. *G.* Certain exceptions may be approved for heater air-intake and for rear engine type buses.

Exception Type A vehicles.

Rail required in ~~4 above~~ subsection A of this section does not apply on conversion vans.

§ 5.75. Seat belt for driver.

A locking retractor type 2 lap belt/shoulder harness seat belt shall be provided for the driver. Each belt section shall be bootied so as to keep the buckle and button-type latch off the floor and within easy reach of the driver. Belt shall be anchored in such a manner or guided at the seat frame so as to prevent the driver from sliding sideways from under the belt.

§ 5.76. Seats.

1. *A.* All seats shall have minimum depth of 14 inches.

2. *B.* In determining seating capacity of bus, allowable average rump width shall be 13 inches. (See § 5.46.)

3. *C.* All seats shall be forward facing. They shall have two legs securely fastened to the floor with the other end supported by rail or bracket on side wall.

a. A two-passenger left rear seat, minimum of 26 inches in length, and a three-passenger right rear seat, minimum of 37.5 inches in length, will be provided.

b. The right front seat will have a two-passenger cushion, minimum of 26 inches in length and a three-passenger back which serves as a barrier for the next seat.

e. *D.* Seating plans for buses with wheelchair positions see §§ 6.2 and 6.12 6.11 . All other seating plans will be approved annually by Pupil Transportation.

4. *E.* Seat cushions shall have 24-hour glass coil-type springs interlaced and securely fastened to plywood base having minimum thickness of 1/2 inch. Urethane foam may be used in place of springs if sample is submitted and approved each year.

Passenger seat cushion retention system shall be employed to prevent passenger seat cushions from disengaging from seat frames in event of accident. Each seat cushion retention system shall be capable of withstanding vertical static load equal to minimum of five times weight of cushion. System shall also be capable of

withstanding forward or rearward static load equal to 20 times weight of cushion.

5. *F.* No bus shall be equipped with jump seats or portable seats. (See § 6.15.)

6. *G.* Seat spacing shall provide a minimum of 25 inch knee room at center of seat, when measured horizontally from back to back, at cushion level.

7. *H.* Seat and back cushions of all seats shall be designed to safely support designated number of passengers under normal road conditions encountered in school bus service. Covering of seat cushions shall be of material having 42 ounce finished weight, 54 inch width, and finished vinyl coating of 1.06 broken twill and shall be medium brown or green in color . Material on polyester drill and polyester cotton twill knit backing with equal vinyl coating which meets or exceeds the laboratory test results for the 42 ounce 1.06 covering may be used. Padding and covering on all seats shall comply with provisions of Federal Motor Vehicles Safety Standard No. FMVSS 302.

8. *I.* Minimum distance between steering wheel and back rest of driver's seat shall be 11 inches. Driver's seat shall have fore-and-aft adjustment of not less than four inches and up and down adjustment of three inches. It shall be manually adjustable and strongly attached to floor.

9. *J.* Minimum of 36-inch headroom for sitting position above top of undepressed cushion line of all seats shall be provided. Measurement shall be made vertically not more than seven inches from side wall at cushion height and at fore-and-aft center of cushion.

10. *K.* Backs of all seats of similar size shall be of same width at top and of same height from floor and shall slant at same angle with floor.

11. *L.* Seat back heights shall be between 19 and 24 inches measured from cushion level.

M. Manufacturers shall honor a six-year seat cushion, back replacement and foam warranty.

§ 5.77. Barriers.

1. *A.* A padded barrier shall be installed at rear of driver's seat in such a position as neither to interfere with adjustment of driver's seat nor to obstruct 21.0 inch entranceway to the aisle.

2. *B.* A padded barrier shall be installed at rear of entrance stepwell. Placement shall not restrict entrance passageway at any level to less than 21.0 inches. Barrier to coincide with length of the right front seat cushion with minimum width of 26 inches and shall have a modesty panel to extend from bottom of barrier to floor.

3. *C.* Lift-gate units see § 6.12 2 6.11 B .

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§ 5.78. Steering wheel - See § 5.38 4.

§ 5.79. Steps.

1. A. First step at service door shall be not less than ~~12~~ 10 inches and not more than ~~16~~ 14 inches from ground, based on standard chassis specifications.

2. B. Service door entrance may be equipped with two-step or three-step stepwell. Risers in each case shall be approximately equal.

3. C. Steps shall be enclosed to prevent accumulation of ice and snow.

4. D. Steps shall not protrude beyond side body line.

5. E. Grab handle not less than 20 inches in length shall be provided in unobstructed location inside doorway, but shall not be attached so that it will interfere with the opening of the glove compartment door. This handle shall be designed to eliminate exposed ends that would catch passenger clothing and shall be so placed in a position to aid small children entering the bus.

6. F. Step covering. All steps, including floorline platform area, shall be covered with 3/16-inch rubber metal-backed treads with at least 1-1/2-inch white nosing (or three inch white rubber step edge with metal back at floorline platform area.)

a. 1. Step ~~tread~~ *tread* minimum overall thickness shall be 3/16-inch ribbed design, similar to ribbed design of the rubber aisle;

b. 2. Metal back of tread, minimum 24-gauge cold roll steel, shall be permanently bonded to ribbed rubber; grooved design shall be such that said grooves run at 90° angle to long dimensions of step ~~tread~~ *tread* ;

c. 3. 3/16-inch ribbed step tread shall have a 1-1/2-inch white nosing as integral piece without any joint; and

d. 4. Rubber portion of step treads shall have following characteristics:

a. Special compounding for good abrasion resistance and high coefficient of friction.

b. Flexibility so that it can be bent around a 1/2-inch mandrel both at 20°F and 130°F without breaking, cracking, or crazing.

c. Show a durometer hardness 85 to 95.

§ 5.80. Stirrup steps.

There shall be one folding stirrup step and suitably located handle on each side of front of body for easy accessibility for cleaning windshield and lamps.

Exception Type A vehicles.

Standard does not apply.

§ 5.81. Storage ~~compartment~~ *and luggage compartments* .

A. Two metal storage ~~compartment~~ *compartments* for tools ~~and~~ , chains ~~is~~ *and supplies* are required. (A local school division may waive ~~this~~ *the* requirement for one of the two compartments if chains or tools are not carried on bus and a written request for deletion has been filed with the Pupil Transportation Service, Department of Education and noted in the purchase agreement).

~~If provided,~~ B. One of the metal ~~container~~ *compartments* shall have adequate strength and capacity for storage of chains and other emergency tools *and one of the compartments shall be moisture proof, equipped with a lock and suitable for storage of cleaning supplies* . Such ~~container~~ *containers* shall be located outside passenger compartment in body skirt on the right side of body with a door hinged at the top or front and equipped with an adequate fastener.

C. Vehicles may be equipped with luggage compartments in the body skirt provided they do not reduce ground clearance to less than 14.50 inches from bottom of compartment and that the addition of the compartments does not exceed the vehicles' GVWR.

§ 5.82. Sun shield.

Interior adjustable transparent sun shield, darkest shade available, not less than 60 X 30 inches shall be installed in position convenient for use by driver.

Exception Type A vehicles.

Manufacturer's standard is acceptable.

§ 5.83. Tail pipe.

Tail pipe shall extend to but not more than ~~1/2 inch~~ *1-1/2 inches* beyond outer edge of rear bumper. (See § 5.21 ~~2~~ *B* .)

§ 5.84. Undercoating.

Entire underside of bus body, including floor sections, cross members, and below floor line side panels, shall be coated with rust-proofing compound for which compound manufacturer has issued notarized certification of compliance to bus body builder that compounds meets or exceeds all performance requirements of Federal Specification TT-C-520 b using modified test procedures for following requirements:

1. Salt spray resistance - pass test modified to 5.0% salt and 1,000 hours;

2. Abrasion resistance - pass;

3. Fire resistance - pass.

Undercoating compound shall be applied with suitable airless or conventional spray equipment to recommend film thickness and shall show no evidence of voids in cured film. Undercoating is expected to prevent rust under all bus service conditions for minimum of five years.

§ 5.85. Ventilation and air conditioning .

1. A. Body shall be equipped with suitable, controlled ventilating system of sufficient capacity to maintain proper quantity of air under operating conditions without opening of windows except in extremely warm weather.

2. B. Static-type, nonclosable, exhaust roof ventilators shall be installed in low-pressure area of roof panel.

C. Air conditioning units may be installed on an optional basis. Application requires heavier electrical components and assessment by the Pupil Transportation Service, Department of Education, on an individual unit basis.

§ 5.86. Water test.

Each and every school bus body, after it is mounted on chassis ready for delivery, shall be subjected to a thorough water test in which water under pressure equal to a driving rain is forced against the entire bus body from various directions. Any leaks detected are to be repaired before the bus is declared ready for delivery.

§ 5.87. Wheel housings.

1. A. Wheel housings shall be of full open type.

2. B. Wheel housings shall be designed to support seat and passenger loads and shall be attached to floor sheets in such manner as to prevent any dust or water from entering the body.

3. C. Inside height of wheel housings above floor line shall not exceed 10 inches.

4. D. Wheel housings shall provide clearance for dual wheels as established by National Association of Chain Manufacturers.

Exception -

Standard does not apply to Type A conversion vans.

§ 5.88. Width - See § 5.72.

§ 5.89. Windshield and windows.

1. A. All glass in windshield, window, and doors shall be of approved safety glass, so mounted that permanent mark is visible, and of sufficient quality to prevent distortion of view in any direction. Windshield shall be AS1 and all

other glass shall be AS2.

2. B. Plastic glazing material of a thickness comparable to AS2 glass, meeting ANSI Standard E Z 26.1 and FMVSS No. 205, may be used in side windows behind the driver's compartment.

3. Windshield shall be large enough to permit driver to see roadway clearly, shall be slanted to reduce glare, and shall be installed between front corner posts that are so designed and placed as to afford minimum obstruction to driver's view of roadway.

4. C. Windshield shall have horizontal gradient shade band starting slightly above line of driver's vision and gradually decreasing in light transmission to 20% or less of windshield consistent with SAE J-100 .

5. D. Each full side window shall provide unobstructed emergency opening at least nine inches high and 22 inches wide, obtained either by lowering of window or by use of knock-out type split-sash windows.

6. E. Approved tinted glass or plastic glazing material may be used as needed for ease of handicapped pupils .

7. F. All exposed edges of glass shall be banded.

8. A pushout emergency exit window, nearest the center of body, is required on each side of all Type D buses.

§ 5.90. Windshield washers.

Windshield washers meeting federal requirements shall be provided and shall be controlled by push button switch located on instrument panel. Reservoir shall be mounted in engine compartment outside passenger compartment .

Exception - Type D vehicles, reservoir shall be mounted behind an access panel in driver area.

§ 5.91. Windshield wipers.

1. A. Bus shall be equipped with two variable-speed windshield wipers of air or electric-type powered by two motors of sufficient power to operate wipers.

2. B. Blades and arms shall be of such size that minimum blade length will be 12 inches with longer blades being used whenever possible.

3. C. Wiper motor and arm linkage shall be shielded to prevent objects from being placed against them.

Exception Type A vehicles.

One variable speed motor is acceptable.

§ 5.92. Wiring.

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1. A. All wiring shall conform to current standards of Society of Automotive Engineers.

2. B. Circuits.

a. 1. Wiring shall be arranged in at least 12 regular circuits as follows:

- (1) a. head, tail, stop (brake) and instrument panel lamps
- (2) b. clearance lamps
- (3) c. dome and stepwell lamps
- (4) d. starter motor
- (5) e. ignition
- (6) f. turn-signal units
- (7) g. alternately flashing red signal lamps
- (8) h. horns
- (9) i. heater and defroster
- (10) j. emergency door buzzer
- (11) k. auxiliary fan
- (12) l. booster pump

b. 2. Any of above combination circuits may be subdivided into additional independent circuits.

c. 3. Whenever possible, all other electrical functions (such as electric-type windshield wipers) shall be provided with independent and properly protected circuits.

d. 4. Each body circuit shall be color coded and a diagram of the circuits shall be attached to the body in a readily accessible location.

3. C. A separate fuse or circuit breaker shall be provided for each circuit except starter motor and ignition circuits.

4. D. A continuous duty solenoid relay, Cole Hersee No. 24106 or approved equal, operated by the ignition switch, shall be provided fan(s), and booster pump (Circuits 9, 10, 11, and 12).

5. E. All wires within body shall be insulated and protected by covering of fibrous loom (or equivalent) which will protect them from external damage and minimize dangers from short circuits. Whenever wires pass through body member, additional protection in form of appropriate type of insert shall be provided.

6. F. All light circuits shall be such as to provide, as nearly as possible, bulb design voltage at lightbulb terminals.

7. G. Wires shall be fastened securely at intervals of not more than 24 inches. All joints shall be soldered or jointed by equally effective connectors.

Diagram 6 9 .
Virginia School Bus Wiring Diagram

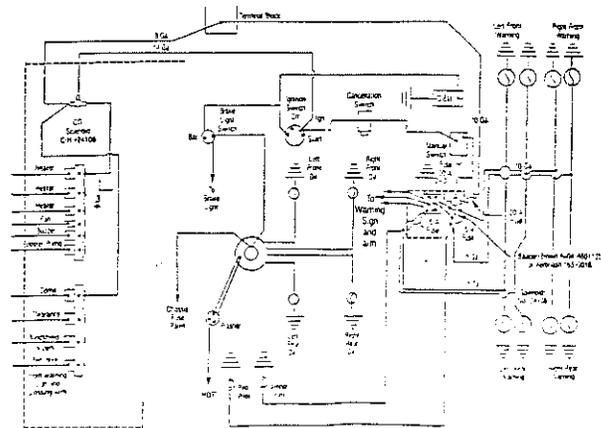
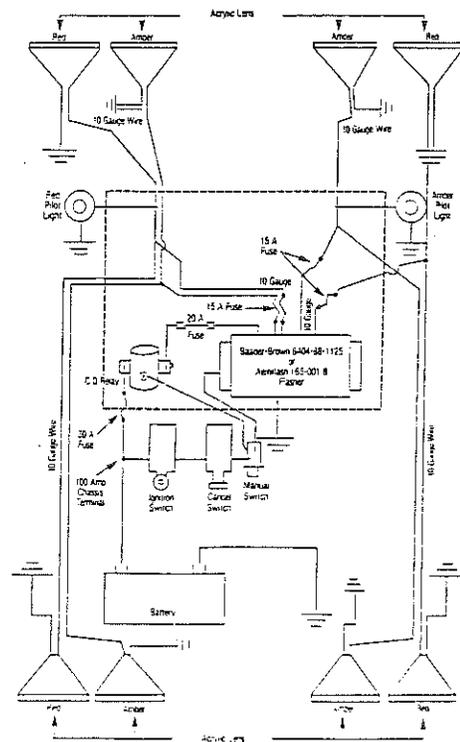


Diagram 7 10 .
Wiring Diagram for Virginia School Bus Traffic Lights



All aisles leading to the emergency door from wheelchair area shall be a minimum of 30 inches in width.

§ 6.3. Communications.

Special education buses may be equipped with a two-way radio communication system. (See § 5.52 A.)

§ 6.4. Fastening devices.

Unless otherwise specified below, fastening devices shall conform to FMVSS 222 as amended.

1. Wheelchair fastening devices shall be provided and attached to the floor or walls or both to enable securement of wheelchairs in the vehicle. The devices shall be of the type that require human intervention to unlatch or disengage. The fastening devices shall be designed to withstand forces up to ~~2,000~~ 3,000 pounds per tiedown leg or clamping mechanism or ~~4,000~~ 12,000 pounds total for each wheelchair ; ~~whichever is the lesser of the two~~ .

2. Additional fastening devices may be needed to assist the student due to the many different configurations of chairs and exceptionalities.

§ 6.5. Glazing.

~~Tinted glazing may be installed in all doors, windows and windshield.~~

§ 6.6. 6.5. Heaters.

An additional heater(s) shall be installed in the rear portion of the bus behind wheel wells as required in § 5.61 ~~9~~ 1 , except a 50,000 minimum BTU heater may be used in bodies originally designed for ~~37~~ 31 -66 passenger capacity and 34,000 minimum BTU heater may be used in bodies of 30 passengers or less. Hose to rear heater, when under body shall be encased in metal tube.

§ 6.7. 6.6. Identification.

Buses with wheelchair lifts used for transporting ~~physically~~ handicapped children *with physical disabilities* shall display universal handicapped symbols located on the front and rear of the vehicle below the windowline. Such emblems shall be white on blue, shall be a minimum of nine inches and a maximum of 12 inches in size, and ~~may~~ shall be reflectorized. They shall be placed so as not to cover lettering, lamps or glass.

§ 6.8. 6.7. Power lift.

~~±~~ A. Lifting mechanism shall be able to lift minimum pay load of ~~800~~ 1,000 pounds. A clear opening and platform to accommodate *at least* a 30-inch wide wheelchair shall be provided.

PART VI.

STANDARDS FOR LIFT-GATE SCHOOL BUSES.

§ 6.1. General requirements.

A. School buses or school vehicles designed for transporting children with special transportation needs shall comply with Virginia's standards applicable to school buses and Federal Motor Vehicle Safety Standards as applicable to their GVWR category.

B. Any school bus that is used for the transportation of children who are confined to a wheelchair or other restraining devices which prohibit use of the regular service entrance, shall be equipped with a power lift, unless a ramp is needed for unusual circumstances.

C. Lift shall be located on the right side of the body, in no way attached to the exterior sides of the bus but confined within the perimeter of the school bus body when not extended.

D. Every driver who transports students with disabilities shall receive instruction, training and demonstration in the following areas; however, the instruction shall not be limited to these topics:

1. Characteristics and symptoms of disabilities of the children being transported;

2. Dealing with disruptive behavior;

3. Using special equipment to include but not limited to:

a. Lifts and ramps;

b. Wheelchairs;

c. Tie-down systems;

d. Restraining/assistive devices; and

e. Mobility devices;

4. Loading and unloading; and

5. Planning for and executing emergency evacuation drills.

§ 6.2. Aisles.

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2. *B.* When the platform is in the fully up position, it shall be locked in position mechanically ~~by means other than a~~ and also shall have an additional support, or lug in the door to prevent the lift from resting against the door

3. *C.* Controls shall be provided that enable the operator to activate the lift mechanism from either inside or outside of the bus. There shall be a means of preventing the lift platform from falling while in operation due to a power failure.

4. *D.* Power lifts shall be so equipped that they may be manually raised in the event of power failure of the power lift mechanism.

5. *E.* Lift travel shall allow the lift platform to rest securely on the ground.

6. *F.* All edges of the platform shall be designed to restrain wheelchair and to prevent operator's feet from being entangled during the raising and lowering process.

7. *G.* Up and down movements of the lift platform shall be perpendicular to the plane of the bus body in all positions.

8. *H.* A restraining device shall be affixed to the outer edge (curb end) of the platform that will prohibit the wheelchair from rolling off the platform when the lift is in any position other than fully extended to ground level.

9. *I.* A self-adjusting, skid resistant plate shall be installed on the outer edge of the platform to minimize the incline from the lift platform to the ground level. This plate, if so designed, may also suffice as the restraining device described in item 8 above. The lift platform shall be skid resistant.

10. *J.* A circuit breaker or fuse energized through the ignition side of the accessory solenoid, shall be installed between power source and lift motor if electrical power is used.

11. *K.* The lift mechanism shall be equipped with adjustable limit switches or by-pass valves to prevent excessive pressure from building in the hydraulic system when the platform reaches the full up position or full down position.

L. Handrails shall be required.

M. Sharp or protruding edges or components shall be padded.

§ 6.9. 6.8. Ramps.

When a power lift system is not adequate to load and unload students having special and unique needs, a ramp device may be installed.

1. If a ramp is used, it shall be of sufficient strength and rigidity to support the special device, occupant, and attendant(s). It shall be equipped with a protective flange on each longitudinal side to keep special device on the ramp.

2. Floor of ramp shall be of nonskid construction.

3. Ramp shall be of weight and design, and equipped with handle(s), to permit one person to put ramp in place and return it to its storage place.

§ 6.10. 6.9. Regular service entrance.

1. *A.* In Type D vehicles, there shall be three step risers, of equal height, in the entrance well.

2. *B.* An additional fold-out step may be provided which will provide for the step level to be no more than six inches from the ground level.

3. *C.* Three step risers in Type C vehicles are optional.

§ 6.11. 6.10. Assistive Restraining devices.

Seat frames may be equipped with attachments or devices to which belts, assistive restraining harnesses or other devices may be attached. *Attachment framework or anchorage devices, if installed, shall conform with FMVSS 210.*

§ 6.12. 6.11. Seating arrangements.

1. *A.* Flexibility in seat spacing to accommodate special devices shall be permitted due to the constant changing of passenger requirements.

2. *B.* There shall be a padded barrier forward of any standard seating position and between lift-gate and first seat to rear of lift-gate. A wheelchair position immediately forward of lift-gate shall have a barrier between lift and wheelchair. (See § 5.77.)

§ 6.13. 6.12. Special light.

Lights shall be placed inside the bus to sufficiently illuminate lift area and shall be activated from door area. *An outside light to be activated when lift door is open and deactivated when lift door is closed is permissible.*

§ 6.14. 6.13. Special service entrance.

1. *A.* Bus bodies may have a special service entrance constructed in the body to accommodate a wheelchair lift for the loading and unloading of passengers.

2. *B.* The opening to accommodate the special service entrance shall be at any convenient point on the right (curb side) of the bus and far enough to the rear to prevent the door(s), when open, from obstructing the right front regular service door (excluding a regular front

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service door lift).

3. C. The opening shall not extend below the floor level. Outboard type lifts shall be used.

4. D. The opening, with doors open, shall be of sufficient width to allow the passage of wheelchairs. The minimum clear opening through the door and the lift mechanism shall be 30 inches in width.

5. E. A drip moulding shall be installed above the opening to effectively divert water from entrance.

6. F. Entrance shall be of sufficient width and depth to accommodate various mechanical lifts and related accessories as well as the lifting platform.

7. G. Door posts and headers from entrance shall be reinforced sufficiently to provide support and strength equivalent to the areas of the side of the bus not used for service doors.

H. Special service entrance doors shall be equipped with padding at the top edge of the door opening. Pad shall be at least three inches wide and one-inch thick and extend the full width of the door opening.

§ 6.15: 6.14. Special service entrance doors.

1. A. A single door may be used if the width of the door opening does not exceed 40 43 inches.

2. B. Two doors shall be used if any single door opening would have to exceed 40 43 inches.

3. C. All doors shall open outwardly.

4. D. All doors shall have positive fastening devices to hold doors in the open position.

5. E. All doors shall be weather sealed and on buses with double doors, they shall be so constructed that a flange on the forward door overlaps the edge of the rear door when closed.

6. F. When dual doors are provided, the rear door shall have at least a one-point fastening device to the header. The forward mounted door shall have at least three-point fastening devices. One shall be to the header, one to the floor line of the body, and the other shall be into the rear door. These locking devices shall afford maximum safety when the doors are in the closed position. The door and hinge mechanism shall be of a strength that will provide for the same type of use as that of a standard entrance door.

7. G. Door materials, panels and structural strength shall be equivalent to the conventional service and emergency doors. Color, rub rail extensions, lettering and other exterior features shall match adjacent sections of the body.

8. H. Each door shall have windows set in rubber compatible within one-inch of the lower line of adjacent sash.

9. I. Door(s) shall be equipped with a device that will actuate a red flashing visible signal located in the driver's compartment when door(s) is not securely closed and ignition is in "on" position.

10. J. A switch shall be installed so that the lifting mechanism will not operate when the lift platform door(s) is closed.

§ 6.16: 6.15. Special optional equipment.

Special seats for aides attendants may be installed on an optional basis. The location, restraints, and so forth shall be assessed and approved on an individual unit basis. *All equipment shall be secured properly.*

PART VII. ACTIVITY VEHICLES.

§ 7.1. Activity vehicles owned or operated under contract by or for the school board, which are used solely to transport pupils to and from school activity events, shall comply with all applicable regulations and standards prescribed for school buses except as noted in this article.

A. Exceptions, general regulations.

1. An activity vehicle transporting school pupils shall be operated at a safe, legal speed not in excess of 55 miles per hour.

2. No standees shall be permitted.

3. The *eight-inch school bus* lettered identification and traffic warning devices ~~do not apply~~ shall be removed by the local school division as required by §§ 46.2-100 and 46.2-1090 of the Code of Virginia. The name of the school division or regional vocational/special education center ~~individual school~~ shall be placed on both sides of the vehicle.

4. Stops for the purpose of loading or discharging pupils on the travel portion of the highway shall not be permitted.

B. Exception, driver requirements.

~~Every driver of school activity vehicles shall receive appropriate instruction and training before being allowed to operate a vehicle transporting children. The length of the instructional program shall be determined by the experience of the applicant and the type of vehicle to be operated.~~

C. B. Exceptions, minimum standards for school buses in Virginia.

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1. School activity vehicles shall not be painted national school bus yellow.

2. ~~An approved road speed control governor shall be required and set at a maximum speed of 55 mph.~~

3. ~~2. Other type seats and increased spacing may be used provided all provisions of Federal Standard FMVSS 222 are met.~~

4. ~~Vehicles may be equipped with luggage compartments in the body skirt provided they do not reduce ground clearance to less than 14.50 inches from bottom of compartment and that the addition of compartments does not exceed the vehicle GVWR.~~

5. ~~Approved tinted glass or plastic glazing material is permitted.~~

6. ~~Air conditioning units may be installed on an optional basis. Application requires heavier electrical components and assessment by the Pupil Transportation Service, Department of Education, on an individual unit basis.~~

V.A.R. Doc. No. R94-263; Filed November 22, 1993, 2:38 p.m.

* * * * *

Title of Regulation: VR 270-01-0059. Regulations for the School Breakfast Program.

Statutory Authority: § 22.1-207.3 of the Code of Virginia.

Public Hearing Date: January 27, 1994 - 9 a.m.

Written comments may be submitted until February 13, 1994.

(See Calendar of Events section for additional information)

Basis and Purpose: Section 22.1-207.3 of the Code of Virginia requires that any public school, which has 25% or more of its students eligible for free and reduced price meals, provide the federally funded School Breakfast Program or like program. The law also requires the Department of Education to promulgate regulations governing the implementation of a breakfast program and to establish reporting requirements. The Child Nutrition Act of 1966 and succeeding amendments provide for a school breakfast program in any school agreeing to participate and to meet federal requirements. This is a federally funded entitlement program; reimbursement will be paid for all breakfasts served that meet federal requirements.

Substance and Issues: All schools are eligible to participate in the federally funded School Breakfast Program provided under the Child Nutrition Act of 1966 and succeeding amendments. The purpose is to provide students, who otherwise may not eat, the opportunity to eat breakfast before the school day begins. Consumption of breakfast

enhances the health, well-being, educational experiences and performance of students. Federal funds will reimburse school divisions, according to students' meal categories, for all breakfasts served that meet federal requirements. The State Board of Education reserves the right to waive the requirement of a breakfast program after a school has met specified procedures. With the implementation of the federally funded School Breakfast Program increased federal funds will be received by localities and more children will have access to a breakfast meal.

The 1993 session of the General Assembly amended § 22.1-207.3 of the Code of Virginia to require any public school in which 25% or more of its students are eligible for free and reduced price meals to offer the federally funded School Breakfast Program or like program. The Code of Virginia also requires the State Board of Education to promulgate regulations on eligibility criteria and exemptions, socioeconomic characteristics, reporting system, food service standards, program evaluation, investigation of complaints, appeal process, notification of availability of the breakfast program and the provision of nutrition information.

Estimated Impact:

Entities Affected: All public schools are eligible to participate in the federally funded School Breakfast Programs. Therefore any school which agrees to provide the federally funded School Breakfast Program according to federal guidelines will be eligible for reimbursement from federal funds for meals served to students.

Costs to Affected Entities: The proposed regulations should not increase costs beyond the reimbursements earned and student payments. Increased receipt of federal funds by the localities should have a positive effect on local economies. Reporting requirements will be increased minimally for schools participating in the federally funded School Breakfast Program. Schools providing a nonfederally funded program or no lunch program will be required to submit student and school data semi-annually.

Costs to Agency: There are no direct costs attributable to the State Board of Education or the Department of Education. The increased number of school breakfast programs will not have an impact on the procedures used to make payments.

Source of Agency Funds: All breakfast reimbursements are made from federal funds. The increased payment of federal funds to localities will in turn provide increased funding for state administration of the breakfast program.

Summary:

Section 22.1-207.3 of the Code of Virginia requires that any public school that has 25% or more of its students eligible for free and reduced price meals provide the federally funded School Breakfast Program or like program. The law also requires the

Department of Education to promulgate regulations governing the implementation of a breakfast program and to establish reporting requirements. The Child Nutrition Act of 1966 and succeeding amendments provide for a school breakfast program in any school agreeing to participate and to meet federal requirements. This is a federally funded entitlement program; reimbursement will be paid for all breakfasts served that meet federal requirements.

All schools are eligible to participate in the federally funded School Breakfast Program provided under the Child Nutrition Act of 1966 and succeeding amendments. The purpose is to provide students, who otherwise may not eat, the opportunity to eat breakfast before the school day begins. Consumption of breakfast enhances the health, well-being, educational experiences and performance of students. Federal funds will reimburse school divisions, according to students' meal categories, for all breakfasts served that meet federal requirements. The State Board of Education reserves the right to waive the requirement of a breakfast program after a school has met specified procedures. With the implementation of the federally funded School Breakfast Program increased federal funds will be received by localities and more children will have access to a breakfast meal.

Preface:

In recognition of the importance of health and nutrition to Virginia school children's educational experiences, the State Board of Education is authorized by the § 22.1-207.3 of the Code of Virginia to prescribe regulations for the implementation of school breakfast programs in public schools. These regulations, when adopted, have the force and effect of law until revised, amended or rescinded.

These regulations demonstrate the State Board of Education's commitment to services that will assist Virginia school children in their educational experiences. Each school board should consider the benefits of school breakfast programs for all students. Consumption of breakfast is in the best interest of students and facilitates the educational process. Optimum health and nutrition play a significant role in enhancing the learning experiences of children.

These regulations represent minimum standards for the provision of school breakfast programs and are proposed to become effective July 1, 1994.

VR 270-01-0059. Regulations for the School Breakfast Program.

§ 1. Required schools.

Upon authorization and appropriation of federal funds by the Congress of the United States, each school board

must establish a school breakfast program in each public school in which 25% or more of the enrolled children are determined to be eligible to receive free or reduced price meals in the federally funded school lunch program during the previous school year.

§ 2. School eligibility.

All public schools are eligible to participate in the federally funded School Breakfast Program. Each school board that implements the School Breakfast Program in the schools, voluntarily or as required by state regulation, shall notify the Department of Education of its plan through the renewal of the "Agreement to Participate." Procedures used to implement the School Breakfast Program for all students in the school must be included in the "Agreement To Participate" and the "Policy Statement for Free and Reduced Price Meals."

To determine which schools are required to implement a school breakfast program, the percentage of free and reduced price lunch eligible students shall be based on the number of students determined to be eligible and total membership as of October 31 of the preceding school year. New schools or realigned schools shall use student eligibility and membership data for October 31 of the current school year. Any new or realigned school with 25% or more free or reduced price meal eligible students shall begin a school breakfast program on the first operating day in January of the current school year.

A school board which has any schools not participating in the federally funded National School Lunch Program must determine the number of students potentially eligible for free or reduced price meals according to federal regulations. Such determination may be made using statistical data or socioeconomic demographic data from lower schools that participate in the federally funded National School Lunch Program. This data and student membership as of October 31 will be submitted annually to the Department of Education by December 1 on the prescribed form.

§ 3. Student eligibility.

Student eligibility for free, reduced price or paid meal benefits shall be determined using the annual guidelines established by the U.S. Department of Agriculture and published in the Federal Register.

§ 4. Exemptions.

A public school required by state regulation to provide the federally funded School Breakfast Program may apply for an exemption. Schools may petition the Board of Education for a waiver to the school breakfast program requirement after providing a breakfast program for four months. Such petition shall include documentation of the school administration's efforts to (i) encourage students to eat breakfast through bus and class scheduling and feasible access, (ii) provide information on the value of

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eating breakfast, (iii) determine from parents or guardians whether the school breakfast program is needed, and (iv) ascertain whether the program is cost effective in such situations. Waivers will apply no longer than the current and subsequent school year.

§ 5. Reporting requirements; federally funded programs; nonfederally funded programs.

A. Section 22.1-207.3 of the Code of Virginia requires that all school boards submit a plan to comply with the provisions of the statute. Those school boards which include all required schools in the "Agreement to Participate" are deemed to have satisfied that provision.

B. Each school board that provides the federally funded School Breakfast Program shall submit the number of eligible students for free and reduced price meals and total membership through its monthly school claims for reimbursement submitted to the Department of Education and in the annual "Agreement to Participate."

C. Each school board that offers a nonfederally funded breakfast program in one or more schools shall report to the Department of Education on a prescribed form the number of students provided free or reduced price breakfasts and total membership for October 31 and June 1 of each school year.

Beginning June 30, 1995, and each year thereafter, each school board must submit to the Department of Education the number and socioeconomic characteristics of school age children eligible for meal benefits under the federal guidelines for any school which does not provide the federally funded National School Lunch Program.

§ 6. Food service standards.

Each school will comply with the applicable federal regulations, including but not limited to, the Code of Federal Regulations (7 CFR), Parts 220 and 245 when implementing a breakfast program.

A school's food services, including kitchen and dining areas, must meet at a minimum all applicable state and federal regulations for meal preparation, service, and food consumption.

The breakfast program may be provided before the school day begins or during a scheduled morning break. It is recommended that students have a minimum of two hours between breakfast and lunch whenever possible. Students must be provided a minimum of 10 minutes to eat breakfast after service of the meal.

All foods which are sold from 6 a.m. until after the close of the last breakfast service period must be of sound nutritional value and contribute significantly to students' nutritional needs as identified in current Recommended Dietary Allowances. The income from any food sales during this period shall accrue to the school food service.

§ 7. Program evaluations.

School Breakfast Programs will be evaluated for nutritional and financial integrity, accountability, and benefits for students through reviews prescribed by federal regulation and through Department of Education assessments.

§ 8. Complaints and appeals.

Complaints received from parents or students or appeals concerning a student's eligibility for meal benefits shall be processed by a school or school board official. If unresolved, appeals by the complainant shall follow the prescribed procedures in the "Policy Statement for Free and Reduced Price Meals."

§ 9. Parent notification.

Notification to parents and guardians of the availability of a school breakfast program and the free and reduced price meal benefits shall be made in writing prior to or at the beginning of each school year. Applications for benefits must be distributed to all households of enrolled students and processed in a confidential manner.

§ 10. Nutrition education.

Schools shall provide teachers, children, parents or guardians nutrition information on the relationship between nutrition, learning, and health. This may be accomplished through the following:

Children: educational experiences or information in the classroom and cafeteria,

Teachers: educational meetings, seminars, newsletters, or provision of resource materials.

Parents: educational sessions, newsletters or brochures.

V.A.R. Doc. No. R94-264; Filed November 22, 1993, 2:41 p.m.

BOARD OF GAME AND INLAND FISHERIES

Title of Regulation: VR 325-05-1. Public Participation Guidelines.

Statutory Authority: §§ 9-6.14:7.1 and 29.1-103 of the Code of Virginia.

Public Hearing Date: January 6, 1994 - 7 p.m.

Written comments may be submitted until 5 p.m. on February 11, 1994.

(See Calendar of Events section for additional information)

Basis: Section 9-6.14:7.1 of the Code of Virginia requires each agency to develop, adopt and use public participation

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guidelines for soliciting the input of interested persons in the formation and development of regulations not specifically exempted by the Administrative Process Act. Such guidelines shall not only be used prior to the formation and drafting of proposed regulations, but shall also be used during the entire formation, promulgation and final adoption process. Furthermore, § 29.1-103 of the Code of Virginia authorizes the Board of Game and Inland Fisheries to adopt regulations necessary to carry out the purposes of Title 29.1 of the Code of Virginia.

Purpose: The Administrative Process Act (APA) requires agencies to adopt public participation guidelines prior to initiating the promulgation of any regulation covered by the APA. This proposed regulation sets forth the procedures to be followed by the Department of Game and Inland Fisheries for soliciting input from the public during all phases of the formation, development, promulgation, and final adoption of regulations not related to wildlife management, which have been exempted by the General Assembly from the public participation provisions of the APA. As such, they are the primary means for the public, regulated entities, environmental groups and other interested persons to provide meaningful input on the effects of a proposed action to their health, safety, or welfare. It also requires the agency to respond to citizen's comments.

Substance: The proposed regulation contains a number of new provisions. Specifically, the proposal includes a definition of "participatory approach" which means the methods for the use of an ad hoc advisory group or panel, standing advisory committee, consultation with groups or individuals or a combination of methods; requires the use of the participatory approach upon the receipt of written requests from five persons during the associated comment period; expands the board's procedures for establishing and maintaining lists of persons expressing an interest in the adoption, amendment or repeal of regulations; expands the information required in the Notice of Intended Regulatory Action to include a description of the subject matter and intent of the planned regulation and to include a statement inviting comment on whether the agency should use the participatory approach to assist in regulation development; expands the information required in the Notice of Public Comment to include the identity of localities affected by the proposed regulation and to include a statement on the rationale or justification for the new provisions of the regulation from the standpoint of the public's health, safety or welfare; and requires that a draft summary of comments be sent to all public commenters on the proposed regulation at least five days before final adoption of the regulation.

Issues: Overall, the proposed regulation presents a clear, expanded set of guidelines for use by the board and the public during the adoption, amendment, or repeal of nonwildlife regulations; it requires the board to present additional information for use by the public in understanding and commenting on regulatory actions; and it is consistent with the guidelines of the other regulatory

agencies within the Natural Resources Secretariat. The agency does not believe the proposed guidelines present any disadvantages for the public.

Estimated Impacts: No financial impact on regulated entities or the public is expected from the adoption of this proposal since the proposal only imposes requirements on the board. Regulated entities and the public should benefit from the adoption of this proposal in that the guidelines used by the different natural resources and environmental agencies will be consistent and the amount and types of information made available to regulated entities and the public for their use in participating in the regulatory process will increase.

Summary:

This action is necessary to replace existing emergency Public Participation Guidelines with permanent guidelines which will comply with new provisions of the Administrative Process Act (APA) enacted by the 1993 Session of the General Assembly. These proposed amendments will establish, in regulation, various provisions to ensure that interested persons have the necessary information to comment in a meaningful, timely fashion during all phases of the regulatory process. These proposed guidelines are consistent with those of the other regulatory agencies within the Natural Resources Secretariat.

The proposed regulation contains a number of new provisions. Specifically, the proposal includes a definition for "participatory approach" which means the methods for the use of an ad hoc advisory group or panel, standing advisory committee, consultation with groups or individuals or a combination of methods; requires the use of the participatory approach upon the receipt of written requests from five persons during the associated comment period; expands the board's procedures for establishing and maintaining lists of persons expressing an interest in the adoption, amendment or repeal of regulations; expands the information required in the Notice of Intended Regulatory Action to include a description of the subject matter and intent of the planned regulation and to include a statement inviting comment on whether the agency should use the participatory approach to assist in regulation development; expands the information required in the Notice of Public Comment to include the identity of localities affected by the proposed regulation and to include a statement on the rationale or justification for the new provisions of the regulation from the standpoint of the public's health, safety or welfare; and requires that a draft summary of comments be sent to all public commenters on the proposed regulation at least five days before final adoption of the regulation.

VR 325-05-1. Public Participation Guidelines.

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§ 1. Definitions.

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

“Administrative Process Act” means Chapter 1.1:1 (§ 9-6.14:1 et seq.) of Title 9 of the Code of Virginia.

“Agency” means the Department of Game and Inland Fisheries.

“Approving authority” means the Board of Game and Inland Fisheries established pursuant to the Environmental Protection Law as the legal authority to adopt regulations.

“Director” means the Director of the Department of Game and Inland Fisheries or his designee.

“Environmental Protection Law” means the provisions found in the Virginia statutory law authorizing the approving authority or agency or both to make regulations or containing procedural requirements thereof including, but not limited to, Title 29.1 of the Code of Virginia.

“Formal hearing” means agency processes other than those informational or factual inquiries of an informal nature provided in § 9-6.14:7.1 of the Administrative Process Act and includes only opportunity for private parties to submit factual proofs in evidential hearings as provided in § 9-6.14:8 of the Administrative Process Act.

“Locality particularly affected” means any locality which bears any identified disproportionate material impact which would not be experienced by other localities.

“Participatory approach” means a method for the use of (i) standing advisory committees, (ii) ad hoc advisory groups or panels, (iii) consultation with groups or individuals registering interest in working with the agency, or (iv) any combination thereof in the formation and development of regulations for agency consideration. When an ad hoc advisory group is formed, the group shall include representatives of the regulated community and the general public. The decisions as to the membership of the group shall be at the discretion of the director.

“Person” means an individual, a corporation, a partnership, an association, a governmental body, a municipal corporation, or any other legal entity.

“Public hearing” means an informal proceeding, held in conjunction with the Notice of Public Comment and similar to that provided for in § 9-6.14:7.1 of the Administrative Process Act, to afford persons an opportunity to submit views and data relative to regulations on which a decision of the approving

authority is pending.

“Public meeting” means an informal proceeding conducted by the agency in conjunction with the Notice of Intended Regulatory Action to afford persons an opportunity to submit comments relative to intended regulatory action.

Unless specifically defined in the Environmental Protection Law or in this regulation, terms used shall have the meanings commonly ascribed to them.

§ 2. General.

A. The procedures in § 3 of this regulation shall be used for soliciting the input of interested persons in the initial formation and development, amendment or repeal of regulations in accordance with the Administrative Process Act. This regulation does not apply to regulations exempted from the provisions of the Administrative Process Act (§ 9-6.14:4.1 A and B) or excluded from the operation of Article 2 of the Administrative Process Act (§ 9-6.14:4.1 C).

B. The failure of any person to receive any notice or copies of any documents provided under these guidelines shall not affect the validity of any regulation.

C. Any person may petition the approving authority for the adoption, amendment or repeal of a regulation. The petition, at a minimum, shall contain the following information:

1. Name of petitioner;
2. Petitioner's mailing address and telephone number;
3. Petitioner's interest in the proposed action;
4. Recommended regulation or addition, deletion or amendment to a specific regulation or regulations;
5. Statement of need and justification for the proposed action;
6. Statement of impact on the petitioner and other affected persons; and
7. Supporting documents, as applicable.

The approving authority shall provide a written response to such petition within 180 days from the date the petition was received.

§ 3. Public participation procedures.

A. The agency shall establish and maintain a list or lists consisting of persons expressing an interest in the adoption, amendment or repeal of regulations. Any person wishing to be placed on any list may do so by writing the agency. In addition the agency, at its discretion, may

add to any list any person, organization or publication it believes will be interested in participating in the promulgation of regulations. Individuals and organizations may be periodically requested to indicate their desire to continue to receive documents or be deleted from a list. Individuals and organizations may be deleted from any list at the request of the individual or organization, or at the discretion of the agency when mail is returned as undeliverable.

B. Whenever the approving authority so directs or upon its own initiative, the agency may commence the regulation adoption process and proceed to draft a proposal according to these procedures.

C. The agency shall use the participatory approach to assist in the development of the proposal or use one of the following alternatives:

1. Proceed without using the participatory approach if the approving authority specifically authorizes the agency to proceed without using the participatory approach.

2. Include in the Notice of Intended Regulatory Action (NOIRA) a statement inviting comment on whether the agency should use the participatory approach to assist the agency in the development of the proposal. If the agency receives written responses from at least five persons during the associated comment period indicating that the agency should use the participatory approach, the agency shall use the participatory approach requested. Should different approaches be requested, the director shall determine the specific approach to be utilized.

D. The agency shall issue a NOIRA whenever it considers the adoption, amendment or repeal of any regulation.

1. The NOIRA shall include at least the following:

a. A description of the subject matter of the planned regulation.

b. A description of the intent of the planned regulation.

c. A brief statement as to the need for regulatory action.

d. A brief description of alternatives available, if any, to meet the need.

e. A request for comments on the intended regulatory action, to include any ideas to assist the agency in the development of any proposal.

f. A request for comments on the costs and benefits of the stated alternatives or other alternatives.

g. A statement of the agency's intent to hold at least one public hearing on the proposed regulation after it is published in The Virginia Register of Regulations.

h. A statement inviting comment on whether the agency should use the participatory approach to assist the agency in the development of any proposal. Including this statement shall only be required when the agency makes a decision to pursue the alternative provided in subdivision C 2 of the section.

2. The agency shall hold at least one public meeting whenever it considers the adoption, amendment or repeal of any regulation unless the approving authority specifically authorizes the agency to proceed without holding a public meeting.

In those cases where a public meeting(s) will be held, the NOIRA shall also include the date, not to be less than 30 days after publication in The Virginia Register of Regulations, time and place of the public meeting(s).

3. The public comment period for NOIRAs under this section shall be no less than 30 days after publication of the NOIRA in The Virginia Register of Regulations.

E. The agency shall disseminate the NOIRA to the public via the following:

1. Distribution to the Registrar of Regulations for publication in The Virginia Register of Regulations.

2. Distribution by mail to persons on the list(s) established under subsection A of this section.

F. After consideration of public input, the agency may complete the draft proposed regulation and any supporting documentation required for review. If the participatory approach is being used, the draft regulation shall be developed in consultation with the participants. A summary or copies of the comments received in response to the NOIRA shall be distributed to the participants during the development of the draft regulation. This summary or copies of the comments received in response to the NOIRA shall also be distributed to the approving authority.

G. Upon approval of the draft proposed regulation by the approving authority, the agency shall publish a Notice of Public Comment (NOPC) and the proposal for public comment.

H. The NOPC shall include at least the following:

1. The notice of the opportunity to comment on the proposed regulation, the location where copies of the draft may be obtained and the name, address and telephone number of the individual to contact for

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further information about the proposed regulation.

2. A request for comments on the costs and benefits of the proposal.

3. The identity of any locality particularly affected by the proposed regulation.

4. A statement that an analysis of the following has been conducted by the agency and is available to the public upon request:

a. A statement of purpose: the rationale or justification for the new provisions of the regulation, from the standpoint of the public's health, safety or welfare.

b. A statement of estimated impact:

(1) Projected number and types of regulated entities or persons affected.

(2) Projected cost, expressed as a dollar figure or range, to regulated entities (and to the public, if applicable) for implementation and compliance. In those instances where the agency is unable to quantify projected costs, it shall offer qualitative data, if possible, to help define the impact of the regulation. Such qualitative data shall include, if possible, an example or examples of the impact of the proposed regulation on a typical member or members of the regulated community.

(3) Projected cost to the agency for implementation and enforcement.

(4) The beneficial impact the regulation is designed to produce.

c. An explanation of need for the proposed regulation and potential consequences that may result in the absence of the regulation.

d. An estimate of the impact of the proposed regulation upon small businesses as defined in § 9-199 of the Code of Virginia or organizations in Virginia.

e. A description of provisions of the proposed regulation which are more restrictive than applicable federal requirements, together with the reason why the more restrictive provisions are needed.

f. A discussion of alternative approaches that were considered to meet the need the proposed regulation addresses, and a statement as to whether the agency believes that the proposed regulation is the least burdensome alternative to the regulated community that fully meets the stated purpose of the proposed regulation.

g. A schedule setting forth when, after the effective date of the regulation, the agency will evaluate it for effectiveness and continued need.

5. The date, time and place of at least one public hearing held in accordance with § 9-6.14:7.1 of the Code of Virginia to receive comments on the proposed regulation. The public hearing(s) may be held at any time during the public comment period and, whenever practicable, no less than 15 days prior to the close of the public comment period. The public hearing(s) may be held in such location(s) as the agency determines will best facilitate input from interested persons. In those cases where the agency elects to conduct a formal hearing, the notice shall indicate that the formal hearing will be held in accordance with § 9-6.14:8 of the Administrative Process Act.

I. The public comment period shall close no less than 60 days after publication of the NOPC in The Virginia Register of Regulations.

J. The agency shall disseminate the NOPC to the public via the following:

1. Distribution to the Registrar of Regulations for:

a. Publication in The Virginia Register of Regulations.

b. Publication in a newspaper of general circulation published at the state capital and such other newspapers as the agency may deem appropriate.

2. Distribution by mail to persons on the list(s) established under subsection A of this section.

K. The agency shall prepare a summary of comments received in response to the NOPC and the agency's response to the comments received. The agency shall send a draft of the summary of comments to all public commenters on the proposed regulation at least five days before final adoption of the regulation. The agency shall submit the summary and agency response and, if requested, submit the full comments to the approving authority. The summary, the agency response, and the comments shall become a part of the agency file and after final action on the regulation by the approving authority, made available, upon request, to interested persons.

L. If the agency determines that the process to adopt, amend or repeal any regulation should be terminated after approval of the draft proposed regulation by the approving authority, the agency shall present to the approving authority for their consideration a recommendation and rationale for the withdrawal of the proposed regulation.

M. Completion of the remaining steps in the adoption.

process shall be carried out in accordance with the Administrative Process Act.

§ 4. Transition.

A. All regulatory actions for which a NOIRA has been published in *The Virginia Register of Regulations* prior to the effective date of this regulation shall be processed in accordance with the agency's emergency Public Participation Guidelines (VR 325-05-1) which are effective from June 18, 1993, until June 17, 1994, unless sooner modified or vacated or superseded by permanent regulations.

B. This regulation when effective shall supersede and repeal emergency regulation VR 325-05-1 Public Participation Guidelines which became effective on June 18, 1993. All regulatory actions for which a NOIRA has not been published in *The Virginia Register of Regulations* prior to the effective date of this regulation shall be processed in accordance with this regulation.

VA.R. Doc. No. R94-262; Filed November 10, 1993, 4:54 p.m.

DEPARTMENT OF HEALTH (STATE BOARD OF)

Title of Regulation: VR 355-30-000. 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.

Public Hearing Date: January 11, 1994 - 10 a.m.

Written comments may be submitted through February 11, 1994.

(See Calendar of Events section for additional information)

Basis: Sections 32.1-12 and 32.1-102.2 of the Code of Virginia authorize the Board of Health to promulgate regulations which pertain to Virginia Medical Care Facilities Certificate of Public Need (COPN).

Purpose: These regulations are required to comply with the amendments to the COPN law which were enacted by the 1993 Session of the Virginia General Assembly and became effective on July 1, 1993. In order to assure compliance with the amended COPN law, the Board of Health promulgated emergency COPN regulations on July 1, 1993, which are effective through June 30, 1994. The COPN regulations which are now being proposed will permanently incorporate all 1993 changes to the law which were implemented on an emergency basis. These regulations also propose modifications to the administrative review procedures and to the definition of a reviewable project which should improve the effectiveness of COPN regulation.

Substance: The key provisions of the amended COPN

regulations are as follows:

1. Expands the categories of 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 the expansion of space for patient care services;
3. Provides for an increase in the maximum application fees for COPN projects to 1.0% of the capital expenditure for a project or \$10,000;
4. Allows the commissioner to condition COPN project approvals on an applicant's agreement to develop and operate primary care services in medically underserved areas; and
5. Extends the moratorium on the issuance of COPNs for nursing home bed projects from June 30, 1994, to June 30, 1995, and provides several additional exceptions to the moratorium.

In addition, the regulations have deleted "gamma knife surgery" and defines the introduction, addition, or replacement of "stereotactic radiosurgery" as a project of a medical care facility which is subject to review requirements. By substituting "stereotactic radiosurgery" for "gamma knife surgery" in the definition, any equipment which uses radiant energy to produce therapeutic outcomes equivalent to those produced by gamma knife surgery equipment will be subject to COPN review requirements.

The proposed regulations also provide a new category of project which will be eligible for "expedited review." Medical care facilities which provide nuclear medicine services and desire to replace existing equipment which is not capable of single photon emission computed tomography (SPECT) with equipment which is SPECT capable will be subject to a 45-day review process instead of the 120-day standard review process.

Issues: The COPN program provides a mechanism to contain health care costs. This is accomplished by limiting capital spending by existing medical care facilities and controlling the unnecessary proliferation of costly new facilities. The proposed regulations allow the department to implement the COPN program in accordance with recent legislative changes.

A potential significant advantage of this amendment is that it provides a means to increase the availability of primary health care services in Virginia by allowing the commissioner to condition COPN project approvals on an applicant's agreement to facilitate development of primary care services in medically underserved areas.

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The regulations expand the categories of projects which will qualify for an expedited review process. It also eliminates COPN review requirements and provides a simple registration process for certain nonclinical capital expenditures. A form has been developed for registering projects. Such registrations will not be subject to COPN application fees.

Medical facilities which seek COPN authorization to undertake a project will be subject to increased application fees. These fees have been increased in accordance with the new fee schedule limitations established by the amended COPN law and became effective on July 1, 1993, with the promulgation of the emergency COPN regulations. The revenue generated through the application fees will be used to offset the cost of administering the COPN program and will reduce the need for general revenue funding of the COPN program.

Estimated Impact:

A. Number and Type of Regulated Entities and Persons Affected.

The regulations will impact most medical care facilities in Virginia, including hospitals, nursing homes, certain privately owned mental health and related facilities, freestanding surgical facilities and specialized centers which offer specific diagnostic or therapeutic technology. There are 108 acute care hospitals and approximately 244 nursing home facilities in Virginia. There are also approximately 74 freestanding centers which are subject to COPN regulation.

Any legal entity which proposes to establish a new medical care facility such as a hospital, nursing home, mental health facility or freestanding center as described above would also be subject to COPN regulation. Facilities of the Virginia Department of Mental Health, Mental Retardation, and Substance Abuse Services are excluded from COPN requirements.

B. Projected Cost to Regulated Entities for Implementation and Compliance.

Costs to the regulated entities are the COPN application fees as well as the costs required to prepare applications and participate in the COPN review process. All COPN applications submitted for review under the standard application process are subject to a public hearing and consideration by the local health planning agency. In cases where there is opposition to a project, the department will conduct an informal fact-finding conference in accordance with the Administrative Process Act.

For projects which qualify for the "Expedited Review Process," no public hearing is conducted and the application process is abbreviated. The proposed regulations expand the categories of projects which will qualify for expedited review. Costs for preparation of such applications should be minimal.

The application fee schedule for COPN projects is 1.0% of the proposed capital expenditure up to \$10,000 according to the proposed regulations. Thus, fee requirements are lower for projects which involve relatively small capital expenditures.

According to the proposed regulations, certain capital projects which are undertaken by medical care facilities and do not involve the expansion of patient care service space are subject to a registration requirement rather than the COPN review process. Medical care facilities which register such expenditures are required to submit minimal information to the department and are not subject to fee requirements. Thus the costs associated with the registration process for the regulated medical care facilities should be minimal.

C. Projected Cost to the Department for Implementation and Enforcement.

Costs to the Department of Health for implementation and enforcement of the amended regulations will also be in personnel time. There will be additional project applications submitted for review in response to the new exceptions to the COPN moratorium on the issuance of COPNs for nursing home beds. Existing personnel will be required to process these applications. Additionally, existing personnel will be required to review and tabulate the information submitted by medical care facilities which register capital expenditures under the new procedures. However, the registration process should require less staff time than the time which has been required to process such expenditures under the standard application process.

The proposed regulations also expand the categories of projects which may be considered under the abbreviated "Expedited Review Process." This process requires minimal staff time and should also help to offset any additional time which is required to handle the registration as well as the project application volume which will be generated as a result of the new moratorium exceptions.

The increases in application fees will generate additional revenues for the department. According to the statute these fees are to be used to offset the cost of administering the COPN program. The revenue collected from the fees should fund all or nearly all of the projected expenses for administration of the COPN program and will reduce the need for general funding of the COPN program. Accordingly, in the 1994-96 budget reduction plan submitted by the agency in September 1993, all general funds remaining in the program were included as savings with the expectation that their loss would be offset by the increases in fee revenues.

Summary:

Sections 32.1-12 and 32.1-102.2 of the Code of Virginia provide the statutory basis for Virginia Medical Care Facilities Certificate of Public Need (COPN) regulation. The proposed regulations incorporate all of the

amendments to the COPN law which were enacted by the 1993 Session of the Virginia General Assembly and became effective on July 1, 1993. In order to assure compliance with the amended COPN law, the Board of Health promulgated emergency COPN regulations on July 1, 1993, which are effective through June 30, 1994. The proposed COPN regulations will permanently incorporate all 1993 changes to the law which were implemented on an emergency basis. These regulations also propose modification to the administrative review procedures and to the definition of a reviewable project which should improve the effectiveness of COPN regulation.

VR 355-30-000. Virginia Medical Care Facilities 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~~ \$600,000 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~~ for 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

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such meeting. An ex parte contact shall not include a meeting between the persons identified in (i) and staff of the department.

"Gamma knife surgery" means stereotactic radiosurgery, where stereotactic radiosurgery is the noninvasive therapeutic procedure performed by directing radiant energy beams from any source at a treatment target in the head to produce tissue destruction. See definition of "project."

"Health planning region" means a contiguous geographical area of the Commonwealth with a population base of at least 500,000 persons which is characterized by the availability of multiple levels of medical care services, reasonable travel time for tertiary care, and congruence with planning districts.

"Informal fact-finding conference" means a conference held pursuant to § 9-6.14:11 of the Code of Virginia.

"Inpatient beds" means accommodations within a medical care facility with continuous support services (such as food, laundry, housekeeping) and staff to provide health or health-related services to patients who generally remain in the medical care facility in excess of 24 hours. Such accommodations are known by varying nomenclatures including but not limited to: nursing beds, intensive care beds, minimal or self care beds, isolation beds, hospice beds, observation beds equipped and staffed for overnight use, and obstetric, medical, surgical, psychiatric, substance abuse, medical rehabilitation and pediatric beds, including pediatric bassinets and incubators. Bassinets and incubators in a maternity department and beds located in labor or birthing rooms, recovery rooms, emergency rooms, preparation or anesthesia inductor rooms, diagnostic or treatment procedures rooms, or on-call staff rooms are excluded from this definition.

"Medical care 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 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 under 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."

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"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 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

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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 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~~ 3.3 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.

§ ~~3-2~~ § 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~~ \$600,000 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

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be provided in the medical care facility. The commissioner shall provide written notification to the person who plans to acquire the medical care facility within 30 days of receipt of the required notification. If the commissioner finds that a reviewable clinical health service or beds are to be added as a result of the acquisition, the commissioner may require the proposed new owner to obtain a certificate prior to the acquisition. If such certificate is required, an application will be considered under an appropriate 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 3.3~~.

~~§ 3.5.~~ § 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, and submit a copy of that letter to the appropriate regional health planning agency, 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 that request 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

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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 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 10
G	Nursing Home Beds/Services		

Planning Districts
6, 11 & 22 Feb. 10 June 10

Planning Districts
1, 9, 13 & 20 Apr. 10 Aug. 8

Planning Districts
3, 8, 14 & 16 June 10 Oct. 8

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.

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2. An increase in the total number of beds in an existing or authorized medical rehabilitation hospital.

3. An increase in the total number of medical rehabilitation beds in an existing or authorized medical care facility which is not a dedicated medical rehabilitation hospital ~~which increases the total number of beds in the existing or authorized medical care facility~~.

4. The relocation 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 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

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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 3.4 of the regulations.

§ 5.10. Withdrawal of an application.

The applicant shall have the right to withdraw an application from consideration at any time, without prejudice by written notification to the commissioner.

§ 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.

3. The introduction into a medical care facility of any new single photon emission computed tomography (SPECT) service when the medical care facility currently provides non-SPECT nuclear medicine imaging services and meets the applicable standards for establishment of SPECT services 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 that request~~ 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 reviewed~~ 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 *completed* 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~~ 3.4 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.

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All requests for an extension of a certificate of public need shall be reviewed by the appropriate regional health planning agency within 30 days of receipt by the department and the regional health planning agency. The recommendations on the request by that agency shall be forwarded to the commissioner who shall act upon the progress report within 35 days of receipt by the department and the regional health planning agency. Failure of the regional health planning agency to notify the commissioner within the time frame prescribed shall constitute a recommendation of approval by such regional health planning agency.

E. Notification of decision.

Extension of a certificate of public need by the commissioner shall be made in the form of a letter from the commissioner with a copy to the appropriate regional health planning agency and shall become part of the official project file.

§ 7.3. 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~~ *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

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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 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 meets 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 ~~home facility~~ 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 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 of the Code of Virginia .~~

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 of the Code of Virginia 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 20% 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 25 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 of the Code of Virginia; (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 of the Code of Virginia; (iii) the 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; (iv) the provider agrees in writing to obtain, prior to admission of every resident of the continuing care facility, the resident's 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; 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 subdivision, 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 of the Code of Virginia.

9. The issuance of a certificate of public need for a 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 of the Code of Virginia if (i) the total number of new beds to be constructed does not exceed 60 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 subdivision, 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 of the Code of Virginia.

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 before April 15, 1992. The commissioner may also grant an 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 closes a loan to fund the project by October 30, 1992, 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)

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the nursing home bed project is completed by July 31, 1994.

NOTICE: The forms used in administering the Virginia Medical Care Facilities Certificate of Public Need Rules and Regulations are not being published due to the large number; however, the name of each form is listed below. The forms are available for public inspection at the Department of Health, 1500 E. Main Street, Richmond, Virginia 23219, or at the Office of the Registrar of Regulations, General Assembly Building, 910 Capitol Square, 2nd Floor, Room 262, Richmond, Virginia 23219.

Registration Form for Capital Expenditures of \$1,000,000 or More But Less Than \$2,000,000 Which Are Not Defined as a Project On or After July 1, 1993 Pursuant to Section 32.1-102.1 of the Code of Virginia
Instructions For Completing Financial Worksheet
Section C - Financial Worksheet
Application for Expedited Review for Certificate of Public Need (6/30/93)
Facility Organization and Identification

V.A.R. Doc. No. R94-274; Filed November 24, 1993, 11:28 a.m.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

Title of Regulation: State Plan for Medical Assistance Relating to Nonenrolled Provider Reimbursement.
VR 460-02-4.1910. Methods and Standards for Establishing Payment Rates—Inpatient Hospital Care.

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

Public Hearing Date: N/A — Written comments may be submitted through February 11, 1994.
(See Calendar of Events section for additional information)

Basis and Authority: Section 32.1-324 of the Code of Virginia 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. The Code also provides, in the Administrative Process Act (APA) § 9-6.14:7.1, for this agency's promulgation of proposed regulations subject to the Department of Planning and Budget's and Governor's reviews.

The Code of Federal Regulations, Title 42, Part 447 regulates the reimbursement for services covered by Medicaid.

Purpose: The purpose of this proposal is to reimburse out-of-state nonenrolled providers at amounts which are more consistent with the reimbursement amounts for in-state enrolled providers.

Summary and Analysis: The section of the State Plan for

Medical Assistance affected by this action is the Methods and Standards for Establishing Payment Rates - Inpatient Hospital Care (Attachment 4.19-A).

Medicaid providers have the option of enrolling with the Program to serve Virginia Medicaid recipients. Without exception, high volume providers enroll in the program. The Code of Federal Regulations at 42 CFR 431.52 provides that the state must furnish Medicaid to recipients utilizing nonenrolled hospitals in several specific circumstances. Specifically, Medicaid must be furnished a recipient who is a resident of the state while that recipient is in another state, to the same extent that Medicaid is furnished to residents in the state, when:

1. Medical services are needed because of a medical emergency;
2. Medical services are needed because the recipient's health would be endangered if he were required to travel to his state of residence;
3. The state determines, on the basis of medical advice, that the needed medical services, or necessary supplementary resources, are more readily available in the other state; or
4. It is the general practice for recipients in a particular locality to use medical resources in another state.

Currently, reimbursement for nonenrolled hospitals is limited to a percentage of their covered charges. The percentage is derived from the ratio of reimbursable inpatient costs to inpatient charges of enrolled providers, less 5.0% which represents the cost of manually processing the claims. This can result in excessive reimbursement for nonenrolled providers that have very high charges.

For purposes of maintaining equitable reimbursement levels between enrolled and nonenrolled providers, DMAS has determined that the excessive reimbursement could be eliminated through the imposition of a maximum reimbursement amount or cap. This proposed amendment caps the reimbursement to nonenrolled providers. The cap is the DMAS average per diem of enrolled providers, excluding state-owned teaching hospitals' per diems and disproportionate share adjustment payments. The cap will eliminate excessive reimbursement to nonenrolled providers.

Issues: The primary issue addressed in this proposed regulation is the inequity of levels of reimbursement between providers which are enrolled in Virginia Medicaid and those which are not. Providers which treat Virginia Medicaid recipients infrequently may do so and still obtain reimbursement. The Code of Federal Regulations requires the states to provide for the coverage of services outside of their borders under specific circumstances which are discussed above. The Commonwealth determined that the current methodology of payment resulted in an inequitable

disparity which is being corrected by this proposed regulation.

Impact: Had it been in effect in FY 1992, this amendment would have affected reimbursement to approximately 90 to 100 hospitals with an average number of three out-of-state patients per hospital. The new regulation will limit daily reimbursement of nonenrolled providers to the average per diem rate of enrolled hospitals excluding the state-owned teaching hospitals and disproportionate share adjustments. When this rule was applied to the reimbursement rate of nonenrolled providers for FY 92, the savings were estimated at approximately \$1,000,000. This proposed amendment is expected to reduce payments to nonenrolled providers by around \$500,000 (GF) and \$500,000 (NGF) for FY 94. These savings are included in the DMAS budget reduction proposal.

Summary:

The purpose of this proposal is to reimburse out-of-state nonenrolled providers at amounts which are more consistent with the reimbursement amounts for in-state enrolled providers.

Medicaid providers have the option of enrolling with the Program to serve Virginia Medicaid recipients. Without exception, high volume providers enroll in the program. The Code of Federal Regulations at 42 CFR 431.52 provides that the state must furnish Medicaid to recipients utilizing nonenrolled hospitals in several specific circumstances. Specifically, Medicaid must be furnished a recipient who is a resident of the state while that recipient is in another state, to the same extent that Medicaid is furnished to residents in the state, when:

- 1. Medical services are needed because of a medical emergency;*
- 2. Medical services are needed because the recipient's health would be endangered if he were required to travel to his state of residence;*
- 3. The state determines, on the basis of medical advice, that the needed medical services, or necessary supplementary resources, are more readily available in the other state; or*
- 4. It is the general practice for recipients in a particular locality to use medical resources in another state.*

Currently, reimbursement for nonenrolled hospitals is limited to a percentage of their covered charges. The percentage is derived from the ratio of reimbursable inpatient costs to inpatient charges of enrolled providers, less 5.0% which represents the cost of manually processing the claims. This can result in excessive reimbursement for nonenrolled providers that have very high charges.

For purposes of maintaining equitable reimbursement levels between enrolled and nonenrolled providers, DMAS has determined that the excessive reimbursement could be eliminated through the imposition of a maximum reimbursement amount or cap. This proposed amendment caps the reimbursement to nonenrolled providers. The cap is the DMAS average per diem of enrolled providers, excluding state-owned teaching hospitals' per diems and disproportionate share adjustment payments. The cap will eliminate excessive reimbursement to nonenrolled providers.

VR 460-02-4.1910. Methods and Standards for Establishing Payment Rates – Inpatient Hospital Care.

The state agency will pay the reasonable cost of inpatient hospital services provided under the Plan. In reimbursing hospitals for the cost of inpatient hospital services provided to recipients of medical assistance.

I. For each hospital also participating in the Health Insurance for the Aged Program under Title XVIII of the Social Security Act, the state agency will apply the same standards, cost reporting period, cost reimbursement principles, and method of cost apportionment currently used in computing reimbursement to such a hospital under Title XVIII of the Act, except that the inpatient routine services costs for medical assistance recipients will be determined subsequent to the application of the Title XVIII method of apportionment, and the calculation will exclude the applicable Title XVIII inpatient routing service charges or patient days as well as Title XVIII inpatient routine service cost.

II. For each hospital not participating in the Program under Title XVIII of the Act, the state agency will apply the standards and principles described in 42 CFR 447.250 and either (a) one of the available alternative cost apportionment methods in 42 CFR 447.250, or (b) the "Gross RCCAC method" of cost apportionment applied as follows: For a reporting period, the total allowable hospital inpatient charges; the resulting percentage is applied to the bill of each inpatient under the Medical Assistance Program.

III. For either participating or nonparticipating facilities, the Medical Assistance Program will pay no more in the aggregate for inpatient hospital services than the amount it is estimated would be paid for the services under the Medicare principles of reimbursement, as set forth in 42 CFR 447.253(b)(2), and/or lesser of reasonable cost or customary charges in 42 CFR 447.250.

IV. The state agency will apply the standards and principles as described in the state's reimbursement plan approved by the Secretary, HHS on a demonstration or experimental basis for the payment of reasonable costs by methods other than those described in § II (a) and (b) above.

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V. The reimbursement system for hospitals includes the following components:

(1) Hospitals were grouped by classes according to number of beds and urban versus rural. (Three groupings for rural—0 to 100 beds, 101 to 170 beds, and over 170 beds; four groupings for urban—0 to 100, 101 to 400, 401 to 600, and over 600 beds.) Groupings are similar to those used by the Health Care Financing Administration (HCFA) in determining routine cost limitations.

(2) Prospective reimbursement ceilings on allowable operating costs were established as of July 1, 1982, for each grouping. Hospitals with a fiscal year end after June 30, 1982, were subject to the new reimbursement ceilings.

The calculation of the initial group ceilings as of July 1, 1982, was based on available, allowable cost data for all hospitals in calendar year 1981. Individual hospital operating costs were advanced by a reimbursement escalator from the hospital's year end to July 1, 1982. After this advancement, the operating costs were standardized using SMSA wage indices, and a median was determined for each group. These medians were readjusted by the wage index to set an actual cost ceiling for each SMSA. Therefore, each hospital grouping has a series of ceilings representing one of each SMSA area. The wage index is based on those used by HCFA in computing its Market Basket Index for routine cost limitations.

Effective July 1, 1986, and until June 30, 1988, providers subject to the prospective payment system of reimbursement had their prospective operating cost rate and prospective operating cost ceiling computed using a new methodology. This method uses an allowance for inflation based on the percent of change in the quarterly average of the Medical Care Index of the Chase Econometrics - Standard Forecast determined in the quarter in which the provider's new fiscal year began.

The prospective operating cost rate is based on the provider's allowable cost from the most recent filed cost report, plus the inflation percentage add-on.

The prospective operating cost ceiling is determined by using the base that was in effect for the provider's fiscal year that began between July 1, 1985, and June 1, 1986. The allowance for inflation percent of change for the quarter in which the provider's new fiscal year began is added to this base to determine the new operating cost ceiling. This new ceiling was effective for all providers on July 1, 1986. For subsequent cost reporting periods beginning on or after July 1, 1986, the last prospective operating rate ceiling determined under this new methodology will become the base for computing the next prospective year ceiling.

Effective on and after July 1, 1988, and until June 30, 1989, for providers subject to the prospective payment system, the allowance for inflation shall be based on the percent of change in the moving average of the Data Resources, Incorporated Health Care Cost HCFA-Type Hospital Market Basket determined in the quarter in which the provider's new fiscal year begins. Such providers shall have their prospective operating cost rate and prospective operating cost ceiling established in accordance with the methodology which became effective July 1, 1986. Rates and ceilings in effect July 1, 1988, for all such hospitals shall be adjusted to reflect this change.

Effective on and after July 1, 1989, for providers subject to the prospective payment system, the allowance for inflation shall be based on the percent of change in the moving average of the Health Care Cost HCFA-Type Hospital Market Basket, adjusted for Virginia (DRI-V), as developed by Data Resources, Incorporated, determined in the quarter in which the provider's new fiscal year begins. Such providers shall have their prospective operating cost rate and prospective operating cost ceiling established in accordance with the methodology which became effective July 1, 1986. Rates and ceilings in effect July 1, 1989, for all such hospitals shall be adjusted to reflect this change.

Effective on and after July 1, 1992, for providers subject to the prospective payment system, the allowance for inflation, as described above, which became effective on July 1, 1989, shall be converted to an escalation factor by adding two percentage points (200 basis points) (DRI-V+2), to the then current allowance for inflation. The escalation factor shall be applied in accordance with the current inpatient hospital reimbursement methodology in effect on June 30, 1992. On July 1, 1992, the conversion to the new escalation factor shall be accomplished by a transition methodology which, for non-June 30 year end hospitals, applies the escalation factor to escalate their payment rates for the months between July 1, 1992, and their next fiscal year ending on or before May 31, 1993.

The new method shall still require comparison of the prospective operating cost rate to the prospective operating ceiling. The provider is allowed the lower of the two amounts subject to the lower of cost or charges principles.

(3) Subsequent to June 30, 1992, the group ceilings shall not be recalculated on allowable costs, but shall be updated by the escalator.

(4) Prospective rates for each hospital shall be based upon the hospital's allowable costs plus the escalator, or the appropriate ceilings, or charges; whichever is lower. Except to eliminate costs that are found to be unallowable, no retrospective adjustment shall be

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made to prospective rates.

Depreciation, capital interest, and education costs approved pursuant to PRM-15 (Sec. 400), shall be considered as pass throughs and not part of the calculation.

(5) An incentive plan shall be established whereby a hospital will be paid on a sliding scale, percentage for percentage, up to 25% of the difference between allowable operating costs and the appropriate per diem group ceiling when the operating costs are below the ceilings. The incentive shall be calculated based on the annual cost report.

The table below presents three examples under the new plan:

Group Ceiling	Hospital's Allowable Cost Per Day	Difference		Sliding Scale Incentive	
		% of Ceiling	% of Ceiling	% of Difference	% of Difference
	\$			\$	
\$230	\$230	0	0	0	0
\$230	207	23.00	10%	2.30	10%
\$230	172	57.50	25%	14.38	25%
\$230	143	76.00	33%	19.00	25%

(6) There shall be special consideration for exception to the median operating cost limits in those instances where extensive neonatal care is provided.

(7) Disproportionate share hospitals defined.

The following criteria shall be met before a hospital is determined to be eligible for a disproportionate share payment adjustment.

A. Criteria.

1. A Medicaid inpatient utilization rate in excess of 8.0% for hospitals receiving Medicaid payments in the Commonwealth, or a low-income patient utilization rate exceeding 25% (as defined in the Omnibus Budget Reconciliation Act of 1987 and as amended by the Medicare Catastrophic Coverage Act of 1988); and

2. At least two obstetricians with staff privileges at the hospital who have agreed to provide obstetric services to individuals entitled to such services under a State Medicaid plan. In the case of a hospital located in a rural area (that is, an area outside of a Metropolitan Statistical Area, as defined by the Executive Office of Management and Budget), the term "obstetrician" includes any physician with staff privileges at the hospital to perform nonemergency obstetric procedures.

3. Subsection A 2 does not apply to a hospital:

a. At which the inpatients are predominantly individuals under 18 years of age; or

b. Which does not offer nonemergency obstetric services as of December 21, 1987.

B. Payment adjustment.

1. Hospitals which have a disproportionately higher level of Medicaid patients shall be allowed a disproportionate share payment adjustment based on the type of hospital and on the individual hospital's Medicaid utilization. There shall be two types of hospitals: (i) Type One, consisting of state-owned teaching hospitals, and (ii) Type Two, consisting of all other hospitals. The Medicaid utilization shall be determined by dividing the total number of Medicaid inpatient days by the number of inpatient days. Each hospital with a Medicaid utilization of over 8.0% shall receive a disproportionate share payment adjustment.

2. For Type One hospitals, the disproportionate share payment adjustment shall be equal to the product of (i) the hospital's Medicaid utilization in excess of 8.0%, times (ii) the lower of the prospective operating cost rate or ceiling. For Type Two hospitals, the disproportionate share payment adjustment shall be equal to the product of (i) the hospital's Medicaid utilization in excess of 8.0%, times (ii) the lower of the prospective operating cost rate or ceiling.

(8) Outlier adjustments.

a. DMAS shall pay to all enrolled hospitals an outlier adjustment in payment amounts for medically necessary inpatient hospital services provided on or after July 1, 1991, involving exceptionally high costs for individuals under one year of age.

b. DMAS shall pay to disproportionate share hospitals (as defined in V (7) above) an outlier adjustment in payment amount for medically necessary inpatient hospital services provided on or after July 1, 1991, involving exceptionally high costs for individuals under six years of age.

c. The outlier adjustment calculation.

(1) Each eligible hospital which desires to be considered for the adjustment shall submit a log which contains the information necessary to compute the mean of its Medicaid per diem operating cost of treating individuals identified in (8) a or b above. This log shall contain all Medicaid claims for such individuals, including, but not limited to: (i) the patient's name and Medicaid identification number; (ii) dates of service; (iii) the remittance date paid; (iv) the number of covered days; and (v) total charges for the length of stay. Each hospital shall then calculate the per diem operating cost (which excludes capital and education) of treating such patients by multiplying the charge for each patient by the Medicaid operating cost-to-charge ratio determined from its annual cost report.

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(2) Each eligible hospital shall calculate the mean of its Medicaid per diem operating cost of treating individuals identified in (8) a or b above. Any hospital which qualifies for the extensive neonatal care provision (as governed by V (6) above) shall calculate a separate mean for the cost of providing extensive neonatal care to individuals identified in (8) a or b above.

(3) Each eligible hospital shall calculate its threshold for payment of the adjustment, at a level equal to two and one-half standard deviations above the mean or means calculated in (8) c (2) above.

(4) DMAS shall pay as an outlier adjustment to each eligible hospital all per diem operating costs which exceed the applicable threshold or thresholds for that hospital.

d. Pursuant to § 1 of Supplement 1 to Attachment 3.1 A & B, there is no limit on length of time for medically necessary stays for individuals under six years of age. This section provides that consistent with the EPSDT program referred to in 42 CFR 441.57, payment of medical assistance services shall be made on behalf of individuals under 21 years of age, who are Medicaid eligible, for medically necessary stays in acute care facilities in excess of 21 days per admission when such services are rendered for the purpose of diagnosis and treatment of health conditions identified through a physical examination. Medical documentation justifying admission and the continued length of stay must be attached to or written on the invoice for review by medical staff to determine medical necessity. Medically unjustified days in such admissions will be denied.

VI. In accordance with Title 42 §§ 447.250 through 447.272 of the Code of Federal Regulations which implements § 1902(a)(13)(A) of the Social Security Act, the Department of Medical Assistance Services ("DMAS") establishes payment rates for services that are reasonable and adequate to meet the costs that shall be incurred by efficiently and economically operated facilities to provide services in conformity with state and federal laws, regulations, and quality and safety standards. To establish these rates Virginia uses the Medicare principles of cost reimbursement in determining the allowable costs for Virginia's prospective payment system. Allowable costs will be determined from the filing of a uniform cost report by participating providers. The cost reports are due not later than 90 days after the provider's fiscal year end. If a complete cost report is not received within 90 days after the end of the provider's fiscal year, the Program shall take action in accordance with its policies to assure that an overpayment is not being made. The cost report will be judged complete when DMAS has all of the following:

1. Completed cost reporting form(s) provided by DMAS, with signed certification(s);

2. The provider's trial balance showing adjusting journal entries;

3. The provider's financial statements including, but not limited to, a balance sheet, a statement of income and expenses, a statement of retained earnings (or fund balance), a statement of changes in financial position, and footnotes to the financial statements;

4. Schedules which reconcile financial statements and trial balance to expenses claimed in the cost report;

5. Home office cost report, if applicable; and

6. Such other analytical information or supporting documents requested by DMAS when the cost reporting forms are sent to the provider.

Although utilizing the cost apportionment and cost finding methods of the Medicare Program, Virginia does not adopt the prospective payment system of the Medicare Program enacted October 1, 1983.

VII. Revaluation of assets.

A. Effective October 1, 1984, the valuation of an asset of a hospital or long-term care facility which has undergone a change of ownership on or after July 18, 1984, shall be the lesser of the allowable acquisition cost to the owner of record as of July 18, 1984, or the acquisition cost to the new owner.

B. In the case of an asset not in existence as of July 18, 1984, the valuation of an asset of a hospital or long-term care facility shall be the lesser of the first owner of record, or the acquisition cost to the new owner.

C. In establishing an appropriate allowance for depreciation, interest on capital indebtedness, and return on equity (if applicable prior to July 1, 1986) the base to be used for such computations shall be limited to A or B above.

D. Costs (including legal fees, accounting and administrative costs, travel costs, and feasibility studies) attributable to the negotiation or settlement of the sale or purchase of any capital asset (by acquisition or merger) shall be reimbursable only to the extent that they have not been previously reimbursed by Medicaid.

E. The recapture of depreciation up to the full value of the asset is required.

F. Rental charges in sale and leaseback agreements shall be restricted to the depreciation, mortgage interest and (if applicable prior to July 1, 1986) return on equity based on cost of ownership as determined in accordance with A and B above.

VIII. Refund of overpayments.

A. Lump sum payment.

When the provider files a cost report indicating that an overpayment has occurred, full refund shall be remitted with the cost report. In cases where DMAS discovers an overpayment during desk review, field audit, or final settlement, DMAS shall promptly send the first demand letter requesting a lump sum refund. Recovery shall be undertaken even though the provider disputes in whole or in part DMAS's determination of the overpayment.

B. Offset.

If the provider has been overpaid for a particular fiscal year and has been underpaid for another fiscal year, the underpayment shall be offset against the overpayment. So long as the provider has an overpayment balance, any underpayments discovered by subsequent review or audit shall also be used to reduce the remaining amount of the overpayment.

C. Payment schedule.

If the provider cannot refund the total amount of the overpayment (i) at the time it files a cost report indicating that an overpayment has occurred, the provider shall request an extended repayment schedule at the time of filing, or (ii) within 30 days after receiving the DMAS demand letter, the provider shall promptly request an extended repayment schedule.

DMAS may establish a repayment schedule of up to 12 months to recover all or part of an overpayment or, if a provider demonstrates that repayment within a 12-month period would create severe financial hardship, the Director of the Department of Medical Assistance Services ("the director") may approve a repayment schedule of up to 36 months.

A provider shall have no more than one extended repayment schedule in place at one time. If an audit later uncovers an additional overpayment, the full amount shall be repaid within 30 days unless the provider submits further documentation supporting a modification to the existing extended repayment schedule to include the additional amount.

If, during the time an extended repayment schedule is in effect, the provider withdraws from the Program or fails to file a cost report in a timely manner, the outstanding balance shall become immediately due and payable.

When a repayment schedule is used to recover only part of an overpayment, the remaining amount shall be recovered by the reduction of interim payments to the provider or by lump sum payments.

D. Extension request documentation.

In the request for an extended repayment schedule, the

provider shall document the need for an extended (beyond 30 days) repayment and submit a written proposal scheduling the dates and amounts of repayments. If DMAS approves the schedule, DMAS shall send the provider written notification of the approved repayment schedule, which shall be effective retroactive to the date the provider submitted the proposal.

E. Interest charge on extended repayment.

Once an initial determination of overpayment has been made, DMAS shall undertake full recovery of such overpayment whether or not the provider disputes, in whole or in part, the initial determination of overpayment. If an appeal follows, interest shall be waived during the period of administrative appeal of an initial determination of overpayment.

Interest charges on the unpaid balance of any overpayment shall accrue pursuant to § 32.1-313 of the Code of Virginia from the date the director's determination becomes final.

The director's determination shall be deemed to be final on (i) the due date of any cost report filed by the provider indicating that an overpayment has occurred, or (ii) the issue date of any notice of overpayment, issued by DMAS, if the provider does not file an appeal, or (iii) the issue date of any administrative decision issued by DMAS after an informal factfinding conference, if the provider does not file an appeal, or (iv) the issue date of any administrative decision signed by the director, regardless of whether a judicial appeal follows. In any event, interest shall be waived if the overpayment is completely liquidated within 30 days of the date of the final determination. In cases in which a determination of overpayment has been judicially reversed, the provider shall be reimbursed that portion of the payment to which it is entitled, plus any applicable interest which the provider paid to DMAS.

IX. Effective October 1, 1986, hospitals that have obtained Medicare certification as inpatient rehabilitation hospitals or rehabilitation units in acute care hospitals, which are exempted from the Medicare Prospective Payment System (DRG), shall be reimbursed in accordance with the current Medicaid Prospective Payment System as described in the preceding sections I, II, III, IV, V, VI, VII, VIII and excluding V(6). Additionally, rehabilitation hospitals and rehabilitation units of acute care hospitals which are exempt from the Medicare Prospective Payment System will be required to maintain separate cost accounting records, and to file separate cost reports annually utilizing the applicable Medicare cost reporting forms (HCFA 2552 series) and the Medicaid forms (MAP-783 series).

A new facility shall have an interim rate determined using a pro forma cost report or detailed budget prepared by the provider and accepted by the DMAS, which represents its anticipated allowable cost for the first cost

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reporting period of participation. For the first cost reporting period, the provider will be held to the lesser of its actual operating cost or its peer group ceiling. Subsequent rates will be determined in accordance with the current Medicaid Prospective Payment System as noted in the preceding paragraph of IX.

X. Item 398 D of the 1987 Appropriation Act (as amended), effective April 8, 1987, eliminated reimbursement of return on equity capital to proprietary providers.

XI. Pursuant to Item 389 E4 of the 1988 Appropriation Act (as amended), effective July 1, 1988, a separate group ceiling for allowable operating costs shall be established for state-owned university teaching hospitals.

XII. Nonenrolled providers.

A. Hospitals that are not enrolled as providers with the Department of Medical Assistance Services (DMAS) which submit claims shall be paid based on *the lesser of*:

1. The DMAS average reimbursable inpatient cost-to-charge ratio, updated annually on *September 30 of each year based on the most recent settled cost report*, for enrolled hospitals less 5.0%. (The 5.0% is for the cost of the additional manual processing of the claims.)

2. *The DMAS average per diem, updated annually on September 30 of each year based on the most recent settled cost report, of enrolled hospitals excluding the state-owned teaching hospitals and disproportionate share adjustments.*

B. Hospitals that are not enrolled shall submit claims using the required DMAS invoice formats. Such claims must be submitted within 12 months from date of services. A hospital is determined to regularly treat Virginia Medicaid recipients and shall be required by DMAS to enroll if it provides more than 500 days of care to Virginia Medicaid recipients during the hospitals' financial fiscal year. A hospital which is required by DMAS to enroll shall be reimbursed in accordance with the current Medicaid Prospective Payment System as described in the preceding Sections I, II, III, IV, V, VI, VII, VIII, IX, and X. The hospital shall be placed in one of the DMAS peer groupings which most nearly reflects its licensed bed size and location (Section V.(1) above). These hospitals shall be required to maintain separate cost accounting records, and to file separate cost reports annually, utilizing the applicable Medicare cost reporting forms, (HCFA 2552 Series) and the Medicaid forms (MAP-783 Series).

B. C. A newly enrolled facility shall have an interim rate determined using the provider's most recent filed Medicare cost report or a pro forma cost report or detailed budget prepared by the provider and accepted by DMAS, which represents its anticipated allowable cost for the first cost reporting period of participation. For the first

cost reporting period, the provider shall be limited to the lesser of its actual operating costs or its peer group ceiling. Subsequent rates shall be determined in accordance with the current Medicaid Prospective Payment System as noted in the preceding paragraph of XHA § XII B.

C. D. Once a hospital has obtained the enrolled status, 500 days of care, the hospital must agree to become enrolled as required by DMAS to receive reimbursement. This status shall continue during the entire term of the provider's current Medicare certification and subsequent recertification or until mutually terminated with 30 days written notice by either party. The provider must maintain this enrolled status to receive reimbursement. If an enrolled provider elects to terminate the enrolled agreement, the nonenrolled reimbursement status will not be available to the hospital for future reimbursement, except for emergency care.

D. E. Prior approval must be received from the DMAS Health Services Review Division when a referral has been made for treatment to be received from a nonenrolled acute care facility (in-state or out-of-state), except in the case of an emergency or because medical resources or supplementary resources are more readily available in another state.

E. F. Nothing in this regulation is intended to preclude DMAS from reimbursing for special services, such as rehabilitation, ventilator, and transplantation, on an exception basis and reimbursing for these services on an individually, negotiated rate basis.

XIII. Payment Adjustment Fund.

A. A Payment Adjustment Fund shall be created in each of the Commonwealth's fiscal years during the period July 1, 1992, to June 30, 1996. The Payment Adjustment Fund shall consist of the Commonwealth's cumulative addition of \$5 million in general funds and its corresponding federal financial participation for reimbursement to nonstate-owned hospitals in each of the Commonwealth's fiscal years during this period. Each July 1, or as soon thereafter as is reasonably possible, the Commonwealth shall, through a single payment to each nonstate-owned hospital, equitably and fully disburse the Payment Adjustment Fund for that year.

B. In the absence of any amendment to the State Plan, Attachment 4.19A, for the Commonwealth's fiscal year after 1996, the Payment Adjustment Fund shall be continued at the level established in 1996 and shall be disbursed in accordance with the methodology described below.

C. The Payment Adjustment Funds shall be disbursed in accordance with the following methodology:

1. Identify each nonstate-owned hospital provide (acute, neonatal and rehabilitation) receiving payment

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based upon its peer group operating ceiling in May of each year.

2. For each such hospital identified in subdivision 1, identify its Medicaid paid days for the 12 months ending each May 31.

3. Multiply each such hospital's days under subdivision 2 by such hospital's May individual peer group ceiling (i.e., disregarding such hospital's actual fiscal year end ceiling) as adjusted by its then current disproportionate share factor.

4. Sum all hospital amounts determined in subdivision 3.

5. For each such hospital, divide its amount determined in subdivision 3 by the total of such amounts determined in subdivision 4. This then becomes the hospital adjustment factor ("HAF") for each such hospital.

6. Multiply each such hospital's HAF times the amount of the Payment Adjustment Fund ("PAF") to determine its potential PAF share.

7. Determine the unreimbursed Medicaid allowable operating cost per day for each such hospital in subdivision 1 for the most recent fiscal year on file at DMAS as of May 31, inflate such costs by DRI-V+2 from the midpoint of such cost report to May 31 and multiply such inflated costs per day by the days identified for that hospital in subdivision 2, creating the "unreimbursed amount."

8. Compare each such hospital's potential PAF share to its unreimbursed amount.

9. Allocate to all hospitals, where the potential PAF share exceeds the unreimbursed amount, such hospital's unreimbursed amount as its actual PAF share.

10. If the PAF is not exhausted, for those hospitals with an unreimbursed amount balance, recalculate a new HAF for each such hospital by dividing the hospital's HAF by the total of the HAFs for all hospitals with an unreimbursed amount balance.

11. Recompute each hospital's new potential share of the undisbursed PAF by multiplying such funds by each hospital's new HAF.

12. Compare each hospital's new potential PAF share to its unreimbursed amount. If the unreimbursed amounts exceed the PAF shares at all hospitals, each hospital's new PAF share becomes its actual PAF share. If some hospitals' unreimbursed amounts are less than the new potential PAF shares, allocate to such hospitals their unreimbursed amount as their actual PAF share. Then, for those hospitals with an

unreimbursed amount balance, repeat steps 10, 11 and 12 until each hospital's actual PAF share is determined and the PAF is exhausted.

13. The annual payment to be made to each nonstate-owned hospital from the PAF shall be equal to their actual PAF share as determined and allocated above. Each hospital's actual PAF share payment shall be made on July 1, or as soon thereafter as is reasonably feasible.

NOTICE: The forms used in administering the Methods and Standards for Establishing Payment Rates – Inpatient Hospital Care 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 Medical Assistance Services, 600 East Broad Street, Richmond, Virginia 23219, or at the Office of the Registrar of Regulations, General Assembly Building, 910 Capitol Square, 2nd Floor, Room 262, Richmond, Virginia 23219.

COST REPORTING FORMS (MAP 783 SERIES)

Analysis of Interim Payments - Title XIX Services (Rev. 2/11/91).
Computation of Inpatient and Outpatient Ancillary Service Costs (Rev. 10/1/90).
Computation of Outpatient Capital Reduction (Rev. 10/1/90).
Computation of Title XIX Outpatient Costs (Rev. 10/1/90).
Computation of Charges for Lower of Cost or Charge Comparison (Rev. 10/1/90).
Computation of Title XIX Reimbursement Settlement (Rev. 10/1/90).
Determination of Plant Costs (Rev. 10/1/90).
Determination of Education Costs (Rev. 10/1/90).
Computation of Medicaid Plant and Education Cost (pass-throughs) (Rev. 10/1/90).
Computation of Net Medicaid Inpatient Operating Cost Adjustment (Rev. 10/1/90).
Calculation of Inpatient Profit Incentive and Disproportionate Share Adjustment (Rev. 10/1/90).
Disproportionate Share Reporting Form (Rev. 10/1/90).
Apportionment of Malpractice Insurance Cost (Rev. 10/1/90).
Calculations of Prospective Rate for Cost Reporting Year Ending — (Rev. 10/1/90).

MEDICARE COST REPORTING FORMS HCFA-2522

Supplemental Worksheet D-1, Parts I and II.
Computation of Inpatient Operating Cost (12/85).
Supplemental Worksheet D-2, Part I. Apportionment of Cost of Services Rendered by Interns and Residents not in Approved Teaching Program (12/85).

VA.R. Doc. No. R94-265; Filed November 23, 1993, 10:42 a.m.

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BOARD OF MEDICINE

Title of Regulation: VR 465-01-1. Public Participation Guidelines (REPEALING).

Title of Regulation: VR 465-01-1:1. Public Participation Guidelines.

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

Public Hearing Date: N/A – Written comments may be submitted through February 11, 1994.

(See Calendar of Events section for additional information)

Basis: Sections 9-6.14:7.1 and 54.1-2400 of the Code of Virginia provide the statutory basis for promulgation of these regulations by the Board of Medicine.

Purpose: The proposed regulations are designed to ensure public protection by disseminating information regarding board activities, and providing a mechanism for public participation. The regulations are promulgated to comply with statutes enacted by the 1993 session of the Virginia legislature regarding the Administrative Process Act. The Public Participation Guidelines are incorporated in all regulations pertaining to the examinations, certification and licensure of regulated practitioners by the Board of Medicine.

The proposed regulations address three specific areas: (A) regulations that are exempt from the Administrative Process Act, (B) requirements that specify protocols for a notice and scheduling of a public hearing upon request of 25 persons, and (C) requirements that specify protocols for the use of ad hoc advisory boards or committees.

Substance: Proposed regulations address the following:

§ 1.1 specifies statute that exempts regulations from the Administrative Process Act.

§ 3.2 C specifies that public hearings shall be noticed and scheduled if, during the 30-day comment period, the board receives requests for a hearing from at least 25 persons.

§ 3.4 B specifies protocols for notice of meeting for those regulations that do not apply to the Administrative Process Act.

§§ 4.1 through 4.2 B 2 establish the appointment of ad hoc advisory boards or committees and specify their limitation of services.

Issues:

1. Regulations are promulgated to specify exempted regulations from the Administrative Process Act. Sections 1.1 and 3.4 B address this issue.

2. A regulation is promulgated to respond to statutes that specify protocols for a notice and scheduling of a public hearing upon petition from 25 persons. Section 3.2 C addresses this issue.

3. Regulations are promulgated to respond to statutes that specify the creation, use and limitation of services to be provided by ad hoc advisory boards or committees. Sections 4.1 through 4.2 B 2 address this issue.

Estimated Impact:

A. Impact on the agency:

1. The board projects a cost of \$1,500 to print new regulations and mail a copy to each of the public participation listing members. The cost includes staff time for preparation and mailing the documents.

2. The board projects a cost of \$5,000 per year if there are requests for meetings from 25 people. The cost includes board member and staff time to prepare for and attend the additional meetings.

B. The funds to address all identified fiscal impacts of the Board of Medicine are derived from fees paid by licensees, certified practitioners, applicants for licensure and certification, and examinations.

C. Number and types of regulated entities affected:

22,938 Doctors of Medicine

477 Doctors of Osteopathy

456 Doctors of Podiatry

902 Doctors of Chiropractic

2,449 Physical Therapists

586 Physical Therapist Assistants

1,264 Clinical Psychologists

223 Physician's Assistants

117 Correctional Health Assistants

53 Acupuncturists

306 Certified Optometrists

974 Occupational Therapists

195 Public Participation Members

D. No additional costs to regulated entities are anticipated. The current and projected budget of the Board of Medicine is sufficient to absorb the cost of.

administering these Public Participation Guidelines.

Summary:

The proposed regulations establish requirements governing Public Participation Guidelines. They include regulations that are exempt from the Administrative Process Act, requirements that specify protocols for a notice and scheduling of a public hearing upon request of 25 persons, and requirements that specify protocols for the use of ad hoc advisory boards or committees.

The proposed regulations respond to continuing review of the regulations by the board and staff and respond to §§ 9-6.14:7.1 and 54.1-2400 of the Code of Virginia. The proposed regulations replace emergency regulations VR 465-01-1 which became effective June 28, 1993.

VR 465-01-1:1. Public Participation Guidelines.

PART I. PURPOSE.

§ 1.1. Statement of purpose.

The purpose of these regulations is to provide guidelines for the involvement of the public in the development and promulgation of regulations of the Board of Medicine. The guidelines do not apply to regulations exempted or excluded from the provisions of the Administrative Process Act (§ 9-6.14:4.1) of the Code of Virginia.

PART II. MAILING LIST.

§ 2.1. Composition of the mailing list.

A. The board shall maintain a list of persons or entities who have requested to be notified of the formation and promulgation of regulations.

B. Any person or entity may request to be placed on the mailing list by indicating so in writing to the board. The board may add to the list any person or entity it believes will serve the purpose of enhancing participation in the regulatory process.

C. The board may maintain additional mailing lists for persons or entities who have requested to be informed of specific regulatory issues, proposals, or actions.

D. The board shall periodically request those on the mailing list to indicate their desire to continue to receive documents or be deleted from the list. When mail is returned as undeliverable, individuals or organizations shall be deleted from the list.

§ 2.2. Documents to be sent to persons or entities on the mailing list.

Persons or entities on the mailing list described in § 2.1 shall be mailed the following documents related to the promulgation of regulations:

- 1. A Notice of Intended Regulatory Action.*
- 2. A Notice of Comment Period.*
- 3. A copy of any final regulation adopted by the board.*
- 4. A notice soliciting comment on a final regulation when the regulatory process has been extended.*

PART III. PUBLIC PARTICIPATION PROCEDURES.

§ 3.1. Petition for rulemaking.

A. As provided in § 9-6.14:7.1 of the Code of Virginia, any person may petition the board to develop a new regulation or amend an existing regulation.

B. A petition shall include but need not be limited to the following:

- 1. The petitioner's name, mailing address, telephone number, and, if applicable, the organization represented in the petition.*
- 2. The number and title of the regulation to be addressed.*
- 3. A description of the regulatory problem or need to be addressed.*
- 4. A recommended addition, deletion, or amendment to the regulation.*

C. The board shall receive, consider and respond to a petition within 180 days.

D. Nothing herein shall prohibit the board from receiving information from the public and proceeding on its own motion for rulemaking.

§ 3.2. Notice of Intended Regulatory Action.

A. The Notice of Intended Regulatory Action (NOIRA) shall state the purpose of the action and a brief statement of the need or problem the proposed action will address.

B. The NOIRA shall indicate whether the board intends to hold a public hearing on the proposed regulation after it is published. If the board does not intend to hold a public hearing, it shall state the reason in the NOIRA.

C. The NOIRA shall state that a public hearing will be scheduled if, during the 30-day comment period, the board receives requests for a hearing from at least 25 persons.

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§ 3.3. Notice of Comment Period.

A. The Notice of Public Comment (NOPC) shall indicate that copies of the proposed regulation are available from the board and may be requested in writing from the contact person specified in the NOPC.

B. The NOPC shall indicate that copies of the statement of substance, issues, basis, purpose, and estimated impact of the proposed regulation may also be requested in writing.

C. The NOPC shall make provision for oral or written submittals on the proposed regulation. The impact on regulated entities, the public, as well as the cost of compliance with the proposed regulation shall be included in the submittal returns.

§ 3.4. Notice of meeting.

A. At any meeting of the board or advisory board or committee, at which the formation or adoption of regulation is anticipated, the subject shall be described in the Notice of Meeting and transmitted to the Registrar for inclusion in The Virginia Register.

B. If the board anticipates action on a regulation for which an exemption to the Administrative Process Act is claimed under § 9-6.14:4.1 of the Code of Virginia, the Notice of Meeting shall indicate that a copy of the regulation is available upon request at least two days prior to the meeting. A copy of the regulation shall be made available to the public attending such meeting.

§ 3.5. Public hearings on regulations.

The board shall conduct a public hearing during the 60-day comment period following the publication of a proposed regulation or amendment to an existing regulation, unless, at a noticed meeting, the board determines that a hearing is not required.

§ 3.6. Biennial review of regulations.

A. At least once each biennium, the board shall conduct an informational proceeding to receive comment on all existing regulations as to their effectiveness, efficiency, necessity, clarity, and cost of compliance.

B. Such proceeding may be conducted separately or in conjunction with other informational proceedings or hearings.

C. Notice of the proceeding shall be transmitted to the Registrar of Regulations for inclusion in The Virginia Register and shall be sent to the mailing list identified in § 2.1.

PART IV. ADVISORY BOARD OR COMMITTEE.

§ 4.1. Appointment of advisory board or committee.

A. The board may appoint an ad hoc advisory board or committee whose responsibility shall be to assist in the review and development of regulations for the board.

B. The board may appoint an ad hoc advisory board or committee to provide professional specialization or technical assistance when the board determines that such expertise is necessary to address a specific regulatory issue or need or when groups of individuals register an interest in working with the agency.

§ 4.2. Limitation of service.

A. An advisory board or committee which has been appointed by the board may be dissolved by the board when:

1. There is no response to the Notice of Intended Regulatory Action, or

2. The board determines that the promulgation of the regulation is either exempt or excluded from the requirements of the Administrative Process Act (§ 9-6.14:4.1 of the Code of Virginia).

B. An advisory board or committee shall remain in existence no longer than 12 months from its initial appointment.

1. If the board determines that the specific regulatory need continues to exist beyond that time, it shall set a specific term for the committee of not more than six additional months.

2. At the end of that extended term, the board shall evaluate the continued need and may continue the committee for additional six-month terms.

VA.R. Doc. No. R94-266; Filed November 24, 1993, 10:13 a.m.

DEPARTMENT OF MINES, MINERALS AND ENERGY

Title of Regulation: VR 480-01-1. Public Participation Guidelines.

Statutory Authority: §§ 9-6.14:7.1, 45.1-1.3, 45.1-12 and 45.1-361.15 of the Code of Virginia.

Public Hearing Date: February 2, 1994 - 1 p.m.

Written comments may be submitted through February 11, 1994.

(See Calendar of Events section for additional information)

Basis: The amendments are being promulgated under authority of §§ 45.1-1.3, 45.1-12, and 45.1-361.15 of the Code of Virginia. Section 45.1-1.3 prescribes the general authority of the Director of the Department of Mine.

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Minerals and Energy to promulgate regulations. Section 45.1-12 sets forth the authority of the Board of Examiners to develop regulations which will further the efficiency of board operations and meet the requirements of the Virginia Mine Safety Act. Section 45.1-361.15 prescribes the authority of the Virginia Gas and Oil Board to promulgate regulations. In addition, § 9-6.14:7.1 of the Code of Virginia requires agencies to develop, adopt and use public participation guidelines for soliciting input of interested persons in the development of regulations.

Purpose: The purpose of this amendment is to reflect the order of the regulatory process under the Administrative Process Act (APA) and to clarify that the guidelines apply to the Board of Examiners and to the Virginia Gas and Oil Board.

Substance: The amendments define terms used in the guidelines, add the names of each board, and clarify the actions to which the regulations apply. They also shift emphasis from the development of a mailing list of interested parties to the maintenance of the list, state that the Notice of Intended Regulatory Action be sent to at least one general circulation newspaper in the area affected by the regulation, and reorder the regulation for clarity.

Issues: The 1993 General Assembly established the requirement that agencies develop public participation guidelines and submit them under the Administrative Process Act. The Office of the Attorney General advised the boards and department to clarify the current regulations to explicitly apply to boards. The Board of Examiners and the Virginia Gas and Oil Board adopted the public participation guidelines at their July 1993 and December 1991 meetings, respectively.

Impact: The amendment will have a positive impact on the clients of the Department of Mines, Minerals and Energy and its boards. The guidelines will be simpler and easier to understand by the public and those industries regulated by the boards. There is no fiscal impact associated with the amendments.

Summary:

The proposed amendments reflect the order of the regulatory process under the Administrative Process Act and clarify that the guidelines apply to the Virginia Gas and Oil Board and the Board of Examiners.

VR 480-01-1. Public Participation Guidelines.

§ 1. Definitions.

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

"Chief" means the Chief of the Division of Mines of the

Department of Mines, Minerals and Energy.

"Department" means the Department of Mines, Minerals and Energy as distinguished from the director, who is authorized to promulgate regulations.

"Director" means the Director of the Department of Mines, Minerals and Energy.

"Promulgating authority" means the individual or body authorized by law to initiate and carry out the process of adopting regulations.

PART I: PURPOSE AND AUTHORITY.

§ 2. Purpose and authority.

These guidelines are designed to allow participation by the public in the formulation of regulations that are written to carry out the legislative mandates of the Virginia Department of Mines, Minerals and Energy (referred to in this document as "the department"), of the Virginia Gas and Oil Board, and of the Board of Examiners. Although required by law, these rulemaking procedures also reflect the agency's department's commitment to an open forum for all points of view, and to a thorough analysis of many possible courses of action in regulatory development. These guidelines actually are true regulations themselves, as required by § 9-6.14:7.1 of the Code of Virginia. They have been adopted under the rulemaking authority of the department director, the Virginia Gas and Oil Board and the Board of Examiners, as prescribed in § 45.1-1.3(4) Title 45.1 of the Code of Virginia, and are subject to the same provisions of the Virginia Administrative Process Act (APA) as are all regulations. The Public Participation Guidelines apply to all regulatory actions of the department actions to promulgate, amend or repeal any regulations except emergency adoptions regulations, which are covered by separate provisions, and certain exempt activities specified in Article 1 of the APA (§ 9-6.14:4.1 of the Code of Virginia Code). Depending on the nature of the regulation, the Director of the Department, the Chief of the Division of Mines, the Virginia Oil and Gas Commission, the Well Review Board Virginia Gas and Oil Board or the Board of Surface Mining Review Board of Examiners may be authorized to promulgate regulations. The term "promulgating authority" used in these regulations shall apply to the appropriate individual or group authorized to initiate and carry out the regulatory process. These guidelines supersede the public participation guidelines that were transferred January 1, 1985, when the department took over certain regulatory programs from the Department of Labor and Industry and the former Department of Conservation and Economic Development (Acts of Assembly 1984, c. 500, cl. 6).

PART II: INITIATING THE RULEMAKING PROCESS.

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~~§ 2-1.~~ § 3. *Initiating the rulemaking process.*

A. The department ~~promulgating authority~~ may initiate rulemaking at any time. However, it ~~he~~ shall do so according to the provisions of these regulations and the Administrative Process Act.

§ 2-2. B. The promulgating authority shall consider all written requests for regulatory change. Any individual or group may petition the promulgating authority to ~~create, amend or abolish~~ *promulgate, amend or repeal* any regulation. The promulgating authority shall consider all petitions and other written requests, but *after careful consideration*, may choose not to initiate rulemaking. To be considered, a petition shall contain:

1. The name, address and telephone number of the petitioner.
2. The new regulation, amendment or repeal action proposed by the petitioner.
3. The reasons for requesting the rulemaking.
4. The anticipated effects of making the requested regulatory changes, including costs to various parties.
5. The anticipated effects of not making the requested regulatory changes.

§ 2-3. C. The ~~department promulgating authority~~ recommends that all petitioners include documentation to support their requests for rulemaking.

PART III. IDENTIFYING INTERESTED PARTIES.

§ 3-1. Whenever the promulgating authority decides to initiate rulemaking, the department shall identify the various parties that may have an interest in the regulation or regulations being considered, using the following procedures:

A. § 4. *Identifying interested parties.*

The department shall ~~compile~~ *maintain a current* regulatory mailing list composed of the names and addresses of parties who have expressed an interest in commenting on regulatory actions proposed by the department. The department ~~initially shall determine who has such an interest through an exploratory mailing to all parties on the department's existing mailing lists, and to parties who previously have expressed interest in the department's regulatory activities. To be included on the initial regulatory mailing list, parties shall respond in writing within 30 days after the date of the exploratory mailing.~~ *promulgating authority.*

B. In the exploratory mailing, the department also shall ask respondents to indicate whether they are willing to serve on committees to develop regulations. The regulatory

mailing list shall ~~categorize each party according to the type or types of regulations in which the party has expressed an interest, and indicate whether the party has agreed to serve on a regulation work committee.~~

C. The department shall keep the regulatory mailing list current by periodically adding the names and addresses of parties expressing an interest in regulatory activities; of parties who comment on the department's regulatory actions; and of parties otherwise identified by the department staff; and by deleting the names and addresses of parties no longer expressing such an interest.

PART IV. DRAFTING REGULATORY CHANGES.

§ 4-1. Whenever the promulgating authority initiates rulemaking, the department shall solicit public participation in the development of regulations, using the following procedures:

A. The department shall form a work committee of parties who have agreed to serve on committees to develop regulations of the type being considered; or, in cases where the promulgating authority determines the proposed action does not warrant formation of a new committee, the department may submit the proposal for regulatory action to a standing public committee or advisory board of the department for review and development. In such cases, the promulgating authority shall determine that the committee or board he chooses has the expertise to review the type of regulation being considered.

B. Taking into consideration the comments of the group participating in regulatory development, the department shall produce a working draft of the proposed regulatory changes to be offered for public review.

PART V. NOTIFYING INTERESTED PARTIES.

§ 5-1. § 5. *Notifying interested parties.*

Whenever the department develops a working draft of a proposed regulatory change, the department ~~promulgating authority intends to consider a regulatory change, he~~ shall notify interested parties of its ~~the~~ intention to make such regulatory changes, using the following procedures:

A. The department ~~promulgating authority~~ shall compose a Notice of Intended Regulatory Action in the format prescribed by the Registrar of Regulations, and a media release containing the information in the notice. Both documents shall specify a deadline for submitting written comments regarding the intended regulatory action. If the promulgating authority decides to conduct a public meeting for review of working drafts, then the notice and the media release shall specify the date, time and location of that public meeting.

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B. The department promulgating authority shall submit the Notice of Intended Regulatory Action to the Registrar of Regulations for publication to be published in The Virginia Register on a date ~~15 to 30~~ not less than 30 days prior to the end of the comment period.

C. Between ~~15 and 30~~ Not less than 30 days prior to the end of the comment period, the department shall:

1. Deliver a copy of the Notice of Intended Regulatory Action to all parties on the regulatory development mailing list who have expressed an interest in the type of regulations being considered;

2. Deliver a copy of the media release to at least one general circulation newspaper published in the state capital, to at least one general circulation newspaper published in any area that is particularly affected by the regulation to the exclusion of other geographical areas, and to any other news media the department deems suitable appropriate .

§ 6. Drafting regulatory changes.

Whenever the promulgating authority initiates rulemaking, he shall solicit public participation in the development of regulations. The promulgating authority may form a work committee to consider regulatory issues and advise the promulgating authority and staff. Any work committee so formed may consist of (i) parties who have agreed to serve on committees to develop regulations of the type being considered; or (ii) in cases where the promulgating authority determines the proposed action does not warrant formation of a new committee, a statutorily created committee or advisory board of the department. In such cases, the promulgating authority shall determine that the committee or board chosen has the expertise to review the type of regulation being considered. The Virginia Mine Safety Board shall be the work committee for coal mine safety regulations under the conditions prescribed in § 45.1-5.3 of the Code of Virginia.

PART VI: FORMAL REVIEW.

§ ~~6.1.~~ § 7. Formal review.

A. After consideration of comments received from the public, the department shall prepare a final draft of the proposed regulatory changes and submit this draft to the promulgating authority for his review.

§ ~~6.2.~~ B. When the promulgating authority decides to proceed with rulemaking, the department he shall submit the proposed regulation to a ~~60-day final~~ comment period of at least 60 days, according to the provisions of the Virginia Administrative Process Act and the Virginia Register Act.

A. 1. The department shall forward to the Registrar of

Regulations a notice of the comment period and public hearing. The notice shall state the legal authority for the department promulgating authority to act; the deadline for comments on the proposed regulation; the date, time and location of the public hearing; and the name, address and telephone number of a person to contact for further information about the proposed regulation. The department shall include with the notice the full text of the proposed regulation, statements of the basis, purpose, substance, issues and impact of the proposed regulation, and a summary of the regulation.

B. 2. The department shall send a copy or summary of the proposed regulation to all parties on the regulatory development mailing list who have expressed an interest in the type of regulation being considered, and to all others who have commented on the proposed regulatory changes. This draft shall be accompanied by a letter explaining the deadlines and procedures for submitting formal public comments under the Administrative Process Act.

C. 3. The department shall request the Registrar of Regulations to publish the public hearing notice in The Virginia Register, in a Richmond area newspaper, in at least one general circulation newspaper published in any area that is particularly affected by the regulation to the exclusion of other geographical areas, and in other newspapers as requested by the department, at least 60 days before the end of the comment period.

D. 4. During the final comment period, the proposed regulations will shall be reviewed submitted for review concurrently by the public, the Governor, the General Assembly, the Department of Planning and Budget, and the Secretary of Economic Development and the Attorney General Commerce and Trade .

PART VII: ADOPTION.

§ ~~7.1.~~ § 8. Adoption.

Upon expiration of the public comment period, the department promulgating authority shall carry out the remaining steps to adopt the regulations according to the provisions of the Administrative Process Act.

VA.R. Doc. No. R94-261; Filed November 8, 1993, 9:04 a.m.

DEPARTMENT OF SOCIAL SERVICES (STATE BOARD OF)

Title of Regulation: VR 615-01-51. Auxiliary Grants Program: Levels of Care and Rate Setting.

Statutory Authority: §§ 63.1-25 and 63.1-25.1 of the Code of Virginia.

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Public Hearing Dates:

January 11, 1994 - 1 p.m.

January 12, 1994 - 1 p.m.

January 13, 1994 - 1 p.m.

January 14, 1994 - 1 p.m.

January 18, 1994 - 1 p.m.

Written comments may be submitted through February 11, 1994.

(See Calendar of Events section for additional information)

Basis: Section 63.1-25.1 of the Code of Virginia was amended by the General Assembly in 1991 to require that the State Board of Social Services promulgate regulations for the administration of the Auxiliary Grants Program. This section of the Code of Virginia was further amended in 1993 and directs the State Board to promulgate regulations requiring assessment by a case manager as a condition of an individual's eligibility for an Auxiliary Grants Program payment.

Purpose: The purpose of this regulation is to establish standards for the administration of the Auxiliary Grants Program which include requirements for the department to use in establishing Auxiliary Grant rates for adult care residences, define services to be provided by adult care residences to Auxiliary Grants Program recipients, and requirements for evaluation of recipients by case managers to determine their need for residential living care or assisted living care.

Substance: This regulation includes requirements which address the process for adult care residences to use in reporting their costs, the process used in calculating the Auxiliary Grant rates for the residences, and services to be provided to Auxiliary Grants recipients. The regulations also include requirements for evaluation of Auxiliary Grants applicants and recipients by case managers to determine the level of care needed in adult care residences.

Issues: This regulation will (i) ensure that timely and accurate information is submitted to the department for its use in evaluating the cost of operating an adult care residence and for determining the adequacy of the state's maximum Auxiliary Grant rate for adult care residences, (ii) ensure that the rate established for the adult care residence will purchase specific services for the recipient of an Auxiliary Grants Program payment, and (iii) ensure that the recipient's needs can be met by the adult care residence before payment from the Auxiliary Grants Program is made.

Impact: This regulation will affect an estimated 7,228 Auxiliary Grants Program recipients in FY 95 and 7,730 in FY 96. These recipients reside in approximately 320 adult care residences. The regulation will have no fiscal impact on the department or the public. It will impact the adult care residences to the extent that their costs of providing the specified services exceed the maximum Auxiliary Grants rate.

Summary:

This regulation sets forth requirements for the administration of the Auxiliary Grants Program which include the process the Department of Social Services is to use in establishing Auxiliary Grant rates for adult care residences, the services to be included in that rate, and the requirement for an individual's evaluation by a case manager as a condition of eligibility for payment from the program.

VR 615-01-51. Auxiliary Grants Program: Levels of Care and Rate Setting.

PART I. INTRODUCTION.

§ 1.1. Definitions.

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

"Adult care residence" means any place, establishment, or institution, public or private, operated or maintained for the maintenance or care of four or more adults who are aged, infirm, or disabled and who are cared for in a primarily residential setting, except (i) a facility or portion of a facility licensed by the State Board of Health or the Department of Mental Health, Mental Retardation and Substance Abuse Services, but including any portion of such facility not so licensed; and (ii) the home or residence of an individual who cares for or maintains only persons related to him by blood or marriage; and (iii) a facility or any portion of a facility serving infirm or disabled persons between the ages of 18 and 21, or 22 if enrolled in an educational program for the handicapped pursuant to § 22.1-214 of the Code of Virginia, when such facility is licensed by the Virginia Department of Social Services as a child-caring institution under Chapter 10 (§ 63.1-195 et seq.) of Title 63.1 of the Code of Virginia, but including any portion of the facility not so licensed. Included in this definition are any two or more places, establishments, or institutions owned or operated by a single entity and providing maintenance or care to a combined total of four or more aged, infirm or disabled adults.

"Applicant" means an adult currently residing or planning to reside in an adult care residence who has applied for financial assistance under the Auxiliary Grants Program.

"Approved rate" means a rate established by the Department of Social Services' Division of Financial Management for use by eligibility workers in local departments in determining Auxiliary Grants Program payments for eligible recipients.

"Assessment" means a multidimensional, standardized, functional review of the applicant's or resident's needs

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and resources.

"Assisted living" means a level of service provided by an adult care residence for adults who may have physical or mental impairments, may be independently mobile, semimobile, or nonambulatory, and require at least a moderate level of assistance with activities of daily living.

"Auxiliary Grants Program" means a state and locally funded assistance program to supplement income of a Supplemental Security Income (SSI) recipient or adult who would be eligible for SSI except for excess income, who resides in an adult care residence with an approved rate.

"Case manager" means an employee of a public human services agency having a contract with the Department of Medical Assistance Services to provide case management services and is qualified to perform case management activities.

"Cost report" means Adult Care Residences Cost Report.

"Department" means the Virginia Department of Social Services.

"Minimum rate" means the rate used to determine eligible Auxiliary Grant recipient reimbursement prior to the establishment of the residence's approved rate.

"Newly licensed adult care residence" means a residence that has been licensed for 12 months or less and is submitting a cost report for the first time for the establishment of a rate in excess of the minimum rate.

"Nonoperating expense" means expenses incurred by the residence for activities other than those directly related to the care of residents.

"Nonoperating revenue" means income earned by the residence for activities other than those directly related to the care of residents.

"Operating costs" means the allowable expenses incurred by an adult care residence for activities directly related to the care of residents.

"Personal needs allowance" means an amount of money reserved for meeting personal needs when computing the amount of the auxiliary grant.

"Rate" means approved rate.

"Recipient" means an adult approved to receive financial assistance under the Auxiliary Grants Program when residing in an adult care residence with an approved rate.

"Residence" means an adult care residence.

"Residential living" means a level of service provided

by an adult care residence for adults who may have physical or mental impairments, but require only minimal assistance with the activities of daily living and are independently mobile. This definition includes all independent living that is not assisted living in facilities that voluntarily become licensed.

"Uniform Assessment Instrument" means the state designated assessment form.

PART II. POLICY.

§ 2.1. Assessment.

A. In order to receive payment from the Auxiliary Grants Program for care in an adult care residence, applicants shall have been assessed by a case manager using the authorized Uniform Assessment Instrument and determined to need residential living care or assisted living care.

B. In order to continue receiving payment from the Auxiliary Grants Program, recipients residing in adult care facilities on the effective date of these regulations shall have been assessed by a case manager no later than June 1, 1995, and determined to need residential care or assisted living care in an adult care residence. Provisions shall be made by the department in Auxiliary Grants Program policy for grandfathering in those recipients who do not meet the criteria for residential care.

C. Recipients shall be reassessed at least annually based on the month of admission to the adult care residence.

§ 2.2. Basic services.

A. The rate established by the department for an adult care residence providing residential living care or assisted living care under the Auxiliary Grants Program shall cover the following services:

1. Room and board.

a. Provision of a furnished room (See VR 615-22-02:1, Regulations Governing Licensure of Adult Care Residences);

b. Housekeeping services based on the needs of the recipient;

c. Meals and snacks required by licensing regulations, including extra portions of food at mealtime and special diets;

d. Clean bed linens and towels as needed by the recipient and at least once a week;

e. Basic laundry of the recipient's personal clothing as needed by the recipient including a change of clothing every other day with a daily change of

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underwear and minor repair of the recipient's clothing.

2. Maintenance and care.

a. Minimal assistance with personal hygiene including bathing, dressing, oral hygiene, hair grooming and shampooing, care of clothing, shaving, care of toenails and fingernails, arranging for haircuts as needed, care of needs associated with menstruation or occasional bladder or bowel incontinence;

b. Medication administration as required by licensing regulations including insulin injections;

c. Provision of generic personal toiletries including shampoo, toothpaste, toothbrush, comb, soap and toilet paper;

d. Minimal assistance with the following:

(1) Care of personal possessions;

(2) Care of funds if requested by recipient (See VR 615-22-02.1, Regulations Governing Licensure of Adult Care Residences);

(3) Use of the telephone;

(4) Arranging transportation;

(5) Obtaining necessary personal items and clothing;

(6) Making and keeping appointments; and

(7) Correspondence.

e. Securing health care and transportation when needed for medical treatment;

f. Providing social and recreational activities as required by licensing regulations; and

g. General supervision for safety.

§ 2.3. Personal needs allowance.

A. The personal needs allowance for the recipient shall not be charged by the residence for any item or service not requested by the resident. The residence shall not require a resident or his representative to request any item or service as a condition of admission or continued stay. The residence must inform the resident or his representative requesting an item or service for which a charge will be made that there will be a charge for the item or service and what the charge will be. The personal needs allowance is expected to cover the cost of the following categories of items and services:

1. Clothing;

2. Personal toiletries not included in those to be provided by the adult care residence or if the recipient requests a specific type or brand of toiletries;

3. Personal comfort items including tobacco products, sodas, and snacks beyond those required by licensing regulations;

4. Barber and beauty shop services;

5. Over-the-counter medication, medical copayments and deductibles, insurance premiums;

6. Other needs such as postage stamps, dry cleaning, laundry in addition to basic laundry, direct bank charges, personal transportation, and long distance telephone calls;

7. Personal telephone, television, or radio; and

8. Social events and entertainment offered outside the scope of the activities program.

B. The personal needs allowance shall not be encumbered by the following:

1. Recreational activities required by licensing regulations (including any transportation costs of those activities);

2. Administration of accounts (bookkeeping, account statements); or

3. Debts owed the residence for basic services as outlined by regulations.

§ 2.4. Establishment of rate.

A. Submission of a cost report to the department's Division of Financial Management, Bureau of Cost Accounting is required to establish a rate in excess of the minimum rate.

B. The rate shall be calculated based on operating cost data reported on the cost report. Total operating costs shall be reduced by any nonoperating revenue less nonoperating expenses. If nonoperating expenses exceed nonoperating revenue, no adjustment is made. These costs are then adjusted in accordance with department policy to recognize operational changes, growth, and inflation. Based on the greater of actual filled bed days or 85% of bed capacity, a monthly rate per resident shall be calculated.

C. The established rate shall be the lesser of the calculated rate or the maximum authorized monthly rate established by state regulations as set forth in § 63.1-25.1 D of the Code of Virginia.

D. Rates shall be valid for 12 months unless the

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residence is required to submit a new cost report as a result of (i) significant operational changes as defined by department policy, or (ii) the residence changes ownership, or (iii) the residence changes location.

E. Newly licensed adult care residences shall operate for a minimum of 90 days prior to submission of a cost report for the purpose of establishing a rate. During the first 90 days of operation, the adult care residence's rate shall be the minimum rate. When cost reports are submitted no later than 60 days after the end of the first 90 days of operation, the effective date of the rate shall be made retroactive to the residence's date of licensure. When cost reports are submitted more than 150 days after licensure, the effective date of the rate shall be the first day of the second month following receipt of the cost report by the Division of Financial Management.

F. Adult care residences that have been in licensed operation in excess of 12 months shall establish an initial approved rate by submitting a cost report for the preceding calendar year. The cost report shall be reviewed by the Division of Financial Management and the approved rate established. The approved rate shall be the lesser of the calculated rate or the maximum authorized rate established by state regulations as set forth in § 63.1-25.1 D of the Code of Virginia. The approved rate shall become effective no later than the first day of the second month following the month the cost report is received by the Division of Financial Management.

G. After the initial approved rate is established, cost reports shall be submitted annually to the Division of Financial Management. If a provider that has previously established a rate fails to submit a cost report, the rate for residential living care shall become the minimum rate at the end of the twelfth month from the date the last rate was set.

§ 2.5. Reimbursement.

Any moneys contributed toward the cost of care pending public pay eligibility determination shall be reimbursed to the recipient or contributing party by the adult care residence once eligibility for public pay is established and that payment received.

§ 2.6. Audits.

All financial information reported by an adult care residence on the cost report shall be reconcilable to the residence's general ledger system or similar records. All cost reports are subject to audit by the Department of Social Services. Financial information which is not reconcilable to the residence's general ledger or similar records could result in retroactive adjustment of the rate and establishment of a liability to the provider. Records shall be retained for three years after the end of the reporting period or until audited, whichever is first.

VA.R. Doc. No. R94-277; Filed November 24, 1993, 11:24 a.m.

* * * * *

Title of Regulation: VR 615-22-02. Standards and Regulations for Licensed Homes for Adults (REPEALING).

Statutory Authority: §§ 63.1-25 and 63.1-174 of the Code of Virginia.

Public Hearing Date: N/A – Written comments may be submitted through February 11, 1994.
(See Calendar of Events section for additional information)

Basis: Section 63.1-174 of the Code of Virginia provides the statutory basis for promulgation of licensure regulations. The State Board of Social Services is promulgating the proposed repeal of the homes for adults regulation.

Purpose: The purpose of this regulatory action is to implement new licensing requirements for licensed homes for adults as required by House Bill 2280 enacted by the 1993 General Assembly. The current regulation will be superseded by the regulation entitled: Standards and Regulations for Licensed Adult Care Residences (VR 615-22-02:1) which is proposed to become effective June 1, 1994.

Substance: This regulation is being proposed for repeal. The Department of Social Services determined that promulgating new regulations to reflect the changes made by the 1993 General Assembly session was the most efficient way to implement the law.

Issues: This regulation addresses basic licensing requirements regarding management and personnel, admission and discharge policies, services, records, buildings and grounds, furnishings, equipment and supplies, housekeeping and maintenance, and fire and emergency protection.

Impact: There will be little or no impact on homes for adults or their residents because new regulations for adult care residences are being promulgated concurrently with the repeal of this regulation.

Summary:

The 1993 General Assembly enacted legislation which creates levels of care in licensed homes for adults. This legislation also changes the term "homes for adults" to "adult care residences." Requirements for case management services for public pay residents and the administration of the Auxiliary Grant Program were also included in the legislation. Because of the many changes required by the statute and the department's desire to reorganize the licensing requirements, the Department of Social Services decided to repeal the existing licensing requirements for homes for adults. The regulation is being repealed concurrently with the promulgation of new licensing

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requirements for adult care residences.

VA.R. Doc. No. R94-269; Filed November 24, 1993, 11:23 a.m.

* * * * *

EDITOR'S NOTICE: The proposed regulation entitled, "VR 615-22-02:1, Standards and Regulations for Licensed Adult Care Residences" filed by the Department of Social Services 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 Social Services, 730 E. Broad Street, Richmond, VA 23219. Copies of the regulations may be obtained from Peggy Friedenberg, Department of Social Services, 730 E. Broad Street, Richmond, VA 23219, telephone (804) 692-1820.

Title of Regulation: VR 615-22-02:1. Standards and Regulations for Licensed Adult Care Residences.

Statutory Authority: §§ 63.1-25 and 63.1-174 of the Code of Virginia.

Public Hearing Dates:

January 11, 1994 - 1 p.m.

January 12, 1994 - 1 p.m.

January 13, 1994 - 1 p.m.

January 14, 1994 - 1 p.m.

January 18, 1994 - 1 p.m.

Written comments may be submitted through February 11, 1994.

(See Calendar of Events section for additional information)

Basis: Section 63.1-174 of the Code of Virginia provides the statutory basis for promulgation of licensure regulations. The State Board of Social Services is promulgating the proposed regulation for adult care residences.

Purpose: The purpose of this regulation is to establish standards to support levels of care in licensed homes for adults as required by House Bill 2280 enacted by the 1993 General Assembly. The proposed regulation will change the term "homes for adults" to "adult care residences" and provide for two levels of licensure: residential living and assisted living. The regulation for the residential living level of licensure will be for those individuals described as requiring only minimal assistance with the activities of daily living. The requirements in this section of the regulation will also serve as basic requirements for the two levels of care. Additional requirements for assisted living facilities are included in Part VI of the regulation. These requirements are for individuals requiring at least a moderate level of assistance with the activities of daily living.

Substance: This regulation contains most of the same

requirements as the regulation entitled "Standards and Regulations for Licensed Homes for Adults." Many enhancements have been made as recommended by the Joint Legislative Audit and Review Commission and the recently enacted levels of care legislation which becomes effective June 1, 1994. The regulation is divided into two main sections. The first section addresses requirements for all facilities. Some of the more substantive enhancements made to this section of the regulation which were not a part of the existing licensing regulation include:

Increased requirements for the administrator - the administrator must be 21 years of age and have one year of college or administrative experience in addition to a diploma or GED;

Increased requirements for staff - staff having direct care responsibilities must be at least 18 years of age. Staff must also be able to effectively communicate both orally and in writing as applicable to their job responsibility;

Improved tuberculosis requirements - annual documentation will be required of all staff confirming the absence of TB;

Strengthened staffing requirements - staffing must be provided as determined by client functional needs;

The use of a communication log by staff - the purpose of this requirement is to ensure that information is relayed when staff changes shifts;

The prohibition of certain medical conditions as specified by statute;

Improved requirements for the administration of medications - documentation is required, the safe disposal of discontinued medications and infectious waste is addressed, and specific safety precautions are included for the use of oxygen therapy;

The incorporation of the department's Do Not Resuscitate Order policy in the regulation; and

Improved requirements for the care of persons who are bedfast.

The second section addresses requirements for providers desiring assisted living licensure. Some of the major issues included are:

Higher qualifications for the administrator - these administrators must complete two full years of college and have one year of administrative experience, or have completed a department approved training program.

A 20-hour annual training requirement for the administrator;

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A requirement that all staff complete a training program consistent with the department's requirements;

A requirement that a licensed health care professional be retained by employment or on a contractual basis to provide health care oversight;

An annual physical examination requirement for all residents;

Standards regarding the provision of restorative and rehabilitative services;

A 21-hour per week activity requirement for all residents;

An annual review of all resident medications by a licensed health care professional;

An annual training requirement of 12 hours per year for all direct care staff;

A requirement for written policies and procedures addressing the care of residents who are physically impaired; and

A requirement for a psychiatric or psychological evaluation prior to admission for all residents who are mentally impaired.

Issues: This regulation addresses the following issues which will affect providers planning to seek residential living or assisted living licensure as of June 1, 1994: personnel and staffing requirements, admission and discharge procedures, resident accommodations, care and related services, buildings and grounds, and additional requirements for assisted living facilities.

The implementation of the proposed regulation will benefit all current and future residents of homes for adults (adult care residences) by enhancing the care, services and supervision provided to residents in licensed care. It will also provide the basis for increased protection and fewer incidences of abuse and neglect.

The regulation will benefit the state by allowing individuals who otherwise would require nursing care to remain in a less expensive, lower level of care which has the appropriate precautions and medical oversight to support safe care.

The Department of Medical Assistance Services is applying for a Medicaid Assisted Living Waiver to support the cost of assisted living care for public pay residents. The implementation of the regulation with the Medicaid waiver should reduce the Commonwealth's Medicaid costs by delaying nursing home admissions.

The regulation is generally supported by public pay providers because it is tied to increased Auxiliary Grant

reimbursement and allows accessibility to Medicaid funds. However, there are still some standards that are controversial among all providers because of cost impacts.

Impact: There are currently 562 homes for adults licensed to serve a total of 26,006 residents.

This regulation will impact the licensee's cost of providing care to residents of adult care residences. However, the payment source for public pay residents, the Auxiliary Grant, is expected to increase. In addition, it is expected that providers who care for public pay residents will also receive an additional Medicaid waiver payment for those residents requiring the assisted living level of care. The department plans to request information regarding cost impact from providers during the public comment period.

The regulation will mainly affect the operational costs of those facilities planning to offer the assisted living level of care. Current estimates, based on a service intensity study which was mandated by the 1993 General Assembly, indicate that about 31% of homes for adults residents will require assisted living level of care. Hence, those facilities housing assisted living residents will have to meet increased requirements or discharge the residents.

The licensing costs associated with implementing this regulation (FY 93-94) were included in the Appropriation Act. There was \$95,608 appropriated in the 1993-94 budget and \$172,523 has been requested in an addendum item for 1995.

The Department of Social Services' regulatory activities are supported by general funds.

Summary:

The 1993 General Assembly enacted legislation which creates levels of care in licensed homes for adults. This legislation also changes the term "homes for adults" to "adult care residences." This regulation contains some of the same requirements as the regulation entitled "Standards and Regulations for Licensed Homes for Adults." Many enhancements have been made as recommended by the Joint Legislative Audit and Review Commission and the recently enacted levels of care legislation which becomes effective June 1, 1994. The regulation is divided into two main sections. The first section addresses requirements for all facilities. The second section addresses requirements for providers desiring assisted living licensure. This regulation specifies the licensure requirements for adult care residences. The proposed effective date of this regulation is June 1, 1994.

VA.R. Doc. No. R94-280; Filed November 24, 1993, 11:19 a.m.

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Title of Regulation: VR 615-46-02. Assessment and Case

Proposed Regulations

Management in Adult Care Residences.

Statutory Authority: §§ 63.1-25 and 63.1-173.3 of the Code of Virginia.

Public Hearing Dates:

January 11, 1994 - 1 p.m.

January 12, 1994 - 1 p.m.

January 13, 1994 - 1 p.m.

January 14, 1994 - 1 p.m.

January 18, 1994 - 1 p.m.

Written comments may be submitted through February 11, 1994.

(See Calendar of Events section for additional information)

Basis: Sections 63.1-25.1 and 63.1-173.3 of the Code of Virginia, pursuant to Chapter 957 of the 1993 Acts of Assembly, provide statutory basis for the promulgation of assessment and case management regulations.

Purpose: The purpose of this regulation is to develop standards to support the assessment and case management of applicants and residents in adult care residences as required by Chapter 957 enacted by the 1993 General Assembly. The proposed regulation will change the term "homes for adults" to "adult care residences" and will provide for standards for assessment, case management and monitoring for residential living and assisted living residents.

Substance: This regulation sets forth requirements for assessment and case management in adult care residences which will result in a level of care determination, and payment level for all applicants and residents in adult care residences. The regulation will provide for assignment of either a residential or assisted level of care rating for each resident and provide for reassessment and monitoring of care and services provided.

Issues: This regulation addresses the following issues which affect recipients and providers of adult care residence services: payment rates for Auxiliary Grant recipients, case management process, use of the uniform assessment instrument, assessment, reassessment, service delivery, appeals procedures, reporting and record-keeping requirements, staffing needs and criteria for levels of care. Implementation advantages include: (i) assessment and reassessment of care needs of each resident to ensure that the facility can adequately meet those needs; (ii) criteria for levels of care will identify the populations to be served and link with minimal health and safety standards; (iii) the public payment for eligible residents will be based upon care needs and services provided by the residence. These regulations will provide the state, through the Department of Social Services, with the ability to adequately protect the health and safety of residents by ensuring care needs are met. There will be additional costs to implement this regulation which is a disadvantage.

Estimated Impact:

A. Regulated Entities: There are currently 562 homes for adults licensed to serve a total of 26,006 residents. Local department of social services will be impacted by providing case management services to applicants and residents.

B. Projected Costs to the Regulated: This regulation will impact adult care residences. The projected costs to the adult care residence will vary to the extent that the residence opts to provide case management services through staff of the facility. The department plans to request information regarding cost impacts during the public comment period.

C. Expected Costs for the Agency: The case management costs associated with implementing this regulation were included in the 1993-94 appropriation in the Department of Medical Assistance Services's budget. The proposed costs for case management for the biennium are \$4,092,289.

D. Source of Funds: The Department of Social Services' case management services will be supported by general funds and Medicaid funds.

Summary:

The 1993 General Assembly enacted legislation (Chapter 957) which creates levels of care in licensed homes for adults. This legislation also changes the term "homes for adults" to "adult care residences." Requirements for assessment and case management services for residents and the administration of the Auxiliary Grant Program were also included in the legislation. This regulation establishes general standards for the assessment, case management and determination of levels of care for applicants and residents of adult care residences. Information on individuals to be served, determination and authorization of services, rating of levels of care and responsibilities and qualifications of the case manager are included.

VR 615-46-02. Assessment and Case Management in Adult Care Residences.

**PART I.
INTRODUCTION.**

§ 1.1. Definitions.

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

"Activities of daily living (ADLs)" means bathing, dressing, toileting, transferring, bowel control, bladder control, and eating. A person's degree of independence in performing these activities is a part of determining appropriate setting.

"Adult care residence" means any place, establishment,

or institution, public or private, operated or maintained for the maintenance or care of four or more adults who are aged, infirm, or disabled and who are cared for in a primarily residential setting, except (i) a facility or portion of a facility licensed by the State Board of Health or the Department of Mental Health, Mental Retardation and Substance Abuse Services, but including any portion of such facility not so licensed; and (ii) the home or residence of an individual who cares for or maintains only persons related to him by blood or marriage; and (iii) a facility or any portion of a facility serving infirm or disabled persons between the ages of 18 and 21, or 22 if enrolled in an educational program for the handicapped pursuant to § 22.1-214 of the Code of Virginia, when such facility is licensed by the Virginia Department of Social Services as a child-caring institution under Chapter 10 (§ 63.1-195 et seq.) of Title 63.1 of the Code of Virginia, but including any portion of the facility not so licensed. Included in this definition are any two or more places, establishments, or institutions owned or operated by a single entity and providing maintenance or care to a combined total of four or more aged, infirm or disabled adults.

"Applicant" means an adult currently residing or planning to reside in an adult care residence.

"Arranging for services" means the process through which the case manager identifies appropriate adult care residences to meet the needs of the applicant, including level of care, for applicants and recipients of adult residential care.

"Assisted living" means a level of service provided by an adult care residence for adults who may have physical or mental impairments, may be independently mobile, semimobile, or nonambulatory, and require at least a moderate level of assistance with activities of daily living.

"Assessment" means a multidimensional, standardized functional review of the applicant's or resident's needs and resources.

"Auxiliary Grants Program" means a state and locally funded assistance program to supplement income of a Supplemental Security Income (SSI) recipient or adult who would be eligible for SSI except for excess income, who resides in an adult care residence with an approved rate.

"Care plan" means a standardized, written description of the functional capabilities of a resident, the resident's need for social, physical and mental health services and the need for residential living or assisted living services.

"Case management" means an activity performed by an employee of a public human services agency to locate, coordinate and monitor services for applicants and recipients of the Auxiliary Grants Program and for private pay residents who purchase the service.

"Case management agency" means a public human

service agency or organization which employs or contracts for case managers who have experience or have been trained in establishing, and in periodically reviewing and revising, individual community care plans and in the provision of case management services to elderly persons and to disabled adults.

"Case manager" means an employee of a public human services agency having a contract with Department of Medical Assistance Services to provide case management services and qualified to perform case management activities.

"Community based waiver services" means a service program administered by Department of Medical Assistance Services under a waiver approved by the United States Secretary of Health and Human Services pursuant to Section 1915 (c) of the Social Security Act.

"Consultation" means the process of seeking and receiving information and guidance from appropriate human services agencies and other professionals when assessment data indicate certain social, physical and mental health conditions.

"Department" means the Virginia Department of Social Services.

"Dependent" means an individual needs the assistance of another person or needs the assistance of another person and equipment or device to safely complete the activity.

"Discharge" means the movement of a resident out of the adult care residence as it relates to case management.

"Emergency placement" means the status of a placement for a person whose health and safety would be jeopardized by not permitting entry into an adult care residence until requirements for admission have been met. The emergency shall be certified and placement approved by an adult protective services worker or case manager.

"Functional capacity" means the degree of independence with which an individual can perform activities of daily living, and instrumental activities of daily living.

"Home and community care" means any of the following services: adult day care, Chore, home health care, homemaker, nursing services in the home, personal care services, and respite care.

"Independent" means an individual needs no assistance, equipment or human help, to safely perform the activity.

"Instrumental activities of daily living (IADLs)" means meal preparation, housekeeping, laundry and managing money. A person's degree of independence in performing these activities is a part of determining appropriate setting.

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"Intake and screening" means the preliminary evaluation of a potential resident's need for placement in an adult care residence to determine whether a full assessment is needed.

"Intensive assisted living" means a home and community-based service reimbursed by Department of Medical Assistance Services.

"Maximum physical assistance" means that the individual requires total assistance (another person completes the entire activity or the activity is not performed) in four or more of the seven ADLs.

"Medication administration" means the degree of assistance required to take medications without dependencies imposed by his environment and is a part of determining appropriate setting.

"Monitoring" means the maintenance of regular contact with the resident, staff of the adult care residence and community-based service providers to ensure that the services provided are meeting the resident's needs.

"Private pay" means a resident of an adult care facility not eligible for benefits under the Auxiliary Grants Program.

"Public human service agency" means an agency established or authorized by the General Assembly under Chapters 2 and 3 of Title 63.1, Chapter 24 of Title 2.1, Chapter 10 of Title 37.1, or Article 5 of Chapter 1 of Title 32.1 of the Code of Virginia and supported wholly or principally by public funds, including but not limited to funds provided expressly for the purposes of case management.

"Public pay" means a resident of an adult care facility eligible for benefits under the Auxiliary Grants Program.

"Qualified case management agency" means an agency or organization which meets the requirements specified in these regulations.

"Reassessment" means a formal review of the resident's status as documented on the Uniform Assessment Instrument to determine whether the resident's situation and functioning have changed in relation to the goals established in the care plan and continuing appropriateness of placement in residential or assisted living and that the needs of the resident continue to be met.

"Relocate" means the movement of a resident from an adult care residence to another adult care residence.

"Residence" means an adult care residence.

"Residential living" means a level of service provided by an adult care residence for adults who may have physical or mental impairments, but require only minimal

assistance with the activities of daily living and are independently mobile. This definition includes all independent living that is not assisted living in facilities that voluntarily become licensed.

"Semidependent" means an individual needs equipment or device to safely complete the activity but does not need assistance from another person.

"Service delivery" means describing the responsibilities of the case manager, resident, adult care residence and other formal and informal supports; arranging for appropriate services and supports to achieve the goals of the care plan; notifying, in the case of public pay applicants and residents, the financial eligibility worker of the level of care needed; and contacting the resident and residence after placement to ensure that services are being provided.

"Uniform Assessment Instrument (UAI)" means the state designated assessment form.

"Uniform Assessment Instrument Instruction Manual" means the state designated handbook containing definitions and procedures for completing the state designated assessment form.

"Virginia Department of Medical Assistance Services (DMAS)" means the single state agency designated to administer the Medical Assistance Program in Virginia.

PART II. POLICY.

§ 2.1. Persons to be served; assessment of private pay residents; public pay residents.

A. Upon the effective date of these regulations case management shall be provided to public pay applicants and residents of adult care facilities and for a fee to those private pay applicants and residents requesting the service.

B. Assessments of private pay residents conducted by a case manager or independent physician shall include portions of the UAI as designated by the state.

Private pay residents shall be reassessed annually based upon the month of admission to the adult care residence. Reassessment shall include only criteria needed to determine level of care.

Responsibilities of the case manager for private pay residents requesting the services of a case manager are limited to assessment and reassessment functions.

Private pay residents receiving case management services have the right to appeal the outcome of the case manager's assessment and determination of level of care.

C. Beginning on the effective date of these regulations

all new applicants of the Auxiliary Grants Program shall be assessed by a case manager to determine need for residential or assisted living services.

1. Assessments of current recipients of the Auxiliary Grants Program residing in an adult care facility shall be completed by June 1, 1995.

2. After the effective date of these regulations, in order to transition to levels of care, priority for assessing current recipients of the Auxiliary Grants Program residing in an adult care residence shall be given to those residents who are identified by facilities as requiring assisted living.

§ 2.2. Determination of services to be provided.

A. The case management process shall include intake and screening, assessment, care planning, arranging for services, service delivery, monitoring, reassessment and discharge.

B. The assessment shall be conducted with the state designated Uniform Assessment Instrument which sets forth a resident's care needs. Sections of the UAI which must be completed upon admission for:

1. Private pay residents shall include the following portions of the UAI: full name of the individual; social security number; current address; date of birth, sex, marital status; use of current formal services; performance on functional status which includes: ADLs, continence, ambulation, and IADLs; physician information; admissions to hospitals, nursing facilities or adult care residences for medical or rehabilitation reasons; diagnoses and medication profile; sensory functioning; joint motion; presence of fractures/dislocations, missing limbs or paralysis/paresis; nutrition; smoking history; use of rehabilitation therapies; presence of pressure ulcers; need for special medical procedures; need for ongoing medical/nursing needs; orientation; memory and judgment; behavior pattern; life stressors; emotional status.

2. Public pay residents shall include the UAI in its entirety.

The assessment must be completed upon admission or when a resident moves from one adult care residence to another adult care residence if there is no assessment on record. If there is an assessment on record, another assessment does not have to be completed unless more than six months have elapsed from the prior assessment or if the resident's care needs warrant another level of care. In emergency placements the assessment must be completed within five working days from the time of entrance.

The care plan shall be on the state designated form and shall include evaluation of problems, unmet needs and

strengths identified in the assessment, identify resident-specific goals, objectives and expected time frames for completion; and identify the payment level for public pay residents.

The following will be provided by the case manager to ensure care plan implementation: arranging for services, service delivery and monitoring.

Reassessment shall be face-to-face and completed on a periodic basis to identify changes in the resident's needs. Formal reassessments should also be completed whenever deemed necessary by the case manager when changes in the resident's health or functioning status occur or when situations are identified by licensing inspectors that a resident's condition needs reassessment. The reassessment for private pay shall include only the criteria needed to determine level of care. Reassessment for public pay residents shall include updating the entire UAI.

C. The case manager shall consult with other appropriate human service professionals as needed.

D. Assessments shall be performed at least annually for private pay residents, based upon the month of admission to the adult care residence. Assessments for public pay residents shall be determined by the case manager, and shall occur no less frequently than at the following intervals:

1. At least annually based upon the month of admission to the adult care residence for residential living, or at least every six months based upon the admission date to the adult care residence for assisted living; and

2. As required when the resident is identified by licensing inspectors as needing a change in level of care.

E. Discharge is the process that ends the stay in an adult care residence. The case manager for public pay residents shall participate with the resident and staff of the adult care residence in planning for post discharge services when appropriate. Upon notification by the adult care residence of the discharge of a resident, the case manager shall notify the financial eligibility worker of the date of discharge. Upon change in level of care or termination of case management services, the case manager shall promptly notify the applicant or resident in writing of the decision with a copy of the notice to the financial eligibility worker.

§ 2.3. Authorization of services to be provided.

A. The criteria for levels of care in adult care residences are contained herein. The case manager, or the independent private physician for private pay residents, is responsible for determining that the individual meets the criteria for the levels of care for admission to and continued stay in an adult care residence.

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B. Functional capacity (the degree of assistance an individual requires to complete activities of daily living) must be documented on the UAI, completed in a manner consistent with the definitions of activities of daily living and directions provided in the UAI instruction manual. The ratings of functional dependencies on the state designated assessment form must be based on the individual's ability to function in a community environment not including any institutionally induced dependence.

C. Individuals may be considered to meet the requirements of residential living when one of the following describe their functional capacity:

1. Rated dependent in only one of seven ADLs.
2. Rated dependent in one or more of four IADLs or dependent in medication administration.

D. Individuals may be considered to meet the functional capacity requirements for assisted living when they are rated dependent in two or more of seven ADLs.

E. The criteria for assessing an individual's eligibility for Medicaid payment of intensive assisted living in an adult care residence consists of functional capacity and the individual's risk of nursing facility placement in the absence of community-based waiver services, such as those that might be provided in an adult care residence.

The case manager for Auxiliary Grant recipients is responsible for determining upon admission and on a periodic basis that the individual meets the criteria for intensive assisted living services. Authorization of such services shall be made before placement occurs.

The authorization for intensive assisted living may be rescinded by the case manager or the adult care residence or by the DMAS at any point that the individual is determined to no longer meet the criteria for intensive assisted living services.

The criteria for intensive assisted living in an adult care residence are contained herein. An individual's need for care must meet these criteria before any authorization for payment by Medicaid will be made. The nursing home preadmission screening team or the case manager is responsible for documenting that the individual meets the criteria for authorizing admission to intensive assisted living in adult care residences.

Individuals may be considered to meet the requirements for intensive assisted living in adult care residences when one of the following describes their functional capacity:

1. Rated dependent in two to four of the seven ADLs, and also rated semidependent or dependent in Behavior Pattern and Orientation.
2. Rated dependent in four to seven of the ADLs.

3. Rated semidependent in two to seven of the ADLs, and also rated dependent in Behavior Pattern and Orientation.

§ 2.4. Rating of levels of care on the UAI.

A. The rating of functional dependencies on the UAI must be based on the individual's ability to function in a community environment, not including any institutionally induced dependence. The following abbreviations shall mean: I = independent; d = semidependent; D = dependent; MH = mechanical help (equipment or device); HH = human help (includes supervision and physical assistance).

Activities of Daily Living

(1) Bathing

- (a) Without help (I)
- (b) MH only (d)
- (c) HH only (D)
- (d) MH and HH (D)
- (e) Is performed by others (D)

(2) Dressing

- (a) Without help (I)
- (b) MH only (d)
- (c) HH only (D)
- (d) MH and HH (D)
- (e) Is performed by others (D)
- (f) Is not performed (D)

(3) Toileting

- (a) Without help day or night (I)
- (b) MH only (d)
- (c) HH only (D)
- (d) MH and HH (D)
- (e) Is not performed (D)

(4) Transferring

- (a) Without help (I)
- (b) MH only (d)
- (c) HH only (D)
- (d) MH and HH (D)
- (e) Is performed by others (D)
- (f) Is not performed (D)

(5) Bowel Function

- (a) Continent (I)
- (b) Incontinent less than weekly (d)
- (c) Ostomy self-care (d)
- (d) Incontinent weekly or more (d)
- (e) Ostomy not self-care (D)

(6) Bladder Function

- (a) Continent (I)
- (b) Incontinent less than weekly (d)
- (c) External device, indwelling catheter, ostomy, self-care (d)
- (d) Incontinent weekly or more (D)
- (e) External device, not self-care (D)
- (f) Indwelling catheter, not self-care (D)
- (g) Ostomy, not self-care (D)

(7) Eating/Feeding

- (a) Without help (I)
- (b) MH only (d)
- (c) HH only (D)
- (d) MH and HH (D)
- (e) Spoon fed (D)
- (f) Syringe or tube fed (D)
- (g) Fed by IV or clysis (D)

Behavior Pattern and Orientation

- (1) Appropriate or Wandering/Passive less than weekly + Oriented (I)
- (2) Appropriate or Wandering/Passive less than weekly + disoriented Some Spheres (I)
- (3) Wandering/Passive Weekly or more + Oriented (I)
- (4) Appropriate or Wandering/Passive less than weekly + Disoriented All Spheres (d)
- (5) Wandering/Passive Weekly or more + Disoriented Some or All Spheres (d)
- (6) Abusive/Aggressive/Disruptive less than weekly + Oriented or Disoriented (d)
- (7) Abusive/Aggressive/Disruptive weekly or more + Oriented (d)
- (8) Abusive/Aggressive/Disruptive weekly or more + Disoriented (D)

Instrumental Activities of Daily Living

(1) Meal Preparation

- (a) No help needed (I)
- (b) Needs help (D)

(2) Housekeeping

- (a) No help needed (I)
- (b) Needs help (D)

(3) Laundry

- (a) No help needed (I)
- (b) Needs help (D)

(4) Money Management

- (a) No Help Needed (I)
- (b) Needs Help (D)

Medication Administration

- (a) Without Assistance (I)
- (b) Administered/monitored by lay person (D)
- (c) Administered/monitored by professional staff (D)

B. Employees of local departments of social services, area agencies on aging, local departments of health and community services boards meeting the DMAS criteria for case managers may serve as case managers.

C. For purposes of admission to an adult care residence, any such employee meeting DMAS criteria for case manager shall conduct an assessment using the UAI to determine need for placement in an adult care residence for public pay individuals and those private pay persons requesting the service.

D. The case manager conducting the initial assessment shall be responsible for reassessment unless or until the adult care resident's case is referred to another case manager and accepted by that case manager for care plan monitoring and reassessment.

E. The outcome of the assessment will determine whether placement in an adult care residence is appropriate and, if appropriate, designate residential living or assisted living as the level of care to be provided by the facility.

F. The case manager, the applicant to an adult care residence, and the adult care residence shall develop a care plan based upon the outcome of the UAI and facilitate placement in an adult care residence with services specified in the care plan.

1. In the case of a public pay resident, forward to the local financial eligibility worker in the format specified by the department the effective date of admission and the level of care provided by the adult care facility.

2. Forward to the designated state entity the outcome of the assessment.

3. The case manager shall maintain in the record a copy of the UAI and care plan, copy of the referral to the financial eligibility worker and other data relative to implementing the care plan.

4. The case manager shall conduct the periodic reassessment for public pay residents as required unless the adult care resident's case is referred to another case manager and accepted by the that case manager for care plan monitoring and reassessment.

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5. For private pay residents, the facility is responsible for coordinating with a case manager or independent physician to ensure that reassessments are completed as specified in these regulations.

§ 2.5. Qualifications of providers of case management.

A. A qualified case management agency must have signed an agreement with the Department of Medical Assistance Services to deliver case management services to applicants and recipients of Auxiliary Grants, shall have procedures for assuring the quality of case management services and must ensure that case managers are competent to perform case management functions, that the case manager shall not be the applicant's or resident's financial representative, and that caseload size shall be adequate.

B. A qualified case manager must possess a combination of relevant work experience in human services or health care and relevant education which indicates that the individual possesses the following knowledge, skills, and abilities at entry level. This information must be documented on the case manager's job application form or supporting documentation or observable in the job or promotion interview. When the provider agency is a local department of social services, case managers shall meet the qualifications for social work/social work supervisor classification as specified in VR 615-01-90.

1. Knowledge of aging or the impact of disabilities and illness, conducting client assessments (including psychosocial, health and functional factors) and their uses in care planning, interviewing techniques; consumers' rights; local human and health service delivery systems, including support services and public benefits eligibility requirements; the principles of human behavior and interpersonal relationships; effective oral, written, and interpersonal communication principles and techniques; general principles of record documentation; and service planning process and the major components of a service plan.

2. Skills in negotiating with consumers and services providers; observing, recording and reporting behaviors; identifying and documenting a consumer's needs for resources, services and other assistance; identifying services within the established services system to meet the consumer's needs; coordinating the provision of services by diverse public and private providers; and analyzing and planning for the service needs of elderly or disabled persons; assessing the residents using the UAI.

3. Abilities to demonstrate a positive regard for consumers and their families; be persistent and remain objective; work as a team member, maintaining effective inter- and intra-agency working relationships; work independently, performing position duties under general supervision; communicate

effectively, verbally and in writing; develop a rapport and communicate with different types of persons from diverse cultural backgrounds; and interview.

C. Individuals meeting all of the qualifications set out in subsections A and B of this section shall be considered a qualified case manager; however, it is preferred that the case manager possess a minimum of an undergraduate degree in a human service field, or be a licensed nurse. In addition, it is preferable that the case manager have two years of satisfactory experience in a human services field working with the aged or disabled. It is required that the individual complete a training on the UAI prior to performing case management.

PART III. UNIFORM ASSESSMENT INSTRUMENT.

§ 3.1. Uniform Assessment Instrument.

The UAI is designed to be a comprehensive, accurate, standardized, and reproducible assessment of individuals seeking or receiving long-term care services and shall contain the following items: full name of the individual; social security number; current address; date of birth, sex, marital status; racial/ethnic background; education; method for communication of needs; primary caregiver or emergency contact or both; usual living arrangements; problems with physical environment; use of current formal services; annual income; sources of income; legal representatives; benefits or entitlements received; types of health insurance; performance on functional status which includes: ADLs, continence ambulation and IADLs; physician information; admissions to hospitals, nursing facilities or adult care residences for medical or rehabilitation reasons; advance directives; diagnoses and medication profile; sensory functioning; joint motion; presence of fractures/dislocations, missing limbs or paralysis/paresis; nutrition; smoking history; use of rehabilitation therapies; presence of pressure ulcers; need for special medical procedures; need for ongoing medical/nursing needs; orientation; memory and judgment; behavior pattern; life stressors; emotional status; social history which includes activities; church involvement; contact with family and friends; hospitalization for emotional problems; use of alcohol or drugs; assessment of caregiver(s) and an assessment summary.

PART IV. RESIDENT PROTECTION.

§ 4.1. Resident protection.

Case managers shall advise all applicants and residents of adult care facilities for which case management services are provided of the right to appeal the outcome of the case manager's assessment, reassessment or determination of level of care. Applicants for an Auxiliary Grant who disagree with the level of care determined under this section or are denied an Auxiliary Grant because the case manager determines that they do not

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require the level of services offered in the residential care level have the right to file an appeal with the Department of Social Services under § 63.1-116 of the Code of Virginia.

VA.R. Doc. No. R94-275; Filed November 24, 1993, 11:21 a.m.

DEPARTMENT OF THE TREASURY (TREASURY BOARD)

Title of Regulation: VR ~~640-01-01~~ 640-01-1. Public Participation Guidelines for the Department of the Treasury and Treasury Board.

Statutory Authority: §§ 2.1-179 and 9-6.14:7.1 of the Code of Virginia.

Public Hearing Date: N/A – Written comments may be submitted through February 11, 1994.

(See Calendar of Events section for additional information)

Basis: § 9-6.14:7.1 of the Code of Virginia requires that public participation guidelines for soliciting the input of interested parties in the formation and development of regulations shall be developed, adopted and utilized by each agency pursuant to the provisions of this chapter. These amendments are promulgated under the authority granted in §§ 2.1-177 and 2.1-179 of the Code of Virginia and the authority delegated to the Treasurer by the Treasury Board.

Purpose: This regulation establishes public participation guidelines for soliciting input from interested parties in the formation, development and revision of regulations by the Department of the Treasury and the Treasury Board during all phases of the regulatory process. Amendments to the department's current public participation guidelines are necessary to comply with legislation enacted by the 1993 General Assembly which amended the Administrative Process Act (Acts of Assembly 1993, Chapter 898) by adding additional provisions to be included in agency public participation guidelines.

Substance: The proposed amendments to the department's Public Participation Guidelines provide for public petition to develop or amend a regulation and clarify under what condition the use of public hearings and advisory committees are appropriate.

Issues: The proposed amendments enhance the ability of interested parties to participate in the formation, development and revision of regulations promulgated by the Department of the Treasury and the Treasury Board. Allowing for enhancement of solicited input from interested parties further enhances the department's ability to develop or revise regulations based on outside input.

Impact: These proposed amendments will affect all parties interested in providing input to the regulatory process of

the department and the Treasury Board. There is no cost impact on the part of the department, the Treasury Board, or the public associated with the implementation of the proposed amendments.

Summary:

The 1984 amendments to the Administrative Process Act required that each regulatory agency develop, adopt and use Public Participation Guidelines for seeking comments from interested parties when developing, revising or repealing regulations. These procedures were required before initial action on any regulations, and during the entire promulgation process. All regulations adopted after October 1, 1984, were subject to this requirement.

Legislation enacted by the 1993 General Assembly amended the Administrative Process Act (Acts of Assembly 1993, Chapter 898) by adding additional provisions to be included in agency Public Participation Guidelines.

The department's current Public Participation Guidelines have been amended to reflect current agency practice and to accommodate the new requirements in the Administrative Process Act. This regulation establishes public participation guidelines for soliciting input from interested parties in the formation, development and revision of regulations by the Department of the Treasury and the Treasury Board during all phases of the regulatory process. The proposed amendments provide for public petition to develop or amend a regulation and clarify under what condition the use of public hearings and advisory committees are appropriate.

VR 640-01-1. Public Participation Guidelines for the Department of the Treasury and Treasury Board.

§ 1. Generally.

In developing proposed regulations, the Department of the Treasury or Treasury Board (collectively, "department") are committed to active solicitation of input and comment from interested citizens, professional associations, and industry associations.

Any person who is interested in participating in the regulation development process should notify the department in writing. Such notification of interest should be sent to Agency Regulatory Coordinator, Department of the Treasury, P.O. Box 6-H 1879, Richmond, Va. 23215.

Accordingly, the department shall consult with interested groups and individuals, identified by the process set out in § 2, concerning each regulation promulgated by the department. The department shall make use of standing or ad hoc panels under the circumstances set out in § 4 A 2.

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Any person may petition the department to develop a new regulation or amend an existing regulation. The department shall respond to any such request within 180 days from its receipt.

§ 2. Identification of interested parties.

Prior to the development of any regulation, the department shall identify persons likely to be interested in or affected by the proposal. The methods for identifying interested parties shall include, but not be limited to, the following:

1. Obtaining annually from the Secretary of the Commonwealth a list of all persons, citizen groups, associations and others who have registered as lobbyists for the annual General Assembly session. This list will be used to identify interest groups which may be interested in the subject matter of the proposed regulation;
2. Utilizing the statewide listing of business, professional, civic and charitable associations and societies in Virginia published by the State Chamber of Commerce to identify additional industry and professional associations which might be interested in the regulation;
3. Utilizing department subject matter files to identify persons who have previously raised questions or expressed an interest in the subject matter under consideration through requests for rulings or information; and
4. Utilizing a standing list, compiled by the department, of persons who have previously participated in public proceedings relative to similar subject matters who have expressed a general interest in Treasury regulations.

§ 3. Notification of interested parties.

A. Generally.

The department shall prepare a Notice of Intended Regulatory Action prior to the development of any regulations. The notice shall identify the subject matter and purpose for the development of the new regulation(s) and shall specify a deadline for receipt of responses from persons interested in participating in the development process. *The notice shall state whether a public hearing is to be held. If the notice states that a public hearing will be held, then the department shall hold a public hearing. If the notice states that no public hearing is to be held, then no public hearing is required unless, prior to the completion of the comment period specified in the notice, the Governor directs the department to hold a public hearing or at least 25 persons request the department to hold a public hearing.*

B. Dissemination of notice.

The methods for disseminating the notice to the public shall include, but not be limited to, the following:

1. Sending notice to all persons identified (pursuant to subdivision 2 of § 2 above) as having a potential interest in the regulation;
2. Publishing notice in The Virginia Register of Regulations; and
3. Requesting that industry, professional and citizen associations publish the notice in their newsletters or journals or use any other means available to them to disseminate the notice to their membership.

§ 4. Public participation.

A. Regulation development.

1. Initial comment. After interested parties have responded to the notice, the department may schedule informal meetings prior to the development of any regulation to determine specific areas of interest and concern and to gather factual information relative to the subject matter of the regulation. Alternatively, the department may elect to request that persons who have responded to the notice make written submissions of comments, concerns and suggestions relative to the proposed regulation. *The department may begin drafting the proposed regulation prior to or during any opportunities it provides to the public to submit input.*

2. *Ad hoc advisory group or standing advisory committee. The department shall form an ad hoc advisory group, utilize a standing advisory committee, or consult with groups and individuals registering interest in working with the department to assist the department in the drafting and formation of regulations when: (i) the department, in the department's sole discretion, determines to form an ad hoc advisory group, utilize a standing advisory committee, or consult with groups and individuals; or (ii) the department receives written comments from at least 25 persons during the comment period of the notice requesting the department to form an ad hoc advisory group, utilize a standing advisory committee, or consult with groups and individuals and the subject matter of the notice has not previously been the subject matter of a notice published in The Virginia Register of Regulations by the department.*

2-3. Preparation of working draft. Subsequent to the initial public comment, the department shall develop a working draft of the proposed regulation. In certain instances where the technical nature of the subject matter merits, the department may request that industry or professional groups develop a working draft. Copies of such drafts will be furnished to all persons who responded to the notice indicating an interest in the regulation and to those persons

participating in the initial comment process. Persons to whom a copy of the working draft is furnished will be invited to submit written comments on the draft.

B. Promulgation of proposed regulation.

Upon conclusion of the development process, the department shall promulgate the regulation for submission to the Registrar of Regulations pursuant to the Administrative Process Act ("APA"), Chapter 1.1:1 (§ 9-6.14:1 et seq.) of Title 9 of the Code of Virginia. The department shall furnish to all persons identified as having a potential interest in the subject matter, a copy of the proposed regulation and a copy of the general public notice of opportunity for oral or written submission accompanied by a cover letter explaining the deadlines established by the APA for submissions of comment. In some cases, the public opportunity to comment may be limited to written submissions: such a limitation, however, must be clearly set forth in the notice. The date by which and place to which submissions must be made shall be clearly specified. Where a public hearing is to be held, the time, date, and place shall be clearly specified. Additionally, the date by which persons intending to participate in the public hearing should notify the department of their interest shall be noted. Persons who will participate will be encouraged to submit written copies of their comments in advance or at the public hearing in order to insure that all comments are accurately reflected in the formal transcript of the hearing.

C. Publication of final regulation.

In order to promote voluntary compliance, the department shall print and distribute copies of all regulations.

Upon issuing an order adopting a regulation, the department, at its discretion, may send to participants a copy of the regulation as adopted, together with its response to comments made during the public hearing or written submittal period.

If one or more changes with substantial impact are made to a regulation between the time it is published as a proposed regulation and the time it is published as a final regulation, any person may petition the department within 30 days from the publication of the final regulation to request an opportunity for oral and written submittals on the changes to the regulation. If at least 25 persons request an opportunity to submit oral and written comments on the changes to the regulation, the department shall suspend the regulatory process for 30 days to solicit additional public comment, unless the department determines that the changes made are minor or inconsequential in their impact.

V.A.R. Doc. No. R94-268; Filed November 24, 1993, 10:29 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.

COLLEGE OF WILLIAM AND MARY

Title of Regulation: Motor Vehicle Parking and Traffic Rules and Regulations.

Statutory Authority: § 23-9.2:3 of the Code of Virginia.

Effective Date: January 12, 1994.

Purpose:

The purpose of these motor vehicle regulations is to reduce traffic congestion, facilitate orderly parking, provide a safe campus environment and to promote the fair and consistent enforcement of rules.

The motor vehicle regulations set forth herein have been developed by the Office of Parking Services with the advice of the Transportation Advisory Council and have been approved by the Board of Visitors. The regulations are applicable to all persons owning or operating a motor vehicle on properties of the College of William and Mary in Virginia. Accordingly, jurisdiction extends to all college roads and grounds.

The Board of Visitors has authorized the offices of Parking Services and Campus Police to provide for the safety of persons on college property by enforcing these rules and regulations. These regulations have been established to meet the specific need for control of motor vehicles on college property. The Code of Virginia (§ 23-9.2:3) grants to the Board of Visitors the power to provide parking and traffic rules and regulations on property owned by the college and the district courts require the Board of Visitors approval for local enforcement of motor vehicle regulations.

The college does not assume responsibility for motor vehicles or their content while operated or parked on college property.

New rules and those rules which are questioned the most are listed in a separate section for your convenient reference.

College of William & Mary
Department of Parking Services
204 South Boundary Street
Williamsburg, Virginia 23185
(804) 221-4764/2435

Office hours 8 a.m. to 4 p.m. Monday through Friday, unless otherwise posted.

Agency Contact: Copies of the regulation may be obtained from Nancy Nash, College of William and Mary, P. O. Box 8795, Williamsburg, VA 23187, telephone (804) 221-2743. There may be a charge for copies.

Motor Vehicle Parking and Traffic Rules and Regulations.

PART I. GENERAL PROVISIONS.

§ 1.1. Decals shall be permanently affixed to the left rear bumper or on the outside of the left rear windshield. No parking decal may be taped inside the vehicle.

§ 1.2. The Parking Services Office will recognize an official grace period in August of each school year for "No Decal" violations. For the Fall 1993 session, the grace period extends through August 31, 1993. During the grace period, only "No Decal" violations will be waived. Parking enforcement officers will continue to cite all other violations during the grace period. Student vehicles that are parked in faculty/staff spaces during the grace period will receive a citation for Reserved Space.

§ 1.3. The costs of decals vary to accommodate various categories of students and are adjusted at different times of the year. The following rates apply:

Category	Aug 93	Jan 94	Apr 94
Faculty/Staff/Student	\$50.00	\$30.00	\$20.00
Non-College Affiliated	\$50.00	\$30.00	\$20.00
Hourly/Part-time Employee	\$25.00	\$25.00	\$20.00
Evening Student	\$25.00	\$25.00	\$20.00
William & Mary Hall			
Lot Only	\$20.00	\$20.00	\$20.00
Motorcycle	\$25.00	\$25.00	\$20.00
Additional Decal	\$ 5.00	\$ 5.00	\$ 5.00

§ 1.4. Temporary permits are available for periods not to exceed two weeks and cost \$1.00 per week. After the two-week period has expired, a permanent decal must be purchased.

§ 1.5. Temporary permits, at no charge and with a two-hour limit, are available for loading and unloading (2-hour limit), temporary handicaps, temporary plates and car repairs.

§ 1.6. In general, campus parking meters are enforced 7 a.m. to 5 p.m., Monday through Saturday. However, meters at Hunt Hall and Swern Library are enforced seven days a week, 24 hours a day. Multiple citations may be issued at meters.

§ 1.7. Tickets paid within 10 working days of the date of the ticket will be reduced by \$5.00.

§ 1.8. Payment for fines for wheellocked vehicles may be paid by check or credit card.

§ 1.9. Visitors to the college, who receive a No Decal violation, are not required to pay their first three No Decal violations. However, after three such violations, subsequent violations shall be paid.

§ 1.10. Evening students may park in any faculty/staff (except the Jones Lot - Lot R), resident or day space after 4 p.m. This option is available to other students after 5 p.m.

§ 1.11. It is a violation to purchase and distribute additional decals to other individuals or transfer or exchange decals for use on other vehicles. Such cases will be referred to the Dean of Students for appropriate action.

§ 1.12. Jones Lot is reserved 24 hours a day, seven days a week for faculty/staff only.

§ 1.13. Parking in the Common Glory lot (Lot D) is prohibited unless there is a curb blocker at the space.

§ 1.14. Individuals who are associated with the college and have handicapped tags shall also display a William and Mary parking decal.

§ 1.15. Fees for parking decals are not refundable.

§ 1.16. The use of hazard lights does not preclude the issuance of a citation if the vehicle is in violation of parking rules.

§ 1.17. Temporary/Visitor Permits are available from Campus Police when the Parking Services office is not open.

§ 1.18. When vehicle or license plate information changes, please notify the Office of Parking Services, x14764.

PART. II. REGISTRATION OF MOTOR VEHICLES.

§ 2.1.

A. All motor vehicles, including motorcycles and motorbikes, parked on college property shall be registered with Parking Services located at 204 S. Boundary Street. Registration may also be accomplished at the Watermen's Hall Registration Desk for those individuals at the York River Campus. The operator of each vehicle will be issued an appropriate decal or permit. The purchase of a decal entitles individuals to park only in those areas designated for the respective decal. The purchase of a decal does not guarantee a parking space. Maps highlighting the major lots by type of decal for both the Williamsburg and York

River Campuses are incorporated by reference and made a part of these regulations. Decals are effective for the school year which runs from August 16 through August 31 of the following calendar year. Temporary permits are issued as necessary for durations appropriate with their purpose.

B. Acceptance of a decal or permit by an individual attests to that person's complete understanding of the College of William and Mary Motor Vehicle Regulations and such person's responsibility to adhere to these regulations. Additionally, it is a violation to purchase additional decals for distribution to other individuals.

C. Registrants who misstate their classification category will be referred to the Dean of Students. When there is a change in (i) classification status of a registrant; or (ii) the purpose for which a decal or permit was issued; or (iii) the vehicle registration information, it shall be the sole responsibility of the registrant to notify Parking Services so that the decal or permit may be suitably altered.

PART III. REGISTRATION, ELIGIBILITY AND CLASSIFICATION.

§ 3.1. Should registrants or Parking Services disagree as to proper classification, Parking Services may issue a 14 day temporary permit in favor of the registrant, who shall immediately file an appeal with the Traffic Appeals Board. The registrant is solely responsible for a clear statement of the situation in the appeal and for completing a permanent registration immediately upon receiving a decision from the Appeals Board.

§ 3.2 The categories of decals issued by the Parking Service office are listed below.

1. Faculty/Staff (blue).

All faculty, administrative personnel, classified and hourly employees of the college are eligible to register motor vehicles and will be issued a blue decal. Students who work part-time for the college will have eligibility determined according to their student status.

2. Resident (yellow).

All individuals classified as students by the Registrar of the college, who reside in college administered housing and have completed 54 semester hours (or 4 semesters), or students who reside at Dillard Complex and have completed the equivalent of two semesters, qualify as a resident and will be issued a yellow decal.

3. Day (green).

Those individuals classified as students by the Registrar of the college who do not reside in college administered housing will receive a green decal upon registering a motor vehicle.

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4. Evening (maroon).

Students whose classes begin after 4 p.m., and who do not reside in college administered housing, qualify as an evening student and will be issued a maroon decal. After 4 p.m. they may park in any faculty/staff or student space unless otherwise posted. Evening students who have a frequent need to park on campus before 4 p.m. may purchase the Day (green) decal, as no provision is made for the Evening designation prior to 4:00 p.m. Evening students who have an occasional need to park on campus before 4 p.m. must obtain a temporary Day (green) permit, which allows parking in Day areas only.

5. Restricted use (red).

Students otherwise ineligible to register a motor vehicle, who have obtained permission through the Traffic Appeals Board, will receive a restricted use red decal upon registration. The red decal allows parking only in the William and Mary Hall Lot. Application forms for this permission are available at Parking Services. Permission may be granted upon demonstration that a vehicle is indispensable for employment, essential to continuance at the college, for physical disability or for other college related needs. A student who brings a vehicle to the college without prior special permission is in violation of these regulations.

The William and Mary Hall Lot only permit is available to all college community members who are otherwise eligible. This permit is priced significantly lower than other permits for which individuals may be eligible.

6. General (gold).

General decals, which are gold, are intended for Marriott employees, Child Care Center employees and noncollege affiliated persons who volunteer at the college or have a frequent need to visit and use college facilities. The General decal allows parking in faculty/staff areas only.

§ 3.3. Temporary permits.

Temporary permits are available on a limited basis for a variety of needs. Examples include loading permits, car in for repairs or temporary handicaps. These permits are available from 8 a.m. to 4 p.m. Monday through Friday from Parking Services and all other times from the Campus Police. Permits for the employees at the York River Campus may be obtained from the Registration Desk in Watermen's Hall.

§ 3.4. Additional or replacement decals.

An additional or replacement decal may be purchased for \$5.

§ 3.5. Motorcycle/Motorbike.

Members of the college community shall register motorcycles and motorbikes. The decal will be issued in accordance with the status of the registrant.

§ 3.6. Lost/stolen decals.

If a decal is lost or stolen, it must be reported immediately to the Campus Police, and a new permit must be obtained from Parking Services. Without a proper decal or permit, a motor vehicle parked on college property is in violation of these regulations and is subject to ticketing, wheellocking or towing.

§ 3.7. Display of decals.

Vehicle registration is not complete until the permit or decal is properly displayed. Decals or permits displayed improperly will constitute an improper display violation. Decals shall be securely affixed to the left rear bumper or to the outside of the left rear windshield. Affixing the decal to the outside rear windshield facilitates removal at a later date.

PART IV. TRAFFIC REGULATIONS.

§ 4.1. The Campus Police are authorized to enforce moving violations which will be returnable in the respective District Courts.

§ 4.2. Barriers may be placed by the Campus Police at any point deemed necessary for specific temporary use - most often emplaced for safety reasons and traffic flow. Removal of any such barriers without permission, except for passage of emergency vehicles, is prohibited.

§ 4.3. In all cases, the directions of a police officer supersede the regulations posted by sign or signal.

§ 4.4. Riding, driving or parking any vehicle, other than emergency vehicles, on the sidewalks of the college is prohibited. Any other use is by special permission from the Campus Police or Parking Services.

§ 4.5. Sections 4.1 through 4.5 apply equally to any person parking or operating a motor vehicle on college property.

PART V. PARKING REGULATIONS.

Article I. General Provisions.

§ 5.1. A decal or permit is required to park on college property 24 hours a day, seven days a week, except in metered or timed spaces. Anyone may park in metered spaces and must pay the meter as posted.

§ 5.2. Signs have been posted to designate the following parking areas which are enforced between 7:30 a.m. and 5 p.m., Monday through Friday, except for the regulation regarding evening students as set out in subdivision 4 of § 3.2:

Visitors

Faculty/Staff

Day

Resident

Time Limit spaces

§ 5.3. The following designations are reserved and enforced 24 hours a day, seven days a week:

Firelanes

No Parking zones

Handicapped spaces

Reserved For spaces

Official Vehicle spaces

Service/Vendor spaces

Jones Hall Lot

Meters at Hunt Circle and Swem Library

§ 5.4. "No Parking" signs indicate an emergency lane, and no parking is permitted day or night. Parking in any portion of a No Parking zone for any length of time is a violation of these regulations.

§ 5.5. Spaces reserved for Service or Vendor vehicles may only be used by vehicles displaying Service or Vendor permits issued by Parking Services. Employees of the college who have Service or Vendor permits must also have a William and Mary parking permit if they are using their personal vehicle and parking in a Service or Vendor space.

§ 5.6. Parking space designation as to faculty, staff, and students will be observed when the college is in session. Parking space designations will not be observed during holidays posted in the college catalog, unless otherwise posted. All other traffic and parking regulations will be enforced throughout the calendar year. Students in doubt should contact Parking Services, x14764.

§ 5.7. The Cary Field/Bryan Lot, the University Center Lot, the Post Office Lot and the pull-in spaces at the rear of St. Bede's Church adjacent to College Terrace must be vacated by 8 a.m. on the Saturdays of home football games. Vehicles in violation may be towed at owner's

expense.

§ 5.8. The University Center Lot and the parking along the stadium wall shall be vacated the Friday and Saturday of the Colonial Relays. This is generally the first weekend in April of each year. Vehicles in violation may be towed at owner's expense.

§ 5.9. Brooks Street around William and Mary Hall shall be vacated by 4 p.m. on the days of home basketball games. Vehicles in violation may be towed at owner's expense.

§ 5.10. Under no circumstances may any motor vehicle, other than police or emergency vehicles, be operated or parked at any time on the walkways, landscape, grass, or areas designated for grass, without a permit from Parking Services or Campus Police.

§ 5.11. Special events such as convocations and home athletic events require many parking spaces on the campus to be reserved. Whenever possible, three days notice will be given to the college community so alternate parking plans can be made.

Members of the college community should be alert to posted notices because vehicles in violation may be towed at owner's expense.

§ 5.12. Parking or storing motorcycles or motorbikes inside a building or in or near an entrance way is prohibited. In order to comply with state regulations and to preclude possible fire hazards, motorcycles and motorbikes will be ticketed and removed at the owner's expense when so parked. Cycle owners are asked to make use of the motorcycle parking spaces throughout campus.

§ 5.13. Double parking is never permitted.

§ 5.14. Bumper blocks, if present, establish parking spaces. This is especially true in Common Glory (Lot D) where parking is only permitted at bumper blocks.

§ 5.15. The driver of any disabled vehicle is subject to ticketing. If the vehicle cannot be removed immediately, the driver should notify the Campus Police or Parking Services at once and take steps to remove it without delay. A note left on a disabled vehicle does not preclude ticketing.

§ 5.16. Parking in spaces designated as "Handicapped Parking" is limited exclusively for that purpose. Vehicles parked in these spaces without proper authorization may be towed at the owner's expense. Members of the college community who have handicap permits shall also display a current decal or permit.

Article 2.

York River Campus Parking.

§ 5.17. Parking at the York River Campus is by permit

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only. All employees are entitled to park in any nonreserved space. Provisions for handicapped parking are set out in § 5.21, and visitor parking is set out in § 5.22.

Article 3. Williamsburg Campus Parking.

§ 5.18. Faculty/staff parking.

Members of the faculty and staff are expected to observe the parking regulations and are encouraged not to drive their vehicles point-to-point on campus. Faculty and staff are expected to park only in faculty and staff areas.

§ 5.19. Day student parking.

Students having Day decals may park only in areas designated as day parking.

§ 5.20. Resident student parking.

Resident students may park only in resident areas. Resident students are encouraged to abstain from driving to class to help reduce parking congestion and to afford other residents across campus availability to resident spaces. As an exception, Dillard and the Graduate Student Complex residents may park in the Common Glory Lot (Lot D) and other resident designated areas provided they have current resident and Dillard decals.

§ 5.21. Handicapped parking.

Permanent handicap license plates or placards may be obtained from the Department of Motor Vehicles. Faculty and staff members requiring temporary handicapped parking may make application through the Affirmative Action Office (College Apt #3). Students requiring temporary handicapped parking may make application through the Office of the Dean of Students (James Blair 102) and employees at the York River Campus should contact the Manager of Administrative Services (Watermen's Hall). Vehicles displaying appropriate handicap plates or placards may park in any handicapped, faculty/staff or student space. Those individuals affiliated with the college who have handicapped parking permission must also display a William and Mary parking decal.

§ 5.22. Visitor parking.

Visitor spaces are provided only for individuals outside the college community who have legitimate business on campus. No vehicle which has, or should have, a decal or permit is considered a visitor. Spaces reserved for "Visitors To" are intended for noncollege affiliated individuals only. Permits to use these spaces may be obtained from the respective office visited.

Visitors with visitor permits may park in any faculty/staff, student or visitor space. Visitor permits are

not valid at metered spaces. Members of both campuses who have visitors coming to the campus should contact Parking Services for appropriate permits.

§ 5.23. Metered spaces.

Metered spaces are intended for high turn over, high demand areas. Anyone may park at a meter, and everyone must pay. Meters are enforced from 7:30 a.m. to 5 p.m., Monday through Saturday, except for the Swem Library and Hunt Circle meters which are enforced 24 hours a day, 7 days a week. It is a violation to park in a metered space when the violation flag is visible. Multiple citations may be issued at meters.

PART VI. Enforcement.

§ 6.1. Campus Police will enforce all appropriate provisions of the motor vehicle laws described in the Code of Virginia, the City of Williamsburg Traffic Regulations and the Motor Vehicle Regulations of the College of William and Mary. Parking Services will enforce the Motor Vehicle Regulations of the College of William and Mary.

§ 6.2. After the first citation for violation of a motor vehicle regulation, any vehicle which remains in violation of the same regulation is subject to additional citations.

§ 6.3. Every attempt will be made to maintain consistency of enforcement. Lack of space in the immediate proximity to a building or observation that others have parked in violation of the regulations will not be considered a valid excuse for violating any regulation. Hazard lights do not exempt a vehicle from ticketing if they are in violation of a parking rule.

§ 6.4. The person in whose name a parking decal or permit is issued will be held responsible for any violation involving the vehicle. Citations are not excused on the plea that another person was driving at the time the citation was issued.

§ 6.5. Campus Police and Parking Services are authorized to remove, at the owner's expense, any vehicle which is in violation of these regulations. This includes towing or wheellocking.

§ 6.6. Citation fines must be paid or appealed within 10 working days from the date the ticket is issued.

§ 6.7. The owner or operator of a wheellocked vehicle must pay any outstanding fines and the additional wheellock fee (\$20.00) before the wheellock will be removed. Unauthorized removal or tampering with a wheellock may result in criminal prosecution. Vehicles wheellocked in excess of 48 hours will be towed to a private, licensed garage, and held until the owner presents a paid receipt from the college for outstanding fines, proof of ownership of the vehicle and payment of the towing

fee. In addition, the garage may also charge a storage fee.

§ 6.8. Schedule of fines; payment policy.

A. Schedule of fines.

Violation	If Paid Within 10 Working Days	If Paid After 10 Working Days
No Valid Decal	\$25.00	\$30.00
Handicapped Space	\$25.00	\$30.00
Towed - Special Event	\$25.00	\$30.00
Illegal Parking:		
Firelane	\$10.00	\$15.00
Reserved Space	\$10.00	\$15.00
Expired Meter	\$10.00	\$15.00
No Parking Zone	\$10.00	\$15.00
Vendor's Space	\$10.00	\$15.00
Improper Display	\$10.00	\$15.00
Overtime	\$10.00	\$15.00
Visitor's Space	\$10.00	\$15.00
Sidewalk/Crosswalk /Grass	\$10.00	\$15.00
Improper Parking/Other	\$10.00	\$15.00

B. The following policy establishes the accepted payment methods for outstanding parking fines:

1. Payment may be made by cash, personal check, cashier's check, money order, credit card (VISA or Master Card only) or William and Mary debit card.

2. Owners of vehicles that have been towed must pay all outstanding fines and fees using payment methods described in item 1 above. Additionally, the owner must pay the towing contractor the towing fee and any storage fees. If payment is made at Campus Police, they can accept forms of payment mentioned in item 1, with the exception of the William and Mary debit card.

3. Employees at the York River Campus may mail checks, money orders or cashier's checks to the Office of Parking Services. Checks should be made payable to the College of William and Mary. Alternatively, they may use the courier provided by Administrative Services.

C. Wheellock policy.

Vehicle owners with a vehicle that is wheellocked must pay all outstanding fines, plus a \$20 wheellock fee, within 48 hours of the wheellock. Acceptable payment methods are as described in B 1 of this section, with the exception that the debit card may only be used when paying at Parking Services from 8 a.m. to 4 p.m., Monday through Friday. Vehicles wheellocked in excess of 48 hours will be towed to a private, licensed garage. Vehicles generally become eligible for wheellock when there are three or more outstanding tickets which have not been paid or appealed within 14 days of the date of the ticket. Vehicles with two tickets which have not been paid within 30 days of the date of the ticket are also eligible for wheellock.

§ 6.9. Appeals.

A. Campus parking citations are treated as minor infractions of college regulations with the right of appeal as stated in the Student Handbook. The operation of a motor vehicle on the campus constitutes implied consent for college parking violations to be handled through written appeals made to the Traffic Appeals Board. The Traffic Appeals Board is, by Presidential appointment, the highest authority on campus in parking matters and consists of members from all college constituencies.

B. The board does not look favorably upon the following appeals:

1. No decal/failure to buy additional decal
2. No spaces available
3. Bad weather/didn't want to walk
4. Usually park off campus
5. Didn't have time to get a decal
6. Someone else driving my vehicle
7. Residents parked in day spaces
8. Day students parked in resident spaces
9. Students in faculty/staff spaces

Nonpayment of past due fines may not entitle students to register for and attend classes.

§ 6.10. Revocation.

A maximum of five citations which have been paid are permitted within the decal year without additional punitive action. On receipt of the sixth citation during the decal year, in addition to the fine, the offender's registration is subject to revocation and the individual may be prohibited from parking a vehicle on campus for the year, unless reinstated.

Reinstatement of motor vehicle registration rights which have been revoked for any reason, can be granted by the Traffic Appeals Board upon direct written application by the offender to the committee.

If decals or permits are revoked, no refunds shall be made.

VA.R. Doc. No. R94-276; Filed November 24, 1993, 10:03 a.m.

GOVERNOR

EXECUTIVE MEMORANDUM 4-93

Subject:

Conservation Treatment of State-owned Agricultural Lands

Purpose:

This memorandum communicates statewide policy to implement conservation treatments on state-owned and leased agricultural lands.

Preface:

A critical need exists to improve the management of all agricultural lands to protect both water quality and soil fertility. Nutrients and sediment from agricultural operations are the single major source of nonpoint source pollution of state waters. A significant amount of state-owned land is used for agricultural production. Within budgeted resources, state agencies and institutions must take the lead to ensure the overall success of nonpoint source pollution reduction. This action is to be achieved by developing and implementing conservation treatments on state-owned agricultural lands.

Applicability:

All executive branch agencies and institutions which own or lease land for agricultural use must comply with this memorandum.

Effective Date:

November 15, 1993.

Requirements:

By virtue of the authority vested in me by the Constitution of Virginia and Section 2.1-41.1 of the Code of Virginia, and subject to my continuing and ultimate authority and responsibility to act in such matters and in furtherance of the Commonwealth's policy of protecting its water and agricultural lands, I hereby require the implementation of conservation treatments on state-owned and leased agricultural lands. I hereby direct all state agencies and institutions to carry out their legally established duties in a manner consistent with the policies set forth in this memorandum and in a manner which promotes coordination among those agencies and institutions in achieving the goals and objectives of this memorandum.

I further direct that the Department of Conservation and Recreation coordinate the implementation of this policy and report annually, by October 1, to the Secretary of Natural Resources on the program's status.

I. Responsibilities of all state agencies:

A. All state agencies and institutions which hold title to or lease land for which tilling, planting or harvesting agricultural crops, or livestock or poultry production is ongoing or planned shall provide an annual report to the Department of Conservation and Recreation by June 30. The agricultural survey report shall describe acreage, location, present/future use, and present conservation treatments on agricultural lands.

B. These agencies shall submit a conservation plan to the Department of Conservation and Recreation by June 30, 1994 for all lands utilized for agricultural production. If agricultural activities significantly change from those described in the initial conservation plan, then the affected agency shall consult with the Department of Conservation and Recreation and prepare an amended plan.

C. The land holding or land managing agency or institution shall implement the conservation plan after receiving a technical assessment from the Department of Conservation and Recreation.

II. Responsibilities of the Department of Conservation and Recreation:

A. The Department will develop a conservation plan format for agencies to use, inspect state-owned lands to determine progress made to reduce nonpoint source pollution, and generally assist state agencies and institutions, as requested, in the preparation of agricultural conservation plans.

B. The Department of Conservation and Recreation will develop and disseminate a survey to all affected agencies to determine the extent and use of state-owned lands for agricultural purposes. The Department will also provide direct notice to affected federal agencies to encourage their participation in the program.

C. The Department will collect the agricultural survey information provided by all state agencies and institutions holding agricultural lands. This information will serve as the basis of the annual report provided to the Secretary of Natural Resources. The Department will also use the information from the surveys to develop a digital data representation of these lands.

D. The Department of Conservation and Recreation will provide review comments regarding the conservation plans to affected agencies. The Department will take into consideration the need of affected agencies to phase in certain aspects of the plans.

E. The Department of Conservation and Recreation will inspect treated lands and inform the Secretary of Natural Resources of concerns as necessary. The Department's annual report to the Secretary of Natural Resources will include information from the annual agricultural survey as well as pollutant reduction results due to conservation plan.

implementation and maintenance.

III. Report to the Governor:

A. The Secretary of Natural Resources will regularly apprise the Governor of the overall status of this program.

This Executive memorandum shall remain in full force and effect unless amended or rescinded by further executive action.

/s/ Lawrence Douglas Wilder
Governor
November 12, 1993

EXECUTIVE ORDER NUMBER EIGHTY (93)

EMERGENCY TRAVEL AUTHORIZATION FOR TRUCKS HAULING GOODS TO DROUGHT-STRICKEN AREAS IN SOUTH CAROLINA

By virtue of the authority vested in me as Governor by the Constitution of Virginia, Section 44-146.17 of the Code of Virginia, and Common Law, and subject to my continuing and ultimate authority and responsibility to act in such matters, I hereby authorize the Departments of State Police, Transportation, Motor Vehicles (DMV), and the State Corporation Commission (SCC) to grant temporary overweight/registration/license exemptions to carriers transporting essential emergency relief supplies to South Carolina which has federally declared disaster areas as a result of protracted periods of drought.

The axle and gross weights shown below are the maximum allowed, unless otherwise posted.

Any One Axle	24,000 Pounds
Tandem Axles (more than 40 inches but not more than 96 inches spacing between axle centers)	44,000 Pounds
Single Unit (2 Axles)	4,000 Pounds
Single Unit (3 Axles)	54,000 Pounds
Tractor-Semitrailer (4 Axles)	75,000 Pounds
Tractor-Semitrailer (5 or more Axles) ..	90,000 Pounds
Tractor-Twin Trailers (5 or more Axles) ..	90,000 Pounds
Other Combinations (5 or more Axles) .	90,000 Pounds
Per Inch of Tire Width in Contact with Road Surface	850 Pounds

In addition to described overweight transportation privileges, carriers are also exempt from registration with SCC/DMV. This includes the vehicles enroute and returning to their home base.

The above cited agencies shall communicate this information to all staff responsible for permit issuance and truck legalization enforcement.

This Executive Order is effective upon its signing and

will remain in force and effect until December 30, 1993.

Given under my hand and under the Seal of the Commonwealth of Virginia this 5th day of November, 1993.

/s/ Lawrence Douglas Wilder
Governor

GOVERNOR'S COMMENTS ON PROPOSED REGULATIONS

(Required by § 9-6.12:9.1 of the Code of Virginia)

BOARDS OF EDUCATION; MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES; SOCIAL SERVICES; AND YOUTH AND FAMILY SERVICES

Title of Regulation: VR 270-01-0003, VR 470-02-01, VR 615-29-02, VR 690-40-004. Standards for Interdepartmental Regulation of Residential Facilities for Children.

Governor's Comment:

I do not object to the initial draft of these regulations. However, I reserve the right to comment on the final package, including any changes made as a result of public hearings and comments, before promulgation.

/s/ Lawrence Douglas Wilder
Governor
Date: November 17, 1993

VA.R. Doc. No. R94-285; Filed November 18, 1993, 11:54 a.m.

DEPARTMENT OF EDUCATION

Title of Regulation: VR 270-01-0034. Regulations Governing the Operation of Proprietary Schools and Issuing of Agent Permits.

Governor's Comment:

I do not object to the initial draft of these regulations. However, I reserve the right to comment on the final package, including any changes made as a result of public hearings and comments, before promulgation.

/s/ Lawrence Douglas Wilder
Governor
Date: November 16, 1993

VA.R. Doc. No. R94-287; Filed November 18, 1993, 2:50 p.m.

DEPARTMENT OF HISTORIC RESOURCES

Title of Regulation: VR 392-01-02. Evaluation Criteria and Procedures for Nominations of Property to the National Register or for Designation as a National Historic

Governor

Landmark.

Governor's Comment:

I do not object to the initial draft of these regulations. However, I reserve the right to comment on the final package, including any changes made as a result of public comments, before promulgation.

/s/ Lawrence Douglas Wilder
Governor
Date: November 16, 1993

VA.R. Doc. No. R94-288; Filed November 18, 1993, 2:51 p.m.

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT (BOARD OF)

Title of Regulation: **VR 394-01-31. Virginia Industrialized Building and Manufactured Home Safety Regulations/1993.**

Governor's Comment:

I do not object to the initial draft of these regulations. However, I reserve the right to comment on the final package, including any changes made as a result of public hearings and comments, before promulgation.

/s/ Lawrence Douglas Wilder
Governor
Date: November 16, 1993

VA.R. Doc. No. R94-289; Filed November 18, 1993, 9:55 a.m.

* * * * *

Title of Regulation: **VR 394-01-200. Virginia Private Activity Bond Regulations.**

Governor's Comment:

I do not object to the initial draft of these regulations. However, I reserve the right to comment on the final package, including any changes made as a result of public hearings and comments, before promulgation.

/s/ Lawrence Douglas Wilder
Governor
Date: November 12, 1993

VA.R. Doc. No. R94-282; Filed November 16, 1993, 2:23 p.m.

MANUFACTURED HOUSING BOARD

Title of Regulation: **VR 449-01-01. Public Participation Guidelines for Formation, Promulgation and Adoption of Regulations.**

Governor's Comment:

I do not object to the initial draft of these regulations. However, I reserve the right to comment on the final package, including any changes made as a result of public hearings and comments, before promulgation.

/s/ Lawrence Douglas Wilder
Governor
Date: November 16, 1993

VA.R. Doc. No. R94-283; Filed November 18, 1993, 8:48 a.m.

* * * * *

Title of Regulation: **VR 449-01-02. Manufactured Housing Licensing and Transaction Recovery Fund Regulations.**

Governor's Comment:

I do not object to the initial draft of these regulations. However, I reserve the right to comment on the package, including any changes made as a result of public hearings and comments, and comments from the Attorney General before promulgation.

/s/ Lawrence Douglas Wilder
Governor
Date: November 10, 1993

VA.R. Doc. No. R94-286; Filed November 12, 1993, 3:45 p.m.

VIRGINIA RACING COMMISSION

Title of Regulation: **VR 662-01-01. Public Participation Guidelines.**

Governor's Comment:

I do not object to the initial draft of these regulations. However, I reserve the right to comment on the final package, including any changes made as a result of public comments, before promulgation.

/s/ Lawrence Douglas Wilder
Governor
Date: November 16, 1993

VA.R. Doc. No. R94-290; Filed November 18, 1993, 9:55 a.m.

DEPARTMENT OF SOCIAL SERVICES (STATE BOARD OF)

Title of Regulation: **VR 615-45-3. Child Protective Services Release of Information to Family Advocacy Representatives of the United States Armed Forces.**

Governor's Comment:

I do not object to the initial draft of these regulations. However, I reserve the right to comment on the final package, including any changes made as a result of public hearings and comments, before promulgation.

/s/ Lawrence Douglas Wilder
Governor
Date: November 17, 1993

VA.R. Doc. No. R94-284; Filed November 19, 1993, 11:51 a.m.

GENERAL NOTICES/ERRATA

Symbol Key †

† Indicates entries since last publication of the Virginia Register

GENERAL NOTICES

DEPARTMENT OF CRIMINAL JUSTICE SERVICES

† Application for Federal Funds

In accord with the Anti-Drug Abuse Act of 1988 (Public Law 100-690, Title VI, Subtitle C), the Department of Criminal Justice Services announces its intention to submit an application for federal funds to the Bureau of Justice Assistance, U. S. Department of Justice.

The application will be submitted not later than December 27, 1993, and will request \$8,500,000, which is Virginia's allocation for federal fiscal 1994 under the Edward Byrne Memorial State and Local Law Enforcement Assistance Program.

The Department of Criminal Justice Services will use these funds to make grants to localities and state agencies to support drug control and criminal justice system improvement projects.

In addition to the Standard Form 424, "Application For Federal Assistance," the application to be submitted to the Bureau of Justice Assistance contains a discussion of the state's drug and violent crime problems, identifies needs and priorities, and indicates ways the department proposes to use the federal funds to address the needs and priorities.

Public review of the application and comment on it are invited. Single copies may be obtained by contacting Gary Goff, Department of Criminal Justice Services, 805 East Broad Street, Richmond, VA 23219, telephone (804) 371-6507.

DEPARTMENT OF EMERGENCY SERVICES

Policy of Nondiscrimination on the Basis of Disability

The Department of Emergency Services (VDES) does not discriminate on the basis of disability in access to employment or in its programs and activities. The VDES Coordinator for the Americans with Disabilities Act and 504 has been designated to coordinate compliance with the nondiscrimination requirements contained in section 35.107 (28 CFR 35.107) of the Department of Justice regulation implementing Title II of the Americans with Disabilities

Act. Information concerning the provisions of the Americans with Disabilities Act and the rights provided thereunder are available from this agency's Americans with Disabilities Act/504 Coordinator, Agnes L. Parrett, 310 Turner Road, Richmond, Virginia 23225, telephone (804) 674-2494 or TDD (804) 674-2417

DEPARTMENT OF ENVIRONMENTAL QUALITY

† Designation Of Regional Solid Waste Management Planning Area

In accordance with the provision of § 10.1-1411 of the Code of Virginia, and Part V of Regulations for the Development of Solid Waste Management Plans, VR 672-50-01, the Director of the Waste Division of the Department of Environmental Quality intends to designate a solid waste management region of that part of the Cumberland Plateau Planning District consisting of Buchanan County and the Town of Grundy; Dickenson County and the Towns of Clintwood, Clinchco, and Hays; and Russell County and the Towns of Cleveland, Castlewood, Honaker, and Lebanon. A petition has been received by the Department of Environmental Quality for the designation on behalf of the local governments.

The director has approved a comprehensive solid waste management plan for this area. The Cumberland Plateau Regional Waste Management Authority is the implementing authority for the plan and the programs for the recycling of solid waste generated within the region.

Anyone wishing to comment on the designation of this region should respond in writing by 5 p.m. on December 31, 1993, to Ms. Anne M. Field, Department of Environmental Quality, 629 East Main Street, P. O. Box 10009, Richmond, Virginia, 23240-0009, Fax: 804/762-4346. Questions concerning this notice should be directed to Ms. Field at (804) 762-4365.

Following the closing date for comments, the Director of the Waste Division will notify the affected local governments of his designation of the regional boundaries or of the need to hold a public hearing on the designation.

Air Division

Scheduling of Applications for Federal Operating Permits

The Department of Environmental Quality has held public meetings to solicit opinions on the scheduling of required applications for federal operating permits. Such scheduling is required by the Virginia Regulations for the Control and

General Notices/Errata

Abatement of Air Pollution, §§ 120-08-0501, 120-08-0502, 120-08-0504, and 120-08-0511. These provisions are part of Rule 8-5 (§§ 120-08-0501 through 120-08-0525) on federal operating permits, adopted by the State Air Pollution Control Board in June 1993.

These provisions require major sources to apply to the Department of Environmental Quality for federal operating permits between September 1994 and November 1995, on a schedule to be determined by the board. The schedule is to be published by January 15, 1994 (§ 120-08-0504 C 1). Initial issuance of federal operating permits is to take place over the three years between November 1994 and November 1997 (§ 120-08-0511 B 1), at a rate of approximately one third of the total number of permits each year.

No regulatory changes are contemplated at this time, and neither proposed nor existing regulations are under consideration in these public meetings.

Definition: "Title V Major Sources" include stationary sources with potential to emit 100 tons per year or more of any air pollutant other than hazardous air pollutants; stationary sources of hazardous air pollutants with potential to emit, in the aggregate, 10 tons per year or more of any hazardous pollutant or 25 tons per year or more of any combination of hazardous pollutants; and, for the Northern Virginia ozone nonattainment area, sources of volatile organic compounds or oxides of nitrogen with potential to emit 50 tons per year or more.

Public Comment and Comment by Affected Sources

The Department of Environmental Quality solicits views with respect to timing of operating permit applications. The following questions may assist in framing views.

1. Would companies with more than one source subject to Rule 8-5 be able to apply for federal operating permits in a group or would they prefer to spread out applications over 14 months?

2. Should the similarity of sources make a difference in addressing questions of priority of application? Should applications be solicited by SIC code to avoid competitive disadvantage?

3. Would random scheduling of applications be fair and appropriate under the circumstances?

4. People representing individual companies are invited to indicate whether their companies prefer to be among the first to submit permit applications.

Public Comment Deadline: December 28, 1993

You are invited to send your comments on this subject to the department in writing. Comments should be postmarked no later than December 28, 1993, and addressed to:

Virginia Department of Environmental Quality
Air Division
Office of Permit Evaluation
Attn: Title V Application Schedule
P. O. Box 10089
Richmond, Virginia 23240

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) - DPBR09

Copies of the Virginia Register Form, Style and Procedure Manual may also be obtained at the above address.

ERRATA

STATE LOTTERY DEPARTMENT (STATE LOTTERY BOARD)

Title of Regulation: VR 447-01-2. Administration Regulations.

General Notices/Errata

Publication Date: 10:4 VA.R. 889-908 November 15, 1993.

Correction to Proposed Regulation:

Page 890, § 1.1, paragraph 2, definition of "Appeal,"
line 2, er "informal" insert "conference"

* * * * *

Title of Regulation: VR 447-02-1. Instant Game Regulations.

Publication Date: 10:4 VA.R. 908-923 November 15, 1993.

Correction to Proposed Regulation:

Page 913, § 1.11 A 6, line 3, after "age" insert " ,"

* * * * *

Title of Regulation: VR 447-02-2. Administration
Regulations.

Publication Date: 10:4 VA.R. 923-941 November 15, 1993.

Correction to Proposed Regulation:

Page 931, § 2.11 A 6, line 3, after "age ," insert " but
"

Page 932, § 2.11 D 11, line 3, after "age ," insert "
but"

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

BOARD FOR ACCOUNTANCY

January 15, 1994 – Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board for Accountancy intends to repeal regulations entitled: **VR 105-01-1. Public Participation Guidelines**, and adopt regulations entitled: **VR 105-01-1:1. Public Participation Guidelines**. The proposed guidelines will set procedures for the Board for Accountancy to follow to inform and incorporate public participation when promulgating regulations.

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

Contact: Mark N. Courtney, Acting Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8590.

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES (STATE BOARD OF)

January 18, 1994 – Written comments may be submitted until 9 a.m. on this date.

Notice is hereby given in accordance with § 9-6.14:7.1

of the Code of Virginia that the Board of Agriculture and Consumer Services intends to repeal regulations entitled: **VR 115-01-01. Guidelines for Public Participation**, and adopt regulations entitled **VR 115-01-01:1. Public Participation Guidelines**. Public Participation Guidelines are regulations, mandated by § 9-6.14:7.1 of the Code of Virginia, that govern how the agency will involve the public in the making of the regulations. The purpose of the proposed regulation is to review for effectiveness and continued need an emergency regulation that will be in effect only through June 10, 1994. The proposed regulation is for the purpose of providing a permanent regulation to supersede the emergency regulation.

The proposed regulation governs regulation-making entities under the aegis of the Department of Agriculture and Consumer Services (with the exception of the Pesticide Control Board, which has adopted its own public participation guidelines), and the Virginia Agricultural Development Authority.

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

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

Pesticide Control Board

† January 13, 1994 - 10 a.m. – Open Meeting
Department of Agriculture and Consumer Services, Board Room 204, 1100 Bank Street, Richmond, Virginia. ♿

Pesticide Control Board Committee meetings, specifically, Fees and Licenses Committee will discuss proposed fee regulation at 10:15 a.m. in Room 401.

† January 14, 1994 - 9 a.m. – Open Meeting
Department of Agriculture and Consumer Services, Board Room 204, 1100 Bank Street, Richmond, Virginia. ♿

A public hearing will be followed by a general business meeting to discuss proposed fee regulation and possible legislative proposals to the Code of Virginia. Portions of the meeting may be held in closed session, pursuant to § 2.1-344 of the Code of Virginia. The public will have an opportunity to comment on any matter not on the Pesticide Control Board's agenda following the public hearing. Any person who needs any accommodations in order to participate at the meeting should contact Dr. Marvin A. Lawson at least 10 days before the meeting date so that suitable arrangements can be made for any

Calendar of Events

appropriate accommodation.

Contact: Dr. Marvin A. Lawson, Program Manager, Office of Pesticide Management, Department of Agriculture and Consumer Services, P. O. Box 1163, Room 401, 1100 Bank Street, Richmond, VA 23209, telephone (804) 371-6558.

* * * * *

CORRECTION TO PUBLIC HEARING DATE:

January 14, 1994 - 9 a.m. - Public Hearing
Department of Agriculture and Consumer Services, 1100 Bank Street, Room 204, Richmond, Virginia.

EXTENSION OF PUBLIC COMMENT PERIOD:

January 31, 1994 - 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 Pesticide Control Board intends to amend regulations entitled: **VR 115-04-21. Public Participation Guidelines.** The purpose of the proposed action is to review regulations for effectiveness and continued need to include allowing the public to request the use of an "advisor" and to ensure that the public may request changes to these regulations and receive consideration and response from the board. Also, provisions by which the board will appoint the "advisor" are established.

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

Contact: Marvin A. Lawson, Ph.D., Program Manager, Office of Pesticide Management, Department of Agriculture and Consumer Services, 1100 Bank St., P.O. Box 1163, Room 401, Richmond, VA 23209, telephone (804) 371-6558.

Virginia Winegrowers Advisory Board

† **January 12, 1994 - 10 a.m. - Open Meeting**
Department of Agriculture and Consumer Services, Washington Building, 2nd Floor Conference Room, 1100 Bank Street, Richmond, Virginia. ☐

A regular meeting. Any person who needs any accommodation in order to participate at the meeting should contact Wendy Rizzo, identified in this notice, at least 14 days before the meeting date so that suitable arrangements can be made for any appropriate accommodation.

Contact: Wendy Rizzo, Secretary, Virginia Winegrowers Advisory Board, 1100 Bank Street, Room 1010, Richmond, VA 23219, telephone (804) 371-7685.

STATE AIR POLLUTION CONTROL BOARD

December 14, 1993 - 7 p.m. - Information Session
December 14, 1993 - 8 p.m. - Public Hearing
Osborn High School Lecture Room, 9005 Tudor Lane,

Manassas, Virginia.

December 15, 1993 - 7 p.m. - Information Session
December 15, 1993 - 8 p.m. - Public Hearing
Millington Auditorium, College of William and Mary, Williamsburg, Virginia.

December 16, 1993 - 7 p.m. - Information Session
December 16, 1993 - 8 p.m. - Public Hearing
Whitman Auditorium, Virginia Western Community College, 3095 Colonial Avenue, S.W., Roanoke, Virginia.

January 17, 1994 - 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 Air Pollution Control Board intends to adopt regulations entitled: **VR 120-01. Regulations for the Control and Abatement of Air Pollution (Revision HH - Standards of Performance for Regulated Medical Waste Incinerators, Rule 5-6).** The regulation amendments concern provisions covering standards of performance for regulated medical waste incinerators. The proposal will require owners of regulated medical waste incinerators to limit emissions of dioxins/furans, particulate matter, carbon monoxide, and hydrogen chloride to a specified level necessary to protect public health and welfare. This will be accomplished through the establishment of emissions limits and process parameters based on control technology, ambient limits to address health impacts, and monitoring, testing, and recordkeeping to assure compliance with the limits.

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

Written comments may be submitted until the close of business January 17, 1994, to Manager, Air Programs Section, Department of Environmental Quality, P.O. Box 10089, Richmond, Virginia 23240. The purpose of this notice is to provide the public with the opportunity to comment on the proposed regulation and the costs and benefits of the proposal.

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

* * * * *

January 6, 1994 - 7 p.m. - Public Hearing
Department of Environmental Quality, Innsbrook Corporate Center, 4900 Cox Road, Glen Allen, Virginia.

January 31, 1994 - 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 and the requirements of 110(a)(1) of the Federal Clean Air Act that the State

Air Pollution Control Board intends to amend regulations entitled: VR 120-01. Regulations for the Control and Abatement of Air Pollution (Revision NN - Appendix E, Public Participation Guidelines). The regulation amendments revise the public participation procedures to: (i) change and expand the information provided in the notice of intended regulatory action and notice of public comment; (ii) clarify the types of meetings and hearings to be held; (iii) set out and specify the methods and policy for gaining public input and participation in the regulatory adoption process; (iv) and update other provisions to be consistent with the Administrative Process Act.

Statutory Authority: §§ 9-6.14:7-1 and 10.1-1308 of the Code of Virginia.

Written comments may be submitted until close of business January 31, 1994, to the Manager, Air Programs Section, Department of Environmental Quality, P. O. Box 10009, Richmond, Virginia 23240. The purpose of this notice is to provide the public with the opportunity to comment on the proposed regulation and the costs and benefits of the proposal.

Contact: Robert Mann, Manager, Air Programs Section, Department of Environmental Quality, P. O. Box 10009, Richmond, VA 23240, telephone (804) 762-4419.

ALCOHOLIC BEVERAGE CONTROL BOARD

December 17, 1993 - Written comments may be submitted through this date.

December 20, 1993 - 10 a.m. - Public Hearing
Department of Alcoholic Beverage Control, 2901 Hermitage Road, 1st Floor Hearing Room, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Alcoholic Beverage Control Board intends to amend regulations entitled: VR 125-01-1. Procedural Rules for the Conduct of Hearings Before the Board and Its Hearing Officers and the Adoption or Amendment of Regulations; VR 125-01-2. Advertising; VR 125-01-3. Tied-House; VR 125-01-4. Requirements for Product Approval; VR 125-01-5. Retail Operations; VR 125-01-6. Manufacturers and Wholesalers Operations; and VR 125-01-7. Other Provisions. The proposed amendments to the regulations relate to (i) recodification of Title 4 into new Title 4.1; (ii) informal conferences; (iii) agency representation; (iv) public participation guidelines; (v) allowing manufacturers, bottlers and wholesalers to supply retailers with inflatables and spirits back-bar pedestals; (vi) off-site directional signs for farm wineries and wineries holding retail off-premises winery licenses; (vii) increasing the record retention period from two to three years for licensees and permittees; (viii) prohibiting manufacturers, bottlers and wholesalers from providing

customized advertising materials to retail licensees; (ix) wine coolers; (x) when and under what circumstances special agents and other law-enforcement officers shall have access to licensed retail establishments; (xi) the definition of "reasonable hours"; (xii) requiring wine and beer and beer only restaurants to sell meals or other food at substantially all hours that wine and beer are offered for sale; (xiii) the form, content and retention of records and accounts required to be kept by licensees; (xiv) waiver of the banquet license tax for not-for-profit corporations or associations holding nonprofit events; and (xv) grain alcohol permits.

Statutory Authority: §§ 4.1-103, 4.1-111, 4.1-113, 4.1-204, 4.1-320, 4.1-329, 9-6.14:7.1 and 9-6.14:11 of the Code of Virginia.

Contact: Robert N. Swinson, Secretary to the Board, P.O. Box 27491, Richmond, VA 23261-7491, telephone (804) 367-0616.

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

† February 23, 1994 - Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board for Architects, Professional Engineers, Land Surveyors and Landscape Architects intends to repeal regulations entitled: VR 130-01-01. Public Participation Guidelines and adopt regulations entitled: VR 130-01-01:1. Public Participation Guidelines. The purpose of the proposed action is to repeal existing public participation guidelines and promulgate new public participation guidelines as provided for in § 9-6.14:7.1 of the Code of Virginia regarding the solicitation of input from interested parties in the formulation, adoption and amendments to new and existing regulations governing the licensure, certification and registration of architects, professional engineers, land surveyors, landscape architects and interior designers in Virginia. The proposed regulation will replace the emergency regulations governing the public process.

Statutory Authority: §§ 9-6.14:7.1, 54.1-201, and 54.1-404 of the Code of Virginia.

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

* * * * *

January 29, 1994 - Written comments may be submitted until this date.

Calendar of Events

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board for Architects, Professional Engineers, Land Surveyors and Landscape Architects intends to amend regulations entitled: **VR 130-01-2. Board for Architects, Professional Engineers, Land Surveyors and Landscape Architects Rules and Regulations.** The purpose of the proposed amendments is to adjust fees contained in current regulation, establish registration requirements for limited liability companies, and revise minimum standards for property surveys.

Statutory Authority: §§ 54.1-113 and 54.1-404 of the Code of Virginia.

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

VIRGINIA ASBESTOS LICENSING BOARD

December 20, 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 Virginia Asbestos Licensing Board intends to adopt regulations entitled: **VR 137-01-1. Public Participation Guidelines.** The proposed guidelines will set procedures for the Virginia Asbestos Licensing Board to follow to inform and incorporate public participation when promulgating asbestos licensing regulations.

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

Contact: David E. Dick, Assistant Director, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8588.

* * * * *

† **January 14, 1994 - 10 a.m.** – Public Hearing
Department of Professional and Occupational Regulation,
3600 West Broad Street, 4th Floor, Conference Room 4,
Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Asbestos Licensing Board intends to repeal regulations entitled: **VR 190-05-01. Asbestos Licensing Regulations** and adopt regulations entitled: **VR 137-01-02. Asbestos Licensing Regulations.** The asbestos regulations have been revised to implement the acts of the 1993 General Assembly.

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

Written comments may be submitted until February 18, 1994.

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

AUCTIONEERS BOARD

January 15, 1994 – Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board for Auctioneers intends to repeal regulations entitled: **VR 150-01-1. Public Participation Guidelines** and adopt regulations entitled: **VR 150-01-1:1. Public Participation Guidelines.** The purpose of the proposed regulatory action is to promulgate new public participation guidelines as provided for in § 9-6.14:7.1 of the Code of Virginia regarding the solicitation of input from interested parties in the formulation, adoption and amendments to new and existing regulations governing the licensure of auctioneers in Virginia.

Statutory Authority: §§ 9-6.14:7.1, 54.1-602 and 54.1-201 of the Code of Virginia.

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

BOARD FOR BARBERS

January 15, 1994 – Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board for Barbers intends to repeal regulations entitled: **VR 170-01-00. Public Participation Guidelines** and adopt regulations entitled: **VR 170-01-00:1. Public Participation Guidelines.** The purpose of the proposed guidelines is to set procedures for the Board for Barbers to follow to inform and incorporate public participation when promulgating regulations.

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

Contact: Mark N. Courtney, Acting Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8590.

BOARD FOR BRANCH PILOTS

† **February 23, 1994** – Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board for Branch Pilots intends to repeal regulations entitled: **VR 535-01-00. Public Participation Guidelines** and adopt regulations entitled: **VR 535-01-00:1. Public Participation Guidelines**. The purpose of the proposed action is to repeal existing public participation guidelines and promulgate new public participation guidelines as provided for in § 9-6.14:7.1 of the Code of Virginia regarding the solicitation of input from interested parties in the formulation, adoption and amendments to new and existing regulations governing the licensure of branch pilots in Virginia. The proposed regulation will replace the emergency regulations governing the public process.

Statutory Authority: §§ 9-6.14:7.1, 54.1-201 and 54.1-902 of the Code of Virginia.

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

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

January 6, 1994 - 7 p.m. - Public Hearing
Department of Environmental Quality Board Room, 4900 Cox Road, Innsbrook, Glen Allen, Virginia.

January 31, 1994 - Written comments may be submitted until 4 p.m. on this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Chesapeake Bay Local Assistance Board intends to amend regulations entitled: **VR 173-01-00:1. Public Participation Guidelines**. The purpose of the proposed amendments is to ensure interested persons information necessary for meaningful, timely input throughout the regulatory process.

Statutory Authority: §§ 9-6.14:7.1 and 10.1-2103 of the Code of Virginia.

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

Central Area Review Committee

December 15, 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 or toll-free 1-800-243-7229/TDD ☎

Northern Area Review Committee

December 14, 1993 - 2 p.m. - Open Meeting
Chesapeake Bay Local Assistance Department, 805 East Broad Street, Suite 701, Richmond, Virginia. (Interpreter for the deaf provided upon request)

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 or toll-free 1-800-243-7229/TDD ☎

Southern Area Review Committee

December 15, 1993 - 2 p.m. - Open Meeting
Chesapeake Bay Local Assistance Department, 805 East Broad Street, Suite 701, Richmond, Virginia. (Interpreter for the deaf provided upon request)

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 or toll-free 1-800-243-7229/TDD ☎

CHILD DAY-CARE COUNCIL

† February 13, 1994 - 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 Child Day-Care Council intends to repeal regulations entitled: **VR 175-01-01. Public Participation Guidelines**. The existing Public Participation Guidelines are being

Calendar of Events

repealed so new guidelines can be promulgated. Oral comments will be accepted at 10 a.m. at the council's regular meeting.

Statutory Authority: §§ 9-6.14:7.1, 63.1-202 and 63.1-202.1 of the Code of Virginia.

Written comments may be submitted until February 13, 1994, to Peg Spangenthal, Child Day-Care Council, 730 East Broad Street, 7th Floor, Richmond, VA 23219.

Contact: Peggy Friedenberg, Legislative Analyst, Office of Governmental Affairs, Department of Social Services, 730 East Broad Street, Richmond, VA 23219, telephone (804) 692-1820.

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† **February 13, 1994** – 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 Child Day-Care Council intends to adopt regulations entitled: **VR 175-01-01:1. Public Participation Guidelines**. This regulation explains how the council will obtain public input when developing regulations. This regulation will replace the emergency public participation guidelines effective 7/1/93 to 7/1/94. Oral comments will be accepted at 10 a.m. at the council's regular meeting.

Statutory Authority: §§ 9-6.14:7.1, 63.1-202 and 63.1-202.1 of the Code of Virginia.

Written comments may be submitted until February 13, 1994, to Peg Spangenthal, Child Day-Care Council, 730 East Broad Street, 7th Floor, Richmond, VA 23219.

Contact: Peggy Friedenberg, Legislative Analyst, Office of Governmental Affairs, Department of Social Services, 730 East Broad Street, Richmond, VA 23219, telephone (804) 692-1820.

INTERDEPARTMENTAL REGULATION OF CHILDREN'S RESIDENTIAL FACILITIES

Coordinating Committee

December 17, 1993 - 8:30 a.m. – Open Meeting
Office of Coordinator, Interdepartmental Regulation, 730 East Broad Street, Theater Row Building, Richmond, Virginia. ☒

A regularly scheduled meeting to consider such administrative and policy issues as may be presented to the committee. A period for public comment is provided at each meeting.

Contact: John J. Allen, Jr., Coordinator, Interdepartmental Regulation, 730 E. Broad St., Richmond, VA 23219-1849,

telephone (804) 692-1960.

COMPENSATION BOARD

December 22, 1993 - Noon – Open Meeting
9th Street Office Building, 202 North 9th Street, Room 913/913A, 9th Floor, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

A routine meeting.

Contact: Bruce W. Haynes, Executive Secretary, P.O. Box 3-F, Richmond, VA 23206-0686, telephone (804) 786-3886 or (804) 786-3886/TDD ☒

DEPARTMENT OF CONSERVATION AND RECREATION

January 6, 1994 - 7 p.m. – Public Hearing
Department of Environmental Quality, Board Room, 4900 Cox Road, Innsbrook, Glen Allen, Virginia.

January 31, 1994 – 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 Conservation and Recreation intends to amend regulations entitled: **VR 217-00-00. Regulatory Public Participation Procedures**. Section 9-6.14:7.1 of the Administrative Process Act (APA) requires each agency to develop, adopt and use public participation guidelines for soliciting the input of interested persons in the formation and development of its regulations. Such guidelines shall not only be used prior to the formation and drafting of proposed regulations, but shall also be used during the entire formation, promulgation and final adoption process. Furthermore, § 10.1-104 of the Code of Virginia authorizes the Department of Conservation and Recreation (department) to prescribe rules and regulations necessary and incidental to the performance of duties or execution of powers conferred by law; and to promulgate regulations pursuant to the Administrative Process Act to carry out the provisions of Subtitle I of Title 10.1 of the Code of Virginia.

This action is necessary to replace existing emergency Regulatory Public Participation Procedures with permanent regulations which will comply with new provisions of the APA enacted by the 1993 General Assembly. These proposed amendments will establish, in regulation, various provisions to ensure that interested persons have the necessary information to comment in a meaningful, timely fashion during all phases of the regulatory process. These proposed amendments are consistent with those of the other agencies within the Natural Resources Secretariat.

The proposed amendments contain a number of new

provisions. Specifically, the proposal includes a definition for "participatory approach" which means the methods for the use of an ad hoc advisory group or panel, standing advisory committee, consultation with groups or individuals or a combination of methods; requires the use of the participatory approach upon the receipt of written requests from five persons during the associated comment period; expands the department's procedures for establishing and maintaining lists of persons expressing an interest in the adoption, amendment or repeal of regulations; expands the information required in the Notice of Intended Regulatory Action to include a description of the subject matter and intent of the planned regulation and to include a statement inviting comment on whether the Director of the Department of Conservation and Recreation should use the participatory approach to assist in regulation development; expands the information required in the Notice of Public Comment to include the identity of localities affected by the proposed regulation and to include a statement on the rationale or justification for the new provisions of the regulation from the standpoint of the public's health, safety or welfare; and requires that a draft summary of comments be sent to all public commenters on the proposed regulation at least five days before final adoption of the regulation.

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

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

Board of Conservation and Recreation

† December 15, 1993 - 9:30 a.m. - Open Meeting
State Capitol Building, House Room 1, Richmond, Virginia.



A general business meeting.

Contact: Karen Spencer, Executive Secretary, Department of Conservation and Recreation, 203 Governor Street, Suite 302, Richmond, VA 23219, telephone (804) 786-6124 or (804) 786-2121/TDD .

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January 6, 1994 - 7 p.m. - Public Hearing
Department of Environmental Quality, Board Room, 4900 Cox Road, Innsbrook, Glen Allen, Virginia.

January 31, 1994 - Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Conservation and Recreation intends to amend regulations entitled:

VR 215-00-00. Regulatory Public Participation Procedures. Section 9-6.14:7.1 of the Administrative Process Act (APA) requires each agency to develop, adopt and use public participation guidelines for soliciting the input of interested persons in the formation and development of its regulations. Such guidelines shall not only be used prior to the formation and drafting of proposed regulations, but shall also be used during the entire formation, promulgation and final adoption process. Furthermore, § 10.1-107 of the Code of Virginia 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.

This action is necessary to replace existing emergency Regulatory Public Participation Procedures with permanent regulations which will comply with new provisions of the APA enacted by the 1993 General Assembly. These proposed amendments will establish, in regulation, various provisions to ensure that interested persons have the necessary information to comment in a meaningful, timely fashion during all phases of the regulatory process. These proposed amendments are consistent with those of the other agencies within the Natural Resources Secretariat.

The proposed amendments contain a number of new provisions. Specifically, the proposal includes a definition for "participatory approach" which means the methods for the use of an ad hoc advisory group or panel, standing advisory committee, consultation with groups or individuals or a combination of methods; requires the use of the participatory approach upon the receipt of written requests from five persons during the associated comment period; expands the board's procedures for establishing and maintaining lists of persons expressing an interest in the adoption, amendment or repeal of regulations; expands the information required in the Notice of Intended Regulatory Action to include a description of the subject matter and intent of the planned regulation and to include a statement inviting comment on whether the Director of the Department of Conservation and Recreation should use the participatory approach to assist in regulation development; expands the information required in the Notice of Public Comment to include the identity of localities affected by the proposed regulation and to include a statement on the rationale or justification for the new provisions of the regulation from the standpoint of the public's health, safety or welfare; and requires that a draft summary of comments be sent to all public commenters on the proposed regulation at least five days before final adoption of the regulation.

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

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

Falls of the James Scenic River Advisory Board

† **December 17, 1994 - noon** – Open Meeting
City Hall, Planning Commission Conference Room, 5th Floor, Richmond, Virginia.

A meeting to review river issues and programs.

Contact: Richard G. Gibbons, Environmental Program Manager, Department of Conservation and Recreation, Division of Planning and Recreation Resources, 203 Governor Street, Suite 326, Richmond, VA 23219, telephone (804) 786-4132 or (804) 786-2121/TDD ☎

Soil and Water Conservation Board

January 6, 1994 - 7 p.m. – Public Hearing
Department of Environmental Quality, Board Room, 4900 Cox Road, Innsbrook, Glen Allen, Virginia.

January 31, 1994 – 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 Soil and Water Conservation Board intends to amend regulations entitled: **VR 625-00-00:1. Regulatory Public Participation Procedures.** Section 9-6.14:7.1 of the Administrative Process Act (APA) requires each agency to develop, adopt and use public participation guidelines for soliciting the input of interested persons in the formation and development of its regulations. Such guidelines shall not only be used prior to the formation and drafting of proposed regulations, but shall also be used during the entire formation, promulgation and final adoption process. Furthermore, § 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 (§ 10.1-603 et seq.) of Title 10.1 of the Code of Virginia. This authorization covers the Erosion and Sediment Control Law and its attendant regulations. Section 10.1-603.18 of the Code of Virginia authorizes the board to promulgate regulations for the proper administration of the Flood Prevention and Protection Assistance Fund which is to include but not be limited to the establishment of amounts, interest rates, repayment terms, consideration of the financial stability of the particular local public body applying and all other criteria for awarding of grants or loans under the Flood Prevention and Protection Assistance Fund Act (§ 10.1-603.16 et seq.). The Dam Safety Act under § 10.1-605 of the Code of Virginia requires the board to promulgate regulations to ensure that impounding structures in the Commonwealth are properly and safely constructed, maintained and operated (§ 10.1-604 et seq.). The Conservation, Small

Watersheds Flood Control and Area Development Fund Act (§ 10.1-636 et seq.) authorizes the board to establish guidelines for the proper administration of the fund and provisions of Article 4.

This action is necessary to replace existing emergency Regulatory Public Participation Procedures with permanent regulations which will comply with new provisions of the APA enacted by the 1993 General Assembly. These proposed amendments will establish, in regulation, various provisions to ensure that interested persons have the necessary information to comment in a meaningful, timely fashion during all phases of the regulatory process. These proposed amendments are consistent with those of the other agencies within the Natural Resources Secretariat.

The proposed amendments contain a number of new provisions. Specifically, the proposal includes a definition for "participatory approach" which means the methods for the use of an ad hoc advisory group or panel, standing advisory committee, consultation with groups or individuals or a combination of methods; requires the use of the participatory approach upon the receipt of written requests from five persons during the associated comment period; expands the board's procedures for establishing and maintaining lists of persons expressing an interest in the adoption, amendment or repeal of regulations; expands the information required in the Notice of Intended Regulatory Action to include a description of the subject matter and intent of the planned regulation and to include a statement inviting comment on whether the Director of the Department of Conservation and Recreation should use the participatory approach to assist in regulation development; expands the information required in the Notice of Public Comment to include the identity of localities affected by the proposed regulation and to include a statement on the rationale or justification for the new provisions of the regulation from the standpoint of the public's health, safety or welfare; and requires that a draft summary of comments be sent to all public commenters on the proposed regulation at least five days before final adoption of the regulation.

Statutory Authority: §§ 9-6.14:7.1, 10.1-502, 10.1-603.18, 10.1-605, and 10.1-637 of the Code of Virginia.

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

BOARD FOR CONTRACTORS

December 15, 1993 - 8 a.m. – Open Meeting
Department of Professional and Occupational Regulation
3600 W. Broad St., 4th Floor, Conference Room 4
Richmond, Virginia.

Calendar of Events

A regular quarterly meeting of the board to address policy and procedural issues, review and render decisions on applications for contractors' licenses, and review and render case decisions on matured complaints against licensees. The meeting is open to the public; however, a portion of the board's business may be discussed in executive session.

Contact: A. R. Wade, Assistant Director, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8585.

Applications Review Committee

† **December 14, 1994 - 1 p.m.** – Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, Richmond, Virginia. ☒

A regular meeting to review applications with conviction or complaints for class A and class B contractors licenses.

Contact: Florence R. Brassier, Assistant Director, Board for Contractors, 3600 West Broad Street, Richmond, VA 23230, telephone (804) 367-2785.

DEPARTMENT OF CORRECTIONS (STATE BOARD OF)

December 15, 1993 - 10 a.m. – Open Meeting
Board of Corrections Board Room, 6900 Atmore Drive,
Richmond, Virginia ☒

A meeting to discuss matters as may be presented.

Contact: Ms. Vivian Toler, Secretary to the Board, 6900 Atmore Drive, Richmond, VA 23225, telephone (804) 674-3235.

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January 12, 1994 - 10 a.m. – Public Hearing
Board of Corrections Board Room, 6900 Atmore Drive,
Richmond, Virginia.

January 17, 1994 – 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 Corrections intends to amend regulations entitled: **VR 230-30-001. Public Participation Guidelines.** The purpose of the proposed regulations is to outline how the Board of Corrections plans to ensure public participation in the formation and development of regulations as required in the Administrative Process Act.

Statutory Authority: §§ 9-6.14:7.1 and 53.1-5 of the Code of Virginia.

Contact: Amy Miller, Agency Regulatory Coordinator,

Department of Corrections, P.O. Box 26963, Richmond, VA 23261, telephone (804) 674-3262.

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January 17, 1994 – 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 Corrections intends to repeal regulations entitled: **VR 230-30-005. Guide for Minimum Standards in Planning, Design and Construction of Jail Facilities.** The Board of Corrections is repealing this regulation; however, the board is including the provisions of this regulation in VR 230-30-005:1, 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.

Contact: Mike Howerton, Chief of Operations, Department of Corrections, P.O. Box 26963, Richmond, VA 23251, telephone (804) 674-3251.

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December 15, 1993 - 10 a.m. – Public Hearing
Board of Corrections Board Room, 6900 Atmore Drive,
Richmond, Virginia.

January 17, 1994 – 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 Corrections intends to adopt regulations entitled: **VR 230-30-005:1. Standards for Planning, Design, Construction and Reimbursement of Local Correctional Facilities.** The purpose of the proposed regulation is to fulfill the Board of Corrections' obligation 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. These regulations will supersede VR 230-30-008, Regulations for State Reimbursement of Local Correctional Facility Construction Costs, and VR 230-30-005, Guide for Minimum Standards in Planning, Design and Construction of Jail Facilities.

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

Contact: Mike Howerton, Chief of Operations, Department of Corrections, P.O. Box 26963, Richmond, VA 23251, telephone (804) 674-3251.

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January 17, 1994 – 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 Corrections intends to repeal regulations entitled: **VR 230-30-008. Regulations for State Reimbursement of Local Correctional Facility Construction Costs.** The Board of Corrections is repealing this regulation; however, the board is including the provisions of this regulation in VR 230-30-005:1, 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.

Contact: Mike Howerton, Chief of Operations, Department of Corrections, P.O. Box 26963, Richmond, VA 23251, telephone (804) 674-3251.

BOARD FOR COSMETOLOGY

† **January 10, 1994 - 10 a.m.** – Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, Richmond, Virginia.

A general business meeting.

Contact: Karen W. O'Neal, Assistant Director, Board for Cosmetology, Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, VA 23230, telephone (804) 367-8509.

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February 10, 1994 – Written comments may be submitted until this date.

Notice is hereby given in accordance with § 323230, telephone (804) 367-8509.

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February 10, 1994 – Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board for Cosmetology intends to repeal regulations entitled: **VR 235-01-1. Public Participation Guidelines** and adopt regulations entitled: **VR 235-01-01:1. Public Participation Guidelines.** The purpose of the proposed guidelines is to set procedures for the Board for Cosmetology to follow to inform and incorporate public participation when promulgating Cosmetology regulations.

Statutory Authority: §§ 9-6.14:7.1 and 54.1-1202 of the Code of Virginia.

Contact: Karen W. O'Neal, Assistant Director, 3600 W. Broad Street, Richmond, VA 23230, telephone (804) 367-8509.

DEPARTMENT OF EDUCATION (STATE BOARD OF)

December 14, 1993 - 7 p.m. – Public Hearing

Snow date: December 16, 1993

Northside High School, 6758 Northside High School Road, Roanoke, Virginia.

January 19, 1994 - 7 p.m. – Public Hearing

Snow date: January 25, 1994

Kenmore Middle School, 200 South Carlin Springs Road, Arlington, Virginia.

January 20, 1994 - 7 p.m. – Public Hearing

Snow date: January 27, 1994

Hermitage High School, 8301 Hungary Spring Road, Richmond, Virginia

January 29, 1994 – Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Education intends to adopt regulations entitled: **VR 270-01-0042:1. Regulations Governing the Employment of Professional Personnel.** The purpose of the proposed regulations is to include provisions for contractual agreements and hiring procedures. The regulations provide an overview of the contracting process for local school boards and their professional employees, definitions of relevant contract terms, and descriptions of essential contract elements are included within the appendix of the regulations. The regulations describe the employment of professional personnel as a process that rests with the local school board and the employee and sets forth the prototypes and contract elements as resources that local boards may use at their discretion in meeting the requirements of the employment process.

The proposed regulations are new regulations that are intended to replace VR 270-01-0042, which will be repealed. The proposed regulations reflect substantial changes over the previous section on contractual agreements. For the first time, all relevant terms are being described and an entirely new section on the uniform hiring of teachers is presented.

The specific provisions of the proposed regulations are in two parts and begin with a preamble describing who the parties are and that the hiring discretion is with the local school board. Part I includes (i) definitions of terms, including types of contracts and the personnel involved, (ii) the contract period and the form of the contract including sample prototypes of each type of contract and a listing of essential contract terms, (iii) the specific provisions of the annual contract, (iv) the specific provisions of the continuing contract, and (v) the specific provisions of the coaching contract. Part II includes (i) a discussion of the purpose of a uniform hiring process, and (ii) a three-phase hiring process with detailed descriptions of

Calendar of Events

the benefits and requirements of each phase. The three-phase process establishes a calendar for hiring that is compatible with the dates budgets are completed by local governing bodies. The calendar dates establish minimum timeframes to accommodate the local hiring process, offer local flexibility in including contract terms to cover unique needs and practices of a locality, and offer professional mobility for teachers.

Statutory Authority: §§ 22.1-16, 22.1-302, and 22.1-304 of the Code of Virginia.

Contact: Brenda F. Briggs or Charles W. Finley, Associate Specialists, Compliance Division, Department of Education, P. O. Box 2120, Richmond, VA, telephone (804) 225-2750, (804) 225-2747 or toll-free 1-800-292-3820.

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† January 27, 1994 - 8 a.m. – Public Hearing
James Monroe Building, 101 N. 14th Street, Richmond, Virginia.

February 13, 1994 – Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Education intends to amend regulations entitled: **VR 270-01-0006. Regulations Governing Pupil Transportation including Minimum Standards for School Buses In Virginia.** The purpose of the proposed amendments is to address revisions to federal and state statutes and federal regulations. These regulations are divided into seven major parts: Definitions, General Regulations, Distribution of Pupil Transportation Funds, Requirements for School Bus Drivers, Minimum Standards for School Buses in Virginia (the bus chassis and the bus body), Standards for Lift Gate Buses, and Activity Buses. The proposed revisions provide amendments to reflect automation of accident reporting; changes in distribution of pupil transportation funds; changes in driver requirements to address the Americans with Disabilities Act, testing for alcohol and controlled substances, and driver training; technological advances in design of school bus chassis and school bus body and to conform to federal motor vehicle safety standards; new standards regarding transporting children with special needs to include infants and toddlers; and changes in regulations regarding use of school activity vehicles.

Statutory Authority: Article VIII, § 4 of the Constitution of Virginia; §§ 22.1-16, 22.1-176, 22.1-177, and 22.1-178 of the Code of Virginia.

Contact: Kathryn S. Kitchen, Division Chief, Department of Education, P. O. Box 2120, Richmond, VA 23216-2120, telephone (804) 225-2025.

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† January 27, 1994 - 9 a.m. – Public Hearing
James Monroe Building, Conference Room B, 101 N. 14th Street, Richmond, Virginia.

February 13, 1994 – Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Education intends to adopt regulations entitled: **VR 270-01-0059. Regulations for the School Breakfast Program.** Section 22.1-207.3 of the Code of Virginia requires that any public school that has 25% or more of its students eligible for free and reduced price meals provide the federally funded School Breakfast Program or like program. The law also requires the Department of Education to promulgate regulations governing the implementation of a breakfast program and to establish reporting requirements. The Child Nutrition Act of 1966 and succeeding amendments provide for a school breakfast program in any school agreeing to participate and to meet federal requirements. This is a federally funded entitlement program; reimbursement will be paid for all breakfasts served that meet federal requirements.

All schools are eligible to participate in the federally funded School Breakfast Program provided under the Child Nutrition Act of 1966 and succeeding amendments. The purpose is to provide students, who otherwise may not eat, the opportunity to eat breakfast before the school day begins. Consumption of breakfast enhances the health, well-being, educational experiences and performance of students. Federal funds will reimburse school divisions, according to students' meal benefit categories, for all breakfasts served that meet federal requirements. The State Board of Education reserves the right to waive the requirement of a breakfast program after a school has met specified procedures. With the implementation of the federally funded School Breakfast Program increased federal funds will be received by localities and more children will have access to a breakfast meal.

Statutory Authority: § 22.1-207.3 of the Code of Virginia.

Contact: Jane R. Logan, Principal Specialist, Department of Education, P. O. Box 2120, Richmond, VA 23216-2120.

January 27, 1994 - 8:30 a.m. – Open Meeting
February 24, 1994 - 8:30 a.m. – Open Meeting
James Monroe Building, 101 North 14th Street, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

The Board of Education and the Board of Vocational Education will hold a regularly scheduled meeting. Business will be conducted according to items listed on the agenda. The agenda is available upon request.

Calendar of Events

Contact: Dr. Ernest W. Martin, Assistant Superintendent, Department of Education, P. O. Box 2120, Richmond, VA 23216-2120, telephone (804) 225-2073 or toll-free 1-800-292-3820.

BOARDS OF EDUCATION; MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES; SOCIAL SERVICES; AND YOUTH AND FAMILY SERVICES

December 17, 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 Boards of Education; Mental Health, Mental Retardation and Substance Abuse Services; Social Services; and Youth and Family Services intend to amend regulations entitled: **VR 270-01-003, VR 470-02-01, VR 615-29-02, and VR 690-40-004. Standards for Interdepartmental Regulation of Residential Facilities for Children.** This regulation is designed to assure that adequate care, treatment and education are provided by residential facilities for children. The proposed revisions amend and clarify requirements governing participation of residents in human research and duration of licenses/certificates.

Statutory Authority: §§ 16.1-311, 22.1-321, 22.1-323.2, 37.1-10, 37.1-182, 37.1-189.1, 63.1-25, 63.1-196.4, 66-10 and 66-24 of the Code of Virginia.

Written comments may be submitted through December 17, 1993, to Rhonda M. Harrell, Office of Interdepartmental Regulation, 730 East Broad Street, Richmond, Virginia 23219-1849.

Contact: John J. Allen, Jr., Coordinator, Office of Interdepartmental Regulation, 730 E. Broad St., Richmond, VA 23219-1849, telephone (804) 692-1960.

STATE EDUCATION ASSISTANCE AUTHORITY

December 17, 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.** The purpose of the proposed amendment 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 December 17, 1993, to Marvin Ragland, Virginia Student Assistance Authorities, 411 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 - CHESTERFIELD COUNTY

January 6, 1994 - 5:30 p.m. – Open Meeting
Chesterfield County Administration Building, 10001 Ironbridge Road, Room 502, Chesterfield, Virginia. ☒

A meeting to meet requirements of Superfund Amendment and Reauthorization Act of 1986.

Contact: Lynda G. Furr, Assistant Emergency Services Coordinator, Chesterfield Fire Department, P.O. Box 40, Chesterfield, VA 23832, telephone (804) 748-1236.

LOCAL EMERGENCY PLANNING COMMITTEE - COUNTY OF MONTGOMERY/TOWN OF BLACKSBURG

† **December 14, 1993 - 3 p.m.** – Open Meeting
Montgomery County Courthouse, 3rd Floor, Board of Supervisors Room, Christiansburg, Virginia. ☒

Development of a Hazardous Materials Emergency Response Plan for Montgomery County and Town of Blacksburg.

Contact: Steve Via, New River Valley Planning District Commission, P. O. Box 3726, Radford, VA 24143, telephone (703) 639-9313 or FAX (703) 831-6093.

DEPARTMENT OF ENVIRONMENTAL QUALITY

December 15, 1993 - 10 a.m. – Open Meeting
Department of Environmental Quality, Innsbrook Corporate Center, 4900 Cox Road, Training Room, Glen Allen, Virginia.

The Interagency Committee on Land Application of Sewage Sludge will meet to discuss PAN rates for the SCAT regulations, the use of values for soil productivity classification and crop requirements, and the future role of the committee.

Contact: Martin Ferguson, Department of Environmental Quality, 4900 Cox Rd., Glen Allen, VA 23060, telephone (804) 527-5030.

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† **December 21, 1993 - 6:30 p.m.** – Public Hearing
Mary Bethune Office Complex, 2nd Floor Meeting Room
Cowford Road, Halifax, Virginia. ☒

Calendar of Events

A public briefing/hearing to consider an application from J. M. Huber Corporation to operate an oriented strand board manufacturing plant. The facility will be located in the Halifax County/Crystal Hill area. An informational briefing will be conducted before the hearing starting at 6:30 p.m. The public hearing will begin at 7:30 p.m.

Contact: Tom Berkeley, Environmental Engineer Senior, Department of Environmental Quality, Lynchburg Air Office, 7701-03 Timberlake Road, Lynchburg, VA 24502, telephone (804) 582-5120.

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January 6, 1994 - 7 p.m. - Public Hearing
Department of Environmental Quality, Innsbrook Office, 4900 Cox Road, Glen Allen, Virginia.

January 31, 1994 - Written comments may be submitted until 4 p.m. on this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Environmental Quality intends to adopt regulations entitled: **VR 304-01-01. Public Participation Guidelines.** The purpose of the proposed regulation is to replace existing emergency public participation guidelines with permanent guidelines in compliance with the Administrative Process Act. Department of Environmental Quality has conducted analyses related to the basis, purpose, substance, issues and estimated impacts of the proposed amendments. Any persons interested in reviewing these materials should contact Cindy Berndt at the Department of Environmental Quality, Office of Regulatory Service, P. O. Box 11143, Richmond, Virginia 23230. The meeting is being held at a facility believed to be accessible to persons with disabilities. Any person with questions on the accessibility of the facilities should contact Ms. Doneva Dalton, Office of Regulatory Service, P. O. Box 11143, Richmond, VA 23230, (804) 527-5162 or (804) 527-4261/TDD. Persons needing interpreter services for the deaf must notify Ms. Dalton no later than December 27, 1993.

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 January 3, 1994, to Ms. Doneva Dalton, Department of Environmental Quality, P. O. Box 11143, Richmond, VA 23230.

Contact: Cindy M. Berndt, Office of Regulatory Services, Department of Environmental Quality, P. O. Box 11143, Richmond, VA 23230, telephone (804) 527-5158.

Waste Tire End User Reimbursement Advisory Committee

† **January 12, 1994 - 10 a.m. - Open Meeting**
Monroe Office Building, Conference Room C, 101 N. 14th Street, Richmond, Virginia. ☐

The meeting is the second meeting of the committee which is assisting DEQ in developing regulations for reimbursing users of waste tire material pursuant to §§ 10.1-1422 and 10.1-1422.3 of the Code of Virginia.

Contact: Allan Lassiter, Director, Waste Tire Program, Department of Environmental Quality, 629 E. Main Street, Richmond, VA 23219, telephone (804) 672-4215.

Work Group on Detection/Quantitation Levels

January 12, 1994 - 1:30 p.m. - Open Meeting
Department of Environmental Quality, 4949 Cox Road, Lab Training Room, Glen Allen, Virginia. ☐

The department has established a work group on detection/quantitation levels for pollutants in the regulatory and enforcement programs. The work group will advise the Director of the Department of Environmental Quality. Other meetings of the work group have been scheduled at the same time and location for January 26, February 9, February 23, March 9, March 23, April 6, and April 20, 1994. However, these dates are not firm. Persons interested in the meetings of this work group should confirm the date with the contact person below.

Contact: Alan J. Anthony, Chairman, Department of Environmental Quality, 4900 Cox Road, Glen Allen, VA 23060, telephone (804) 527-5070.

VIRGINIA FIRE SERVICES BOARD

December 17, 1993 - 9 a.m. - Open Meeting
Sheraton Park South, Moorefield Office Park, 9901 Midlothian Turnpike, Richmond, 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 Road, Suite 200, Richmond, VA 23294, telephone (804) 527-4236.

Fire/EMS Education and Training Committee

December 16, 1993 - 10 a.m. - Open Meeting
Sheraton Park South, Moorefield Office Park, 9901 Midlothian Turnpike, Richmond, Virginia.

A meeting to discuss fire training and policies. The committee meeting is open to the public for their input and comments.

Contact: Anne J. Bales, Executive Secretary Senior, 2807

Calendar of Events

Parham Road, Suite 200, Richmond, VA 23294, telephone (804) 527-4236.

Fire Prevention and Control Committee

December 16, 1993 - 9 a.m. - Open Meeting
Sheraton Park South, Moorefield Office Park, 9901 Midlothian Turnpike, Richmond, Virginia.

A meeting to discuss fire training and policies. The committee meeting is open to the public for their input and comments.

Contact: Anne J. Bales, Executive Secretary Senior, 2807 Parham Road, Suite 200, Richmond, VA 23294, telephone (804) 527-4236.

Legislative/Liaison Committee

December 16, 1993 - 1 p.m. - Open Meeting
Sheraton Park South, Moorefield Office Park, 9901 Midlothian Turnpike, Richmond, Virginia.

A meeting to discuss fire training and policies. The committee meeting is open to the public for their input and comments.

Contact: Anne J. Bales, Executive Secretary Senior, 2807 Parham Road, Suite 200, Richmond, VA 23294, telephone (804) 527-4236.

FOOD SERVICE ADVISORY COMMITTEE

December 9, 1993 - 10 a.m. - Open Meeting
Department of Housing and Community Development, Jackson Center, 501 N. Second St., Second Floor Conference Room, Richmond, Virginia ☒

A regular meeting. This committee meets at least once a year to discuss and recommend food service policy, regulation, and programmatic changes to the Commissioner of Health for implementation.

Contact: John E. Benko, Division Director, Division of Food and Environmental Health, 1500 E. Main St., Suite 115, Richmond, VA 23218, telephone (804) 786-3559.

BOARD OF FORESTRY

January 13, 1994 - 9:30 a.m. - Open Meeting
Marriott Hotel, 500 E. Broad Street, Richmond, Virginia

A general business meeting.

Contact: Barbara A. Worrell, Administrative Staff Specialist, P. O. Box 3758, Charlottesville, VA 22903-0858, telephone (804) 977-6555/TDD ☎

BOARD OF FUNERAL DIRECTORS AND EMBALMERS

† **January 4, 1994 - 9:30 a.m. - Open Meeting**
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia. ☒

A regularly scheduled board meeting.

Contact: Meredyth P. Partridge, Executive Director, Department of Health Professions, 6606 West Broad Street, 4th Floor, Richmond, VA 23230, telephone (804) 662-9907 or (804) 662-7197/TDD ☎

BOARD OF GAME AND INLAND FISHERIES

† **January 6, 1994 - 7 p.m. - Public Hearing**
Department of Environmental Quality, Innsbrook Office, 4900 Cox Road, Glen Allen, Virginia.

† **February 11, 1994 - Written comments may be submitted until 5 p.m. on this date.**

Notice is hereby given in accordance with § 9-6.14:7.1 that the Board of Game and Inland Fisheries intends to adopt regulations entitled: **VR 325-05-1. Public Participation Guidelines.** This proposed regulation sets forth the procedures to be followed by the Department of Game and Inland Fisheries for soliciting input from the public during all phases of the formation, development, promulgation, and final adoption of regulations not related to wildlife management, which have been exempted by the General Assembly from the public participation provisions of the Administrative Process Act. As such, they are the primary means for the public, regulated entities, environmental groups and other interested persons to provide meaningful input on the effects of a proposed action to their health, safety, or welfare. It also requires the agency to respond to citizen's comments.

Statutory Authority: §§ 9-6.14:7.1 and 29.1-103 of the Code of Virginia.

Contact: Mark D. Monson, Chief, Department of Game and Inland Fisheries, 4010 West Broad Street, Richmond, VA 23230, telephone (804) 367-1000.

BOARD FOR GEOLOGY

December 20, 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 Board for Geology intends to repeal regulations entitled: **VR 355-01-1, Public Participation Guidelines** and adopt regulations entitled **VR 355-01-1:1, Public Participation Guidelines.** The proposed guidelines will set

procedures for the Board for Geology to follow to inform and incorporate public participation when promulgating geology regulations.

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

Contact: David E. Dick, Assistant Director, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8595.

January 5, 1994 - 10 a.m. - Open Meeting
Department of Professional and Occupational Regulation, 3600 W. Broad Street, Conference Room 3, Richmond, Virginia ☐

A general board meeting.

Contact: David E. Dick, Assistant Director, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8595 or (804) 367-9753/TDD ☎

VIRGINIA HAZARDOUS MATERIALS EMERGENCY RESPONSE ADVISORY COUNCIL

December 13, 1993 - 10 a.m. - Open Meeting

The business of the meeting will consist of introductions of new members, update of response and training programs, a briefing on the Hazardous Materials Transportation Safety Act (HMTUSA) Grant Application, and a report on SARA Title III planning and training.

Contact: Addison E. Slayton, State Coordinator, Department of Emergency Services, 310 Turner Road, Richmond, VA 23225, telephone (804) 674-2497.

DEPARTMENT OF HEALTH (STATE BOARD OF)

December 13, 1993 - 10 a.m. - Open Meeting
Whitehall-Robins, 1407 Cummings Drive, Richmond, Virginia

December 13, 1993 - 3 p.m. - Open Meeting
Jefferson Hotel, Franklin and Adams Streets, Richmond, Virginia

A business meeting. An informal dinner will begin at 7:30 p.m.

Contact: Susan R. Rowland, Assistant to the Commissioner, Department of Health, 1500 East Main Street, Suite 214, Richmond, VA 23219, telephone (804) 786-3564.

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† January 11, 1994 - 10 a.m. - Public Hearing
James Monroe Building, Room C, 101 N. 14th Street, Richmond, Virginia.

† February 11, 1994 - 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 355-30-000. Virginia Medical Care Facilities Certificate of Public Need Rules and Regulations.** Sections 32.1-12 and 32.1-102.2 of the Code of Virginia provide the statutory basis for Virginia Medical Care Facilities Certificate of Public Need (COPN) regulations. The proposed regulations incorporate all of the amendments to the COPN law which were enacted by the 1993 Session of the Virginia General Assembly and became effective on July 1, 1993. In order to assure compliance with the amended COPN law, the Board of Health promulgated emergency COPN regulations on July 1, 1993, which are effective through June 30, 1994. The proposed COPN regulations will permanently incorporate all 1993 changes to the law which were implemented on an emergency basis. These regulations also propose modifications to the administrative review procedures and to the definition of a reviewable project which should improve the effectiveness of COPN regulation.

Statutory Authority: §§ 32.1-12 and 32.1-102.2 of the Code of Virginia.

Contact: Wendy V. Brown, Project Review Manager, Office of Resources Development, Department of Health, 1500 East Main Street, Suite 105, Richmond, VA 23219, telephone (804) 786-7463.

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January 14, 1994 - 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 repeal regulations entitled: **Rules and Regulations Governing the Maternal and Neonatal High-Risk Hospitalization Program.** These regulations are no longer necessary since the program was discontinued in FY 1988 when appropriations for the program ended. The program reimbursed eligible hospitals for services provided to certain high-risk pregnant women and newborns whose family incomes were below 100% of the federal poverty level. Services that were provided through the program are now available through Medicaid-reimbursed services as well as the Indigent Health Care Trust Fund which reimburses hospitals for uncompensated care.

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

Contact: Rosanne Kolesar, Health Programs Analyst, Department of Health, 1500 E. Main St., Room 213, Richmond, VA 23219, telephone (804) 786-4891.

Calendar of Events

BOARD OF HEALTH PROFESSIONS

† **December 20, 1993 - 10 a.m.** – Open Meeting
Department of Health Professions, 6606 West Broad Street,
5th Floor, Conference Room 4, Richmond, Virginia. ☒
(Interpreter for the deaf provided upon request)

10 a.m. - Regulatory Research Committee -
Reconsideration of recommendation on regulatory
management of chemically dependent practitioners.

12 noon - Board of Health Professions meeting - to
adopt proposed regulations governing public
participation guidelines (replaces emergency
regulations currently in effect)

1:30 p.m. - Practitioner Self-Referral Committee - To
consider comments received on proposed regulations
governing practitioner self-referral and to consider
possible amendments to regulations.

No public comment will be received at these
meetings.

Contact: Richard D. Morrison, Ph.D., Deputy Director for
Research, Department of Health Professions, 6606 West
Broad Street, 4th Floor, Richmond, VA 23230, telephone
(804) 662-9904.

VIRGINIA HEALTH SERVICES COST REVIEW COUNCIL

December 21, 1993 - 9:30 a.m. – Open Meeting
Blue Cross/Blue Shield of Virginia, 2015 Staples Mill Road,
Richmond, Virginia.

A monthly meeting followed by a public hearing
beginning at noon.

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

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December 21, 1993 - Noon – Public Hearing
Blue Cross/Blue Shield, 2015 Staples Mill Road, The
Virginia Room, Richmond, Virginia.

January 14, 1994 – 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 Health
Services Cost Review Council intends to amend
regulations entitled: **VR 370-01-000:1. Public
Participation Guidelines.** The purpose of the proposed
amendments is to allow for further identification and
notification of interested parties as the council pursues
the regulatory process. The guidelines set out a
general policy for the use of standing or ad hoc

advisory panels and consultation with the groups and
individuals as the regulatory process is followed.

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

Contact: John A. Rupp, Executive Director, 805 E. Broad
St., 6th Floor, Richmond, VA 23219, telephone (804)
786-6371.

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December 21, 1993 - Noon – Public Hearing
Blue Cross/Blue Shield, 2015 Staples Mill Road, The
Virginia Room, Richmond, Virginia.

January 14, 1994 – 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 Health
Services Cost Review Council intends to amend
regulations entitled: **VR 370-01-001. Rules and
Regulations of the Virginia Health Services Cost
Review Council.** Section 9-161.1 of the Code of
Virginia requires that the Virginia Health Services Cost
Review Council establish a new methodology for the
review and measurement of efficiency and
productivity of health care institutions. The
methodology provides for, but is not limited to,
comparison of the health care institution's
performance to national and regional data. The
amendments conform this regulation to the
requirements of the new methodology.

Statutory Authority: §§ 9-160 and 9-164 of the Code of
Virginia.

Contact: John A. Rupp, Executive Director, 805 E. Broad
St., 6th Floor, Richmond, VA 23219, telephone (804)
786-6371.

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December 21, 1993 - Noon – Public Hearing
Blue Cross/Blue Shield, 2015 Staples Mill Road, The
Virginia Room, Richmond, Virginia.

January 14, 1994 – 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 Health
Services Cost Review Council intends to adopt
regulations entitled: **VR 370-01-002. Regulations to
Measure Efficiency and Productivity of Health Care
Institutions.** This regulation establishes a new
methodology for the review and measurement of
efficiency and productivity of health care institutions
The methodology provides for, but is not limited to
comparisons of a health care institution's performance

to national and regional data.

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

Contact: John A. Rupp, Executive Director, 805 E. Broad St., 6th Floor, Richmond, VA 23219, telephone (804) 786-6371.

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December 21, 1993 - Noon - Public Hearing
Blue Cross/Blue Shield, 2015 Staples Mill Road, The Virginia Room, Richmond, Virginia.

January 14, 1994 - 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 Health Services Cost Review Council intends to adopt regulations entitled: **VR 370-01-003. Virginia Health Services Cost Review Council Patient Level Data Base System.** This regulation (i) establishes the filing requirements of patient level data by hospitals regarding inpatient discharges; (ii) establishes the fees which must be complied with; (iii) establishes the various alternatives for the submission of the data; (iv) provides for confidentiality of certain filings; and (v) clarifies the type of nonprofit health data organization the executive director shall contract with to fulfill the requirements of the Patient Level Data Base System.

Statutory Authority: §§ 9-164 and 9-166.5 of the Code of Virginia.

Contact: John A. Rupp, Executive Director, 805 E. Broad St., 6th Floor, Richmond, VA 23219, telephone (804) 786-6371.

January 25, 1994 - 9 a.m. - Open Meeting
Blue Cross/Blue Shield, 2015 Staples Mill Road, Richmond, Virginia

A monthly meeting.

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

BOARD FOR HEARING AID SPECIALISTS

January 31, 1994 - Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board for Hearing Aid Specialists intends to repeal regulations entitled: **VR 375-01-01. Public Participation Guidelines** and

adopt regulations entitled: **VR 375-01-01:1. Public Participation Guidelines.** The purpose of the proposed regulations is to implement the requirements of the Administrative Process Act (APA) and the legislative changes to the APA made by the 1993 Virginia General Assembly by establishing regulatory board (agency) procedures for soliciting, receiving and considering input from interested parties in the formulation, adoption and amendments to new and existing regulations governing the licensure of hearing aid specialists in Virginia.

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

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

STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA

December 14, 1993 - 9 a.m. - Open Meeting
January 11, 1994 - 9 a.m. - Open Meeting
James Monroe Building, 101 North 14th Street, SCHEV Conference Room, 9th Floor, Richmond, Virginia. ☒

A general business meeting. For more information, contact the council.

Contact: Anne Pratt, Associate Director, James Monroe Bldg., 101 N. 14th St., 9th Floor, Richmond, VA 23219, telephone (804) 225-2632.

DEPARTMENT OF HISTORIC RESOURCES

January 6, 1994 - 7 p.m. - Public Hearing
Department of Environmental Quality, Innsbrook, 4900 Cox Road, Glen Allen, Virginia

January 31, 1994 - 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 Historic Resources intends to amend regulations entitled: **VR 392-01-01. Public Participation Guidelines.** Section 9-6.14:7.1 of the Administrative Process Act (APA) requires each agency to develop, adopt and use public participation guidelines for soliciting the input of interested persons in the formation and development of its regulations. Such guidelines shall not only be used prior to the formation and drafting of proposed regulations, but shall also be used during the entire formation, promulgation, and final adoption process. Furthermore, § 10.1-2202 of the Code of Virginia authorizes the Director of the Department of Historic Resources to

Calendar of Events

adopt rules necessary for carrying out his powers and duties, including, at a minimum, criteria and procedures for nominating properties to the National Park Service for inclusion in the National Register of Historic Places.

This action is necessary to replace existing emergency Public Participation Guidelines with permanent guidelines which will comply with new provisions of the APA enacted by the 1993 General Assembly. These proposed amendments will establish, in regulation, various provisions to ensure that interested persons have the necessary information to comment in a meaningful, timely fashion during all phases of the regulatory process. These proposed amendments are consistent with those of the other agencies within the Natural Resources Secretariat.

The proposed amendments contain a number of new provisions. Specifically, the proposal includes a definition for "participatory approach" which means the methods for the use of an ad hoc advisory group or panel, standing advisory committee, consultation with groups or individuals or a combination of methods; requires the use of the participatory approach upon receipt of written requests from five persons during the associated comment period; expands the department's procedures for establishing and maintaining lists of persons expressing an interest in the adoption, amendment or repeal of regulations; expands the information required in the Notice of Intended Regulatory Action to include a description of the subject matter and intent of the planned regulation and to include a statement inviting comment on whether the agency should use the participatory approach to assist in regulation development; expands the information required in the Notice of Public Comment Period to include the identity of localities affected by the proposed regulation and to include a statement on the rationale or justification for the new provisions of the regulation from the standpoint of the public's health, safety or welfare; and requires that draft summary of comments be sent to all public commenters on the proposed regulation at least five days before final adoption of the regulation.

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

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

Board of Historic Resources

† December 15, 1993 - 10 a.m. – Open Meeting
Virginia War Memorial, 621 S. Belvidere Street, Richmond, Virginia. ☐

A special meeting to adopt evaluation criteria and procedures for designations by the Board of Historic

Resources.

Contact: Margaret Peters, Information Director, 221 Governor Street, Richmond, VA 23219, telephone (804) 786-3143 or (804) 786-1934/TDD ☐

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January 6, 1993 - 7 p.m. – Public Hearing
Department of Environmental Quality, Innsbrook, 4900 Cox Road, Glen Allen, Virginia.

January 31, 1994 – Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Historic Resources intends to amend regulations entitled: **VR 390-01-01. Public Participation Guidelines.** Section 9-6.14:7.1 of the Administrative Process Act (APA) requires each agency to develop, adopt and use public participation guidelines for soliciting the input of interested persons in the formation and development of its regulations. Such guidelines shall not only be used prior to the formation and drafting of proposed regulations, but shall also be used during the entire formation, promulgation, and final adoption process. Furthermore, § 10.1-2205 of the Code of Virginia authorizes the board to adopt rules necessary for carrying out its powers and duties, including, at a minimum, criteria and procedures for designating historic landmarks and districts.

This action is necessary to replace existing emergency Public Participation Guidelines with permanent guidelines which will comply with new provisions of the APA enacted by the 1993 General Assembly. These proposed amendments will establish, in regulation, various provisions to ensure that interested persons have the necessary information to comment in a meaningful, timely fashion during all phases of the regulatory process. These proposed amendments are consistent with those of the other agencies within the Natural Resources Secretariat.

The proposed amendments contain a number of new provisions. Specifically, the proposal includes a definition for "participatory approach" which means the methods for the use of an ad hoc advisory group or panel, standing advisory committee, consultation with groups or individuals or a combination of methods; requires the use of the participatory approach upon receipt of written requests from five persons during the associated comment period; expands the board's procedures for establishing and maintaining lists of persons expressing an interest in the adoption, amendment or repeal of regulations; expands the information required in the Notice of Intended Regulatory Action to include a description of the subject matter and intent of the planned regulation and to include a statement inviting comment on

whether the agency should use the participatory approach to assist in regulation development; expands the information required in the Notice of Public Comment Period to include the identity of localities affected by the proposed regulation and to include a statement on the rationale or justification for the new provisions of the regulation from the standpoint of the public's health, safety or welfare; and requires that draft summary of comments be sent to all public commenters on the proposed regulation at least five days before final adoption of the regulation.

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

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

VIRGINIA HOUSING DEVELOPMENT AUTHORITY

† **December 21, 1993 - 11 a.m.** – Open Meeting
Virginia Housing Development Authority, 601 S. Belvidere Street, Richmond, Virginia. ☒

A regular meeting of the Board of Commissioners to (i) review, and if appropriate, approve the minutes from the prior monthly meeting; (ii) consider for approval and ratification mortgage loan commitments under its various programs; (iii) review the authority's operations for the prior month; (iv) consider and, if appropriate, approve proposed amendments to the Rules and Regulations for HUD-Insured Home Equity Conversion Mortgage Loans to Elderly Persons of Low and Moderate Income; and (v) 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 Street, Richmond, VA 23220, telephone (804) 782-1986.

VIRGINIA INTERAGENCY COORDINATING COUNCIL EARLY INTERVENTION

† **January 18, 1994 - 9:30 a.m.** – Open Meeting
Virginia Housing Development Authority, 601 S. Belvidere Street, Richmond, Virginia. (Interpreter for the deaf provided upon request)

The Virginia Interagency Coordinating Council according to Part H early intervention program for disabled infants, toddlers and their families is meeting to advise and assist the Department of Mental Health,

Mental Retardation and Substance Abuse Services as lead agency and the other state agencies involved in Part H in the implementation of the statewide early intervention program.

Contact: Michael Fehl, Director, Mentally Retarded Children and Youth Services, Department of Mental Health, Mental Retardation and Substance Abuse Services, P. O. Box 1797, Richmond, VA 23214, telephone (804) 786-3710.

DEPARTMENT OF LABOR AND INDUSTRY

Virginia Safety and Health Codes Board

† **December 13, 1993 - 10 a.m.** – Open Meeting
General Assembly Building, 910 Capitol Street, House Room D, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

The tentative agenda items for consideration by the board include proposed Administrative Regulations for the Virginia Occupational Safety and Health (VOSH) Program, VR 425-02-95.

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

LIBRARY BOARD

January 24, 1994 - 10:30 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.

Archives and Records Management Committee

† **January 24, 1994 - 9 a.m.** – Open Meeting
The Virginia State Library and Archives, 11th Street at Capitol Square, Richmond, Virginia. ☒

A meeting to discuss matters pertaining to archives and records management.

Contact: Jean H. Taylor, Secretary to State Librarian, Virginia State Library and Archives, 11th Street at Capitol Square, Richmond, VA 23219, telephone (804) 786-2332.

Public Library Development Committee

† **January 24, 1994 - 9 a.m.** – Open Meeting

Calendar of Events

11th Street at Capitol Square, Room 4-24, Richmond, Virginia. ☒

A meeting to discuss the issues on the agenda for the Library Board to be held later that morning.

Contact: Tony Yankus, Director, Library Development, Virginia State Library and Archives, 11th Street at Capitol Square, Richmond, VA 23219-3491, toll-free 1-800-336-5266, or (804) 786-3618/TDD ☎

STATE COUNCIL ON LOCAL DEBT

December 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.

STATE LOTTERY DEPARTMENT (STATE LOTTERY BOARD)

December 20, 1993 - 10 a.m. – Open Meeting
State Lottery Department, 2201 W. Broad St., Richmond, Virginia 23220 ☒ (Interpreter for the deaf provided upon request)

A regular monthly meeting of the board. 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, Staff Officer, 2201 W. Broad St., Richmond, VA 23220, telephone (804) 367-3106 or (804) 367-3000/TDD ☎

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January 24, 1994 - 10 a.m. – Public Hearing
State Lottery Department, 2201 West Broad Street, Richmond, Virginia.

January 21, 1994 – 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 Lottery Board intends to amend regulations entitled: **VR 447-01-1. Public Participation Guidelines.** The purpose of the proposed amendments is to comply with statutory

changes to establishing procedures for soliciting input of interested parties in the formation and development of regulations.

Statutory Authority: §§ 9-6.14:7.1 and 58.1-4007 of the Code of Virginia.

Contact: Barbara L. Robertson, Staff Officer, 2201 W. Broad St., Richmond, VA 23220, telephone (804) 367-3106.

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January 24, 1994 - 10 a.m. – Public Hearing
State Lottery Department, 2201 West Broad Street, Richmond, Virginia.

January 21, 1994 – 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 Lottery Board intends to amend regulations entitled: **VR 447-01-2. Administration Regulations.** The purpose of the proposed amendments is to include appeal procedures for placement of an instant ticket vending machine or a self-service terminal, procurement procedures for the purchase of goods and services exempt from competitive procurement and contract change order procedures.

Statutory Authority: § 58.1-4007 of the Code of Virginia.

Contact: Barbara L. Robertson, Staff Officer, 2201 W. Broad St., Richmond, VA 23220, telephone (804) 367-3106.

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January 24, 1994 - 10 a.m. – Public Hearing
State Lottery Department, 2201 West Broad Street, Richmond, Virginia.

January 21, 1994 – 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 Lottery Board intends to amend regulations entitled: **VR 447-02-1. Instant Game Regulations.** The purpose of the proposed amendments is to incorporate housekeeping and technical changes, as well as substantive changes to include lottery retailer conduct, license standards validation requirements and payment of prizes.

Statutory Authority: § 58.1-4007 of the Code of Virginia.

Contact: Barbara L. Robertson, Staff Officer, 2201 W. Broad St., Richmond, VA 23220, telephone (804) 367-3106.

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January 24, 1994 - 10 a.m. – Public Hearing

State Lottery Department, 2201 West Broad Street, Richmond, Virginia.

January 21, 1994 - 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 Lottery Board intends to amend regulations entitled: VR 447-02-2. On-line Game Regulations. The proposed amendments incorporate numerous housekeeping, technical and substantive changes throughout the On-Line Game Regulations, including retailer compensation and conduct, license and operational fees, license standards, validation requirements and payment of prizes and disposition of unclaimed prizes.

Statutory Authority: § 58.1-4007 of the Code of Virginia.

Contact: Barbara L. Robertson, Staff Officer, 2201 W. Broad St., Richmond, VA 23220, telephone (804) 367-3106.

MARINE RESOURCES COMMISSION

December 21, 1993 - 9:30 a.m. - Open Meeting 2600 Washington Avenue, 4th Floor, Room 403, Newport News, Virginia. ☒ (Interpreter for the deaf provided upon request)

The commission will hear and decide marine environmental matters at 9:30 a.m.; permit applications for projects in wetlands, bottom lands, coastal primary sand dunes and beaches; appeals of local wetland board decisions; and policy and regulatory issues. The commission will hear and decide fishery management items at approximately noon. Items to be heard are as follows: regulatory proposals, fishery management plans; fishery conservation issues; licensing; and 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, Virginia 23607-0756, telephone (804) 247-8088, toll-free 1-800-541-4646 or (804) 247-2292/TDD ☎

January 6, 1994 - 7 p.m. - Public Hearing Department of Environmental Quality, Water Division, Board Room, 4900 Cox Rd., Innsbrook, Glen Allen, Virginia

January 31, 1994 - 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 Marine Resources Commission intends to amend regulations entitled: VR 450-01-0045. Public Participation Guidelines. The purpose of the proposed amendments is to comply with the 1993 amendments to the Administrative Process Act and conform with the other agencies in the Natural Resources Secretariat.

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

Contact: Robert W. Grabb, Chief, Habitat Management Division, P. O. Box 756, Newport News, VA 23607-0756 or toll-free 1-800-541-4646.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

† December 13, 1993 - 1 p.m. - Open Meeting 600 East Broad Street, Suite 1300, Richmond, Virginia. ☒

A meeting to discuss medical assistance services and issues pertinent to the board.

Contact: Pat Sykes, Policy Analyst, 600 E. Broad Street, Richmond, VA 23219, telephone (804) 786-7958 or toll free 1-800-343-0634/TDD ☎

January 14, 1994 - 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 Board of Medical Assistance Services intends to amend regulations entitled: VR 460-05-1000.0000. State/Local Hospitalization Program. The purpose of the proposed amendments is to modify the state/local hospitalization fiscal year to limit the allocation of remaining state funds and limit the use of funds allocated for one fiscal year to that year.

Sections 32.1-343 through 32.1-350 of the Code of Virginia established the State/Local Hospitalization Program (SLH) within the Department of Medical Assistance Services. The purpose of the SLH program is to provide for the inpatient and outpatient hospital care of Virginians who have no health insurance and whose income falls below the federal poverty level.

The SLH program is not an entitlement program. The amount of general fund available for this program is determined by the General Assembly each year. Payment for services provided to eligible individuals is made only to the extent that funds are available in the account of the locality in which the eligible individual resides. All counties and cities in the Commonwealth are required to participate in the SLH

Calendar of Events

program.

Available funds are allocated annually by the department to localities on the basis of the estimated total cost of required services for the locality, less the required local matching funds. Since the appropriation is insufficient to fully fund estimated cost, local allocations are actually a percentage of total need. Funds allocated to localities are maintained in locality-specific accounts and can be spent only for services provided to residents of that locality.

The actual local matching rate is computed on the basis of a formula that considers revenue capacity adjusted for local per capita income. No locality's contribution will exceed 25% of the cost of estimated SLH services for the locality.

The statute requires that general funds remaining at the end of the state fiscal year are used to offset the calculated local share for the following year. These funds are allocated among the localities first to offset increases in the local shares, then to offset calculated local shares for all localities.

The allocations for most localities are exhausted by the end of March of each year and payments for claims submitted after that date are rejected for lack of funds. A few localities have sufficient funds for all claims submitted during the year and some have a surplus at the end of the year. In order to process claims before the end of state fiscal year the department has adopted, with the concurrence of the Secretary of Health and Human Services and the Department of Planning and Budget, a policy under which state/local hospitalization claims with service dates of May 1 and later of any year are processed for payment in the following state fiscal year. This cutoff for claims is necessary to allow adequate time to resolve any outstanding SLH claims and to perform the necessary accounting reconciliations for the state fiscal year ending June 30. The fund will be reallocated for payment of the following fiscal year claims.

This regulation is necessary to clarify the policy adopted by the department and is being promulgated as the result of an appeal filed by a recipient who questioned the policy because it had not been promulgated as a regulation. The proposed regulation defines the claims that are payable from the general fund appropriation of any fiscal year as those that are for services rendered between May 1 and April 30 to the extent that funds exist in the locality allocation at the time the claim is processed. It will allow the necessary lead time to perform claims resolution and state year-end reconciliation procedures.

This regulation also clarifies that funds remaining at year end are used only for the purpose of offsetting the calculated share for the following fiscal year as

required by statute. This clarification is needed to prohibit possible claims against SLH funds for other purposes. Specifically, SLH funds allocated to pay for provider claims in one fiscal year would be prohibited from being used to pay claims in another fiscal year. This change is advantageous to the public because the agency will be better able to forecast the funds necessary to cover anticipated medical needs for those eligible to the SLH program.

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

Written comments may be submitted through January 14, 1994, to David Austin, 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.

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January 28, 1994 - 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 Board of Medical Assistance Services intends to amend regulation entitled: **VR 460-03-3.1102. Case Management Services: Preauthorization of Case Management for the Elderly.** The purpose of the proposed amendment is to streamline the Medicaid utilization control requirements imposed on agencies participating in the Case Management for the Elderly Pilot Projects by conforming the Medicaid requirements with those of the policy for the pilot projects imposed by the Long-Term Care Council.

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

Written comments may be submitted through January 28, 1994, to Ann E. Cook, Eligibility and Regulatory Consultant, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 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.

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January 28, 1994 - 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 Board of Medical Assistance Services intends to amend regulations entitled: **VR 460-03-3.1100, VR 460-02-3.1300, VR 460-04-8.12, VR 460-04-8.1500. DMHMR Community and**

Waiver Services. The purpose of this proposal is to promulgate permanent regulations to supersede the existing emergency regulations. The permanent regulations will remove certain administrative impediments to the effective and efficient implementation of mental retardation waiver services in cooperation with the Department of Mental Health, Mental Retardation and Substance Abuse Services. They will also allow persons having conditions related to mental retardation to be served by providers under contract with the Department of Rehabilitative Services (DRS).

The parts of the State Plan for Medical Assistance affected by this action are: Amount, Duration and Scope of Services (Supplement 1 to Attachment 3.1 A&B), Case Management Services (Supplement 2 to Attachment 3.1 A). The state-only regulations affected by this action are: Home and Community-Based Care Services for Individuals with Mental Retardation (VR 460-04-8.12) and Community Mental Health Services, Amount, Duration, and Scope of Services (VR 460-04-8.1500).

The emergency regulations broadened the provider qualifications for persons with related conditions to include those providers contracted by DRS as habilitative service providers. The emergency regulations did not affect the amount or scope of services an individual may receive, did not affect the state's approved waiver for community services to persons with mental retardation, and did not impact on the quality of services being provided to the population. The key provisions of this proposed regulatory action are described below.

The changes to the State Plan for targeted case management services for persons with mental retardation and mental illness make consistent the requirement for a face-to-face contact (between the patient and provider) every 90 days, regardless of the case management service being offered, and clarify the frequency as once every 90 days rather than one within a 90-day period. Another change allows up to 60 days for completion of the plan of care from the initiation of services. Changes to the service limitations on State Plan community mental health and mental retardation services do not change the amount of services an individual is able to receive, but only change the previous designation of "days" to "units" which is consistent with the manner in which these services are billed. The two levels of day health and rehabilitation services have been removed. Additionally, changes are made to revise the existing definition of developmental disability and to rename the definition "related conditions" to conform to the designation used by the Health Care Financing Administration (HCFA) in OBRA '87. The prior authorization requirement for case management for this group is also being removed.

Another change clarifies coverage of day health and rehabilitation services for persons with mental retardation and persons with related conditions. It also allows providers contracted with DRS as habilitation providers to be qualified for Medicaid reimbursement for day health and rehabilitation services. Reference to two waivers and use of the Inventory for Client and Agency Planning (ICAP) have been removed because the Commonwealth is consolidating the two waivers into one waiver for renewal in 1993. The Commonwealth is also revising the assessment and will discontinue using the ICAP as the required assessment for MR Waiver Services. The requirement for an annual physical and psychological examination has been removed to eliminate unnecessary duplication. Freedom of choice language has been strengthened to respond to concerns expressed in this area.

These proposed regulations modify the definition of some existing services and broaden the range of services which may be offered to individuals in the MR waiver by adding five new services: Personal Assistance, Assistive Technology, Environmental Modifications, Respite Care, and Nursing Services. Prevocational Services, previously included in Habilitation Services, has now been included under the service titled Day Support. The definition of the services and provider qualifications have been developed in conjunction with the MR Executive Workgroup and are a continuation of the effort initiated in the emergency regulations to remove impediments to the effective and efficient administration of services to persons with mental retardation.

While these regulations add five cheaper substitute services to the MR Waiver program, the cost savings will be offset by increased utilization. The increased utilization is limited by the current allocated general funds. Thus, no budget impact from the proposed regulations is expected.

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

Written comments may be submitted through January 28, 1994, to Chris Pruett, Manager, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 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.

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January 28, 1994 - 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 Board of Medical

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Assistance Services intends to amend regulations entitled: **VR 460-04-8.900. Public Participation Guidelines**. The purpose of this proposal is to amend the agency's Public Participation Guidelines to be consistent with provisions of the Administrative Process Act.

Effective October 1984 the Department of Medical Assistance Services (DMAS) became subject to the Administrative Process Act. Because the State Plan is a "regulation" as defined in § 9-6.14:4 F of the Code of Virginia, amendments to it must be promulgated in accordance with the Administrative Process Act.

The Administrative Process Act (§ 9-6.14:7.1 et seq. of the Code of Virginia) requires the development and use of Public Participation Guidelines by executive agencies. DMAS' Public Participation Guidelines became effective November 1, 1985, and were most recently revised effective April 1991.

The 1993 General Assembly-approved House Bill 1652 made numerous changes in the Administrative Process Act which were intended to improve and increase the public's opportunities to participate in the Commonwealth's executive agencies' rulemaking processes. These changes in the Act necessitate a modification to the DMAS' Public Participation Guidelines. Specifically, § 4 A is being modified regarding methods for soliciting the input of interested parties in the development of regulations.

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

Written comments may be submitted through January 28, 1994, to Roberta Jonas, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 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.

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† **February 11, 1994** – 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 Board of Medical Assistance Services intends to amend regulations entitled: **VR 460-02-4.1940. Methods and Standards for Establishing Payment Rates – Inpatient Hospital Care: Nonenrolled Provider Reimbursement**. The purpose of this proposal is to reimburse out-of-state nonenrolled providers at amounts which are more consistent with the reimbursement amounts for instate enrolled providers.

The section of the State Plan for Medical assistance

affected by this action is the Methods and Standards for Establishing Payment Rates - Inpatient Hospital Care (Attachment 4.19-A).

Medicaid providers have the option of enrolling with the program to serve Virginia Medicaid recipients. Without exception, high volume providers enroll in the program. The Code of Federal Regulations at 42 CFR 421.52 provides that the state must furnish Medicaid to recipients utilizing nonenrolled hospitals in several specific circumstances.

Currently, reimbursement for nonenrolled hospitals is limited to a percentage of their covered charges. The percentage is derived from the ratio of reimbursable inpatient costs to inpatient charges of enrolled providers less 5% which represents the cost of manually processing the claims. This can result in excessive reimbursement for nonenrolled providers that have very high charges.

For purposes of maintaining equitable reimbursement levels between enrolled and nonenrolled providers, the Department of Medical Assistance Services has determined that the excessive reimbursement could be eliminated through the imposition of a maximum reimbursement amount or cap. This proposed amendment caps the reimbursement to nonenrolled providers. The cap is the Department of Medical Assistance Services' average per diem of enrolled providers, excluding state-owned teaching hospitals' per diems and disproportionate share adjustment payments. The cap will eliminate excessive reimbursement to nonenrolled providers.

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

Written comments may be submitted through February 11, 1994, to Scott Crawford, Manager, Division of Cost Settlement and Audit, Department of Medical Assistance Services, 600 East Broad Street, Richmond, VA 23219.

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

Drug Utilization Review Board

January 7, 1994 - 3 p.m. – Open Meeting
600 East Broad Street, Suite 1300, Richmond, Virginia.

A regular meeting. 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

† February 11, 1994 – 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 Board of Medicine intends to **repeal** regulations entitled: **VR 465-01-1. Public Participation Guidelines** and **adopt** regulations entitled: **VR 465-01-01:1. Public Participation Guidelines**. The purpose of the proposed regulations is to establish requirements governing Public Participation Guidelines. The proposed regulations will replace emergency regulations VR 465-01-01 in effect on June 28, 1993, due to new statutes. No public hearing will be held unless requested; the regulations respond to statutory changes. The subject, substance, issues, basis, purpose and estimated impact may be requested in addition to the proposed regulations.

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

Written comments may be submitted until February 11, 1994, to Hilary H. Connor, M.D., Executive Director, Board of Medicine, 6606 West Broad Street, 4th Floor, Richmond, VA 23230-1717.

Contact: Russell Porter, Assistant Executive Director, Board of Medicine, 6606 West Broad Street, 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9908 or (804) 662-7197/TDD ☎

Ad Hoc Committee on HIV

January 14, 1994 - 9 a.m. – Open Meeting
Department of Health Professions, 6606 West Broad Street, Board Room 4, 5th Floor, Richmond, Virginia. ☒

A meeting to review the board's position on HIV and make recommendations to the full board. The chairman will entertain public comments for 10 minutes following the adoption of the agenda.

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 ☎

Informal Conference Committee

† December 17, 1993 - 9:30 a.m. – Open Meeting
† January 13, 1994 - 9 a.m. – Open Meeting
Sheraton-Fredericksburg, I-95 and Route 3, Fredericksburg, 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,

Board of Medicine, 6606 West Broad Street, 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9908 or (804) 662-9943/TDD ☎

Advisory Board on Physical Therapy

† January 13, 1994 - 9 a.m. – Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Board Room 4, Richmond, VA 23230-1717 ☒

A meeting to conduct a regulatory review of its current regulations, VR 465-03-01, to ensure consistency with national and state requirements for the protection of the public. The chair will receive public comments for the first 15 minutes following the adoption of the agenda.

Contact: Eugenia K. Dorson, Deputy Executive Director, Board of Medicine, 6606 West Broad Street, 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9923 or (804) 662-7197/TDD ☎

STATE MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES BOARD

† January 19, 1994 - 10 a.m. – Open Meeting
Department of Mental Health, Mental Retardation and Substance Abuse Services, James Madison Building, 13th Floor Conference Room, Richmond, Virginia. ☒

A regular monthly meeting. Agenda to be published on January 12. Agenda can be obtained by calling Jane Helfrich.

Tuesday: Informal Session - 8 p.m.

Wednesday: Committee Meetings - 9 a.m.

Regular Session - 10 a.m. See agenda for location.

Contact: Jane V. Helfrich, Board Administrator, Department of Mental Health, Mental Retardation and Substance Abuse Services, P. O. Box 1797, Richmond, VA 23214, telephone (804) 786-3921.

State Human Rights Committee

† December 17, 1993 - 9 a.m. – Open Meeting
Department of Mental Health, Mental Retardation and Substance Abuse Services, Central Office, 109 Governor Street, 13th Floor Conference Room, Richmond, Virginia. ☒

A meeting to discuss human rights issues involving local human rights committees, DMHMRSAS facilities and community services boards as well as DMHMRSAS licensed MH, MR and SAS programs.

Contact: Elsie D. Little, Director, Department of Mental Health, Mental Retardation and Substance Abuse Services, P. O. Box 1797, Richmond, VA 23214, telephone (804)

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786-3988.

DEPARTMENT OF MINES, MINERALS AND ENERGY

February 2, 1994 - 1 p.m. – Open Meeting
Department of Mines, Minerals and Energy, 202 N. Ninth St., Room 829, Richmond, Virginia

A public meeting to receive comments on the department's guidelines for public participation in the regulatory development process.

Contact: Stephen A. Walz, Policy and Planning Manager, Department of Mines, Minerals and Energy, 202 N. Ninth St., Richmond, VA 23219, telephone (804) 692-3200.

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† **February 2, 1994 - 1 p.m. – Public Hearing**
Department of Mines, Minerals and Energy, 202 N. Ninth Street, Room 829, Richmond, Virginia.

† **February 11, 1994 –** 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 Department of Mines, Minerals and Energy intends to amend regulations entitled: **VR 480-01-1. Public Participation Guidelines.** The purpose of the proposed amendments is to reflect the order of the regulatory process under the Administrative Process Act and clarify that the guidelines apply to the Virginia Gas and Oil Board and Board of Examiners.

Statutory Authority: §§ 9-6.14:7.1, 45.1-1.3, 45.1-12 and 45.1-361.15 of the Code of Virginia.

Contact: Stephen A. Walz, Policy and Planning Manager, Department of Mines, Minerals and Energy, 202 N. Ninth Street, 8th Floor, Richmond, VA 23219, telephone (804) 692-3200.

DEPARTMENT OF MOTOR VEHICLES

Motor Vehicle Dealers' Advisory Board

† **January 20, 1994 - 9:30 a.m. – Open Meeting**
Department of Motor Vehicles, 2300 West Broad Street, Room 702, Richmond, Virginia. ☐

A meeting to review dealer related activities and any possible legislation that could have an impact on the consumers/dealers.

Contact: L. Stephen Stupasky, Manager, Dealer Services Division, Department of Motor Vehicles, 2300 W. Broad Street, Richmond, VA 23269-0001, telephone (804) 367-2921.

VIRGINIA MUSEUM OF FINE ARTS

Collections and Executive Committees

December 14, 1993 - 2 p.m. – Open Meeting
Virginia Museum of Fine Arts Auditorium, 2800 Grove Avenue, Richmond, Virginia ☐

A meeting to consider and approve art works as gifts, purchases, and loans.

Contact: Emily C. Robertson, Secretary of the Museum, 2800 Grove Ave., Richmond, VA 23221-2466, telephone (804) 367-0553.

STATE NETWORKING USERS ADVISORY BOARD

† **December 13, 1993 - noon – Open Meeting**
Eastern State Hospital, Building 9 Conference Room, Williamsburg, Virginia. ☐

A meeting to discuss matters regarding network development statewide.

Contact: John C. Tyson, State Librarian, Virginia State Library and Archives, 11th Street at Capitol Square, Richmond, VA 23219-3491, telephone (804) 786-2332, toll-free 1-800-336-5266, or (804) 786-3618/TDD ☐

BOARD FOR OPTICIANS

January 14, 1994 – 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 Board for Opticians intends to repeal regulations entitled: **VR 505-01-0. Public Participation Guidelines** and adopt regulations entitled: **VR 505-01-0:1. Public Participation Guidelines.** The purpose of the proposed regulatory action is to promulgate new public participation guidelines as provided for in § 9-6.14:7.1 of the Code of Virginia regarding the solicitation of input from interested parties in the formulation, adoption and amendments to new and existing regulations governing the licensure of opticians in Virginia.

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

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

VIRGINIA OUTDOORS FOUNDATION

December 17, 1993 - 10 a.m. – Open Meeting

State Capitol, House Room 1, Richmond, Virginia

A general business meeting. Agenda available upon request.

Contact: Leslie H. Grayson, Acting Executive Director, P. O. Box 322, Aldie, VA 22001, telephone (703) 327-6118 or (804) 786-2121/TDD

DEPARTMENT OF PERSONNEL AND TRAINING

December 17, 1993 - Written comments may be submitted until 3 p.m. on this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Personnel and Training intends to adopt regulations entitled: VR 525-01-1. Public Participation Guidelines. The purpose of the proposed regulation is to establish guidelines for public participation in regulation development and promulgation.

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

Contact: Gina Irby, Regulatory Coordinator, Department of Personnel and Training, Office of Health Benefits, 101 N. 14th St., Richmond, VA 23219, telephone (804) 371-6212.

BOARD OF PROFESSIONAL COUNSELORS

December 17, 1993 - 9 a.m. - Public Hearing Department of Health Professions, 6606 West Broad Street, 4th Floor, Richmond, Virginia.

February 13, 1994 - Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Professional Counselors intends to amend regulations entitled: VR 560-01-03. Regulations Governing the Certification of Substance Abuse Counselors. The purpose of the proposed amendments is to set a new examination fee and reduce renewal fees.

Statutory Authority: §§ 54.1-113, 54.1-2400 and 54.1-3500 of the Code of Virginia.

Contact: Evelyn B. Brown, Executive Director, Board of Professional Counselors, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9912.

DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION (BOARD OF)

January 15, 1994 - 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 Professional and Occupational Regulation intends to adopt regulations entitled: VR 190-00-02. Employment Agencies Program Public Participation Guidelines. The purpose of the proposed guidelines is to set procedures for the employment agencies program to follow to inform and incorporate public participation when promulgating regulations.

Statutory Authority: §§ 9-6.14:7.1 and 54.1-1302 of the Code of Virginia.

Contact: Mark N. Courtney, Acting Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8590.

January 15, 1994 - 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 Professional and Occupational Regulation intends to repeal regulations entitled: VR 190-00-01. Public Participation Guidelines and adopt regulations entitled: VR 190-00-03. Polygraph Examiners Public Participation Guidelines. The purpose of the proposed regulatory action is to promulgate new public participation guidelines as provided for in § 9-6.14:7.1 of the Code of Virginia regarding the solicitation of input from interested parties in the formulation, adoption and amendments to new and existing regulations governing the licensure of polygraph examiners in Virginia.

Statutory Authority: §§ 9-6.14:7.1, 54.1-201 and 54.1-1802 of the Code of Virginia.

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

February 10, 1994 - Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Professional and Occupational Regulation intends to adopt regulations entitled: VR 190-00-04. Public Participation Guidelines. The purpose of the proposed guidelines is to set procedures for the board to follow to inform and incorporate public participation when promulgating board regulations.

Statutory Authority: §§ 9-6.14:7.1 and 54.1-310 of the Code

Calendar of Events

of Virginia.

Contact: Joyce K. Brown, Secretary to the Board, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8564.

REAL ESTATE APPRAISER BOARD

† **January 18, 1994 - 10 a.m. - Open Meeting**
Department of Professional and Occupational Regulation,
3600 West Broad Street, Richmond, Virginia.

A general business meeting.

Contact: Karen W. O'Neal, Assistant Director, Real Estate Appraiser Board, Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, VA 23230, telephone (804) 367-2039.

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February 10, 1994 - 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 Real Estate Appraiser Board intends to repeal regulations entitled: **VR 583-01-1. Public Participation Guidelines** and adopt regulations entitled: **VR 583-01-1:1. Public Participation Guidelines**. The purpose of the proposed guidelines is to set procedures for the Real Estate Appraiser Board to follow to inform and incorporate public participation when promulgating appraiser regulations.

Statutory Authority: §§ 9-6.14:7.1 and 54.1-2013 of the Code of Virginia.

Contact: Karen W. O'Neal, Assistant Director, Real Estate Appraiser Board, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2039.

Complaints Committee

† **January 5, 1994 - 10 a.m. - Open Meeting**
Department of Professional and Occupational Regulation,
3600 West Broad Street, Richmond, Virginia.

A meeting to review complaints.

Contact: Karen W. O'Neal, Assistant Director, Real Estate Appraiser Board, Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, VA 23230, telephone (804) 367-2039.

REAL ESTATE BOARD

† **December 16, 1993 - 9:30 a.m. - Open Meeting**

Department of Alcoholic Beverage Control, 3023 Peters Creek Road, Roanoke, Virginia.

A formal hearing in re: Real Estate Board v. Donald W. Hall, File Nos. 91-01372, 92-00453, 92-00259, and 92-00354.

Contact: Stacie Camden, Legal Assistant, Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, VA 23230, telephone (804) 367-2393.

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January 14, 1994 - 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 Real Estate Board intends to repeal regulations entitled: **VR 585-01-0. Public Participation Guidelines** and adopt regulations entitled: **VR 585-01-0:1. Public Participation Guidelines**. The purpose of the proposed guidelines is to set procedures for the Real Estate Board to follow to inform and incorporate public participation when promulgating real estate regulations.

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

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

VIRGINIA RESOURCES AUTHORITY

† **December 14, 1993 - 9:30 a.m. - Open Meeting**
† **January 11, 1994 - 9:30 a.m. - Open Meeting**
† **February 9, 1994 - 9:30 a.m. - Open Meeting**
The Mutual Building, 909 East Main Street, Suite 607,
Board Room, Richmond, Virginia.

The board will meet to approve minutes of the prior meeting, to review the authority's operations for the prior months, and to consider other matters and take other actions as it may deem appropriate. The planned agenda of the meeting will be available at the offices of the authority one week prior to the date of the meeting. Public comments will be received at the beginning of the meeting.

Contact: Shockley D. Gardner, Jr., 909 East Main Street, Suite 707, Richmond, VA 23219, telephone (804) 644-3100, FAX number (804) 644-3109.

DEPARTMENT OF SOCIAL SERVICES (STATE BOARD OF)

† **January 11, 1994 - 1 p.m. - Public Hearing**
Department of Health Professions, 6606 West Broad Street,

Calendar of Events

5th Floor, Conference Room 2, Richmond, Virginia.

† **January 12, 1994 - 1 p.m.** – Public Hearing
Fairfax County Office for Children, 3701 Pender Drive,
Fairfax, Virginia.

† **January 13, 1994 - 1 p.m.** – Public Hearing
Council Chambers, City Hall, Norfolk, Virginia.

† **January 14, 1994 - 1 p.m.** – Public Hearing
City Chambers, Fourth Floor, Municipal Building, 215
Church Avenue, S.W., Roanoke, Virginia.

† **January 18, 1994 - 1 p.m.** – Public Hearing
Virginia Highlands Community College, Room 605, Route
372 off of Route 140, Abingdon, Virginia.

† **February 11, 1994** – 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
Social Services intends to adopt regulations entitled:
**VR 615-01-51. Auxiliary Grants Program: Levels of
Care and Rate Setting.** The proposed regulation
requires that auxiliary grant recipients be evaluated
by case managers to determine level of care needed
in adult care residences. Services provided to the
auxiliary grant recipient are defined as well as
process to be used in establishing auxiliary grant rates
for adult care residences.

Statutory Authority: §§ 63.1-25 and 63.1-25.1 of the Code of
Virginia.

Written comments may be submitted through February 11,
1994, to Jeanine LaBrenz, Program Manager, Medical
Assistance Unit, Department of Social Services, 730 East
Broad Street, Richmond, VA 23219.

Contact: Peggy Friedenberg, Legislative Analyst,
Department of Social Services, 730 East Broad Street,
Richmond, VA 23219, telephone (804) 692-1820.

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† **February 11, 1994** – 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 repeal regulations entitled: **VR
615-22-02. Standards and Regulations for Licensed
Homes for Adults.** This regulation is proposed for
repeal, and will be replaced with the proposed
regulation entitled: **VR 615-22-02.1, Standards and
Regulations for Licensed Adult Care Residences.** No
public hearing is scheduled for the repeal of this
regulation; however, written comments will be
received.

Statutory Authority: §§ 63.1-25 and 63.1-174 of the Code of
Virginia.

Written comments may be submitted through February 11,
1994, to Cheryl Worrell, Program Development Supervisor,
Department of Social Services, 730 East Broad Street,
Richmond, VA 23219.

Contact: Peggy Friedenberg, Legislative Analyst,
Department of Social Services, 730 East Broad Street,
Richmond, VA 23219, telephone (804) 692-1820.

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† **January 11, 1994 - 1 p.m.** – Public Hearing
Department of Health Professions, 6606 West Broad Street,
5th Floor, Conference Room 2, Richmond, Virginia.

† **January 12, 1994 - 1 p.m.** – Public Hearing
Fairfax County Office for Children, 3701 Pender Drive,
Fairfax, Virginia.

† **January 13, 1994 - 1 p.m.** – Public Hearing
Council Chambers, 810 Union Street, 11th Floor, City Hall,
Norfolk, Virginia

† **January 14, 1994 - 1 p.m.** – Public Hearing
City Chambers, Fourth Floor, Municipal Building, 215
Church Avenue, S.W., Roanoke, Virginia.

† **January 18, 1994 - 1 p.m.** – Public Hearing
Virginia Highlands Community College, Room 605, Route
372 off of Route 140, Abingdon, Virginia.

† **February 11, 1994** – 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 adopt regulations entitled: **VR
615-22-02.1. Standards and Regulations for Licensed
Adult Care Residences.** The 1993 General Assembly
enacted legislation which creates levels of care in
licensed homes for adults. This legislation also changes
the term "homes for adults" to "adult care
residences." The proposed regulation replaces the
regulations entitled: **Standards and Regulations for
Licensed Homes for Adults** and has a proposed
effective date of June 1, 1994.

Statutory Authority: §§ 63.1-25 and 63.1-174 of the Code of
Virginia.

Written comments may be submitted through February 11,
1994, to Cheryl Worrell, Program Development Supervisor,
Department of Social Services, 730 East Broad Street,
Richmond, VA 23219.

Contact: Peggy Friedenberg, Legislative Analyst,
Department of Social Services, 730 East Broad Street,
Richmond, VA 23219, telephone (804) 692-1820.

Calendar of Events

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† **January 11, 1994 - 1 p.m.** – Public Hearing
Department of Health Professions, 6606 West Broad Street,
5th Floor, Conference Room 2, Richmond, Virginia.

† **January 12, 1994 - 1 p.m.** – Public Hearing
Fairfax County Office for Children, 3701 Pender Drive,
Fairfax, Virginia.

† **January 13, 1994 - 1 p.m.** – Public Hearing
Council Chambers, City Hall, Norfolk, Virginia.

† **January 14, 1994 - 1 p.m.** – Public Hearing
City Chambers, Fourth Floor, Municipal Building, 215
Church Avenue, S.W., Roanoke, Virginia.

† **January 18, 1994 - 1 p.m.** – Public Hearing
Virginia Highlands Community College, Room 605, Route
372 off Route 140, Abingdon, Virginia.

† **February 11, 1994** – 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 adopt regulations entitled: **VR
615-46-02. Assessment and Case Management in Adult
Care Residences.** The proposed regulation sets forth
assessment and case management procedures and
general information for residents and operators of
adult care residences.

Statutory Authority: §§ 63.1-25.1 and 63.1-173.3 of the Code
of Virginia.

Written comments may be submitted through February 11,
1994, to Helen B. Leonard, Adult Services Program
Manager, Department of Social Services, 730 E. Broad
Street, Richmond, VA 23219.

Contact: Peggy Friedenber, Legislative Analyst,
Department of Social Services, 730 E. Broad Street,
Richmond, VA 23219, telephone (804) 692-1820.

BOARD FOR PROFESSIONAL SOIL SCIENTISTS

December 20, 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 Board for Professional
Soil Scientists intends to repeal regulations entitled:
VR 627-01-1, Public Participation Guidelines and
adopt regulations entitled **VR 627-01-1:1, Public
Participation Guidelines.** The proposed guidelines will
set procedures for the Board for Professional Soil
Scientists to follow to inform and incorporate public
participation when promulgating soil science
regulations.

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

Contact: David E. Dick, Assistant Director, 3600 W. Broad
St., Richmond, VA 23230, telephone (804) 367-8595.

January 12, 1994 - 10 a.m. – Open Meeting
Department of Professional and Occupational Regulation,
3600 W. Broad St., Richmond, Virginia ☐

A general board meeting.

Contact: David 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 TAXATION

January 10, 1994 - 10 a.m. – Public Hearing
Department of Taxation Training Room, 2220 West Broad
Street, Richmond, Virginia.

January 14, 1994 – 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 Department of
Taxation intends to adopt regulations entitled: **VI
630-10-2.2. Retail Sales and Use Tax: Adult Care
Facilities.** This regulation clarifies the application of
the retail sales and use tax to purchases and sales by
adult care residences and adult day care centers.

Statutory Authority: § 58.1-203 of the Code of Virginia.

Contact: Terry M. Barrett, Policy Analyst, P.O. Box 1880,
Richmond, VA 23282-1880, telephone (804) 367-8010.

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January 10, 1994 - 10 a.m. – Public Hearing
Department of Taxation Training Room, 2220 West Broad
Street, Richmond, Virginia.

January 14, 1994 – 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 Department of
Taxation intends to amend regulations entitled: **VR
630-10-5. Retail Sales and Use Tax: Agricultural and
Seafood Processing.** This regulation clarifies the
application of the sales and use tax to agricultural
processors and seafood processors.

Statutory Authority: § 58.1-203 of the Code of Virginia.

Contact: John Vollino, Policy Analyst, P.O. Box 1880
Richmond, VA 23282-1880, telephone (804) 367-8010.

Calendar of Events

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January 10, 1994 - 10 a.m. – Public Hearing
Department of Taxation Training Room, 2220 West Broad Street, Richmond, Virginia.

January 14, 1994 – 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 Department of Taxation intends to amend regulations entitled: **VR 630-10-6. Retail Sales and Use Tax: Aircraft Sales, Leases and Rentals, Repairs and Replacement Parts, and Maintenance Materials.** This regulation clarifies the application of the retail sales and use tax to aircraft sales, leases and rentals and repairs and maintenance thereof.

Statutory Authority: § 58.1-203 of the Code of Virginia.

Contact: W. Bland Sutton, III, Policy Analyst, P.O. Box 1880, Richmond, VA 23282-1880, telephone (804) 367-8010.

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January 10, 1994 - 10 a.m. – Public Hearing
Department of Taxation Training Room, 2220 West Broad Street, Richmond, Virginia.

January 14, 1994 – 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 Department of Taxation intends to amend regulations entitled: **VR 630-10-24.1. Retail Sales and Use Tax: Commercial Watermen.** This regulation clarifies the application of the sales and use tax to commercial watermen.

Statutory Authority: § 58.1-203 of the Code of Virginia.

Contact: John Vollino, Policy Analyst, P.O. Box 1880, Richmond, VA 23282-1880, telephone (804) 367-8010.

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January 10, 1994 - 10 a.m. – Public Hearing
Department of Taxation Training Room, 2220 West Broad Street, Richmond, Virginia.

January 14, 1994 – 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 Department of Taxation intends to amend regulations entitled: **VR 630-10-26. Retail Sales and Use Tax: Containers, Packaging Materials and Equipment.** This regulation clarifies what constitutes taxable/exempt packaging materials and equipment for purposes of the retail

sales and use tax.

Statutory Authority: § 58.1-203 of the Code of Virginia.

Contact: W. Bland Sutton, III, Policy Analyst, P.O. Box 1880, Richmond, VA 23282-1880, telephone (804) 367-8010.

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January 10, 1994 - 10 a.m. – Public Hearing
Department of Taxation Training Room, 2220 West Broad Street, Richmond, Virginia.

January 14, 1994 – 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 Department of Taxation intends to amend regulations entitled: **VR 630-10-33. Retail Sales and Use Tax: Dentists, Dental Laboratories and Dental Supply Houses.** This regulation clarifies the application of the retail sales and use tax to purchases and sales by dentists, dental laboratories and dental supply houses.

Statutory Authority: § 58.1-203 of the Code of Virginia.

Contact: Terry M. Barrett, Policy Analyst, P.O. Box 1880, Richmond, VA 23282-1880, telephone (804) 367-8010.

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January 10, 1994 - 10 a.m. – Public Hearing
Department of Taxation Training Room, 2220 West Broad Street, Richmond, Virginia.

January 14, 1994 – 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 Department of Taxation intends to repeal regulations entitled: **VR 630-10-39. Retail Sales and Use Tax: Federal Areas.** The provisions of this regulation are being incorporated into VR 630-10-45, which deals with purchases and sales by governments generally, and thus this regulation is being repealed.

Statutory Authority: § 58.1-203 of the Code of Virginia.

Contact: Terry M. Barrett, Policy Analyst, P.O. Box 1880, Richmond, VA 23282-1880, telephone (804) 367-8010.

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January 10, 1994 - 10 a.m. – Public Hearing
Department of Taxation Training Room, 2220 West Broad Street, Richmond, Virginia.

January 14, 1994 – Written comments may be submitted through this date.

Calendar of Events

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Taxation intends to repeal regulations entitled: **VR 630-10-39.2. Retail Sales and Use Tax: Flags.** The provisions of this regulation are being incorporated into VR 630-10-45, which deals with purchases and sales by governments generally, and thus this regulation is being repealed.

Statutory Authority: § 58.1-203 of the Code of Virginia.

Contact: Terry M. Barrett, Policy Analyst, P.O. Box 1880, Richmond, VA 23282-1880, telephone (804) 367-8010.

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January 10, 1994 - 10 a.m. – Public Hearing
Department of Taxation Training Room, 2220 West Broad Street, Richmond, Virginia.

January 14, 1994 – 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 Department of Taxation intends to amend regulations entitled: **VR 630-10-45. Retail Sales and Use Tax: Governments.** This regulation clarifies existing department policy with respect to purchases and sales by the Commonwealth, its political subdivisions and the federal government.

Statutory Authority: § 58.1-203 of the Code of Virginia.

Contact: Terry M. Barrett, Policy Analyst, P.O. Box 1880, Richmond, VA 23282-1880, telephone (804) 367-8010.

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January 10, 1994 - 10 a.m. – Public Hearing
Department of Taxation Training Room, 2220 West Broad Street, Richmond, Virginia.

January 14, 1994 – 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 Department of Taxation intends to amend regulations entitled: **VR 630-10-45.1. Retail Sales and Use Tax: Harvesting of Forest Products.** This regulation clarifies the application of the sales and use tax to harvesting of forest products.

Statutory Authority: § 58.1-203 of the Code of Virginia.

Contact: John Vollino, Policy Analyst, P.O. Box 1880, Richmond, VA 23282-1880, telephone (804) 367-8010.

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January 10, 1994 - 10 a.m. – Public Hearing
Department of Taxation Training Room, 2220 West Broad Street, Richmond, Virginia.

January 14, 1994 – 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 Department of Taxation intends to amend regulations entitled: **VR 630-10-47. Retail Sales and Use Tax: Hospitals, Nursing Homes and Other Medical Related Facilities.** This regulation clarifies the application of the retail sales and use tax to purchases and sales by hospitals, nursing homes and other medical-related facilities.

Statutory Authority: § 58.1-203 of the Code of Virginia.

Contact: Terry M. Barrett, Policy Analyst, P.O. Box 1880, Richmond, VA 23282-1880, telephone (804) 367-8010.

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January 10, 1994 - 10 a.m. – Public Hearing
Department of Taxation Training Room, 2220 West Broad Street, Richmond, Virginia.

January 14, 1994 – 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 Department of Taxation intends to adopt regulations entitled: **VR 630-10-64.1. Retail Sales and Use Tax: Medical Equipment and Supplies.** This regulation clarifies the application of the retail sales and use tax to medical equipment and supplies.

Statutory Authority: § 58.1-203 of the Code of Virginia.

Contact: Terry M. Barrett, Policy Analyst, P.O. Box 1880, Richmond, VA 23282-1880, telephone (804) 367-8010.

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January 10, 1994 - 10 a.m. – Public Hearing
Department of Taxation Training Room, 2220 West Broad Street, Richmond, Virginia.

January 14, 1994 – 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 Department of Taxation intends to amend regulations entitled: **VR 630-10-65. Retail Sales and Use Tax: Medicines and Drugs.** This regulation clarifies the application of the retail sales and use tax to purchases and sales of prescription drugs, nonprescription drugs and proprietary medicines and controlled drugs.

Statutory Authority: § 58.1-203 of the Code of Virginia.

Contact: Terry M. Barrett, Policy Analyst, P.O. Box 1880, Richmond, VA 23282-1880, telephone (804) 367-8010.

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January 10, 1994 - 10 a.m. - Public Hearing
Department of Taxation Training Room, 2220 West Broad Street, Richmond, Virginia.

January 14, 1994 - 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 Department of Taxation intends to amend regulations entitled: **VR 630-10-83. Retail Sales and Use Tax: Physicians, Surgeons, and Other Practitioners of the Healing Arts.** This regulation clarifies the application of the retail sales and use tax purchases and sales by licensed physicians, surgeons, and other practitioners of the healing arts.

Statutory Authority: § 58.1-203 of the Code of Virginia.

Contact: Terry M. Barrett, Policy Analyst, P.O. Box 1880, Richmond, VA 23282-1880, telephone (804) 367-8010.

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January 10, 1994 - 10 a.m. - Public Hearing
Department of Taxation Training Room, 2220 West Broad Street, Richmond, Virginia.

January 14, 1994 - 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 Department of Taxation intends to adopt regulations entitled: **VR 630-10-85.1. Retail Sales and Use Tax: Prescription Medical Appliances—Visual and Audio.** This regulation clarifies the application of the retail sales and use tax to sales of eyeglasses, contact lenses and other ophthalmic aids and hearing aids and supplies. The provisions of this regulation previously were part of another regulation.

Statutory Authority: § 58.1-203 of the Code of Virginia.

Contact: Terry M. Barrett, Policy Analyst, P.O. Box 1880, Richmond, VA 23282-1880, telephone (804) 367-8010.

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January 10, 1994 - 10 a.m. - Public Hearing
Department of Taxation Training Room, 2220 West Broad Street, Richmond, Virginia.

January 14, 1994 - 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 Department of Taxation intends to amend regulations entitled: **VR 630-10-92. Retail Sales and Use Tax: Research.** This regulation clarifies the sales and use tax treatment of sales and purchase transactions made in performing basic research and research and development.

Statutory Authority: § 58.1-203 of the Code of Virginia.

Contact: Lonnie T. Lewis, Jr., Policy Analyst, P.O. Box 1880, Richmond, VA 23282-1880, telephone (804) 367-8010.

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January 10, 1994 - 10 a.m. - Public Hearing
Department of Taxation Training Room, 2220 West Broad Street, Richmond, Virginia.

January 14, 1994 - 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 Department of Taxation intends to amend regulations entitled: **VR 630-10-97.1. Retail Sales and Use Tax: Services.** This regulation clarifies the application of the retail sales and use tax to sales of services.

Statutory Authority: § 58.1-203 of the Code of Virginia.

Contact: Terry M. Barrett, Policy Analyst, P.O. Box 1880, Richmond, VA 23282-1880, telephone (804) 367-8010.

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January 10, 1994 - 10 a.m. - Public Hearing
Department of Taxation Training Room, 2220 West Broad Street, Richmond, Virginia.

January 14, 1994 - 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 Department of Taxation intends to amend regulations entitled: **VR 630-10-98. Retail Sales and Use Tax: Ships or Vessels Used or to be Used Exclusively or Principally in Interstate or Foreign Commerce.** This regulation clarifies the application of the retail sales and use tax to purchases by persons engaged in waterborne commerce and shipbuilding, conversion and repair.

Statutory Authority: § 58.1-203 of the Code of Virginia.

Contact: Terry M. Barrett, Policy Analyst, P.O. Box 1880, Richmond, VA 23282-1880, telephone (804) 367-8010.

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Calendar of Events

January 10, 1994 - 10 a.m. – Public Hearing
Department of Taxation Training Room, 2220 West Broad Street, Richmond, Virginia.

January 14, 1994 – 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 Department of Taxation intends to amend regulations entitled: **VR 630-10-108.1. Retail Sales and Use Tax: Typesetting.** This regulation clarifies the sales and use tax treatment of sales and purchase transactions for typesetting.

Statutory Authority: § 58.1-203 of the Code of Virginia.

Contact: Lonnie T. Lewis, Jr., Policy Analyst, P.O. Box 1880, Richmond, VA 23282-1880, telephone (804) 367-8010.

COMMONWEALTH TRANSPORTATION BOARD

December 15, 1993 - 2 p.m. – Open Meeting
Department of Transportation, 1401 E. Broad Street, Richmond, Virginia ☒ (Interpreter for the deaf provided upon request)

A work session of the Commonwealth Transportation Board and the Department of Transportation staff.

Contact: John G. Milliken, Secretary of Transportation, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-8032.

December 16, 1993 - 10 a.m. – Open Meeting
Department of Transportation, 1401 E. Broad Street, 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 forum. Remarks will be limited to five minutes. Large groups are asked to select one individual to speak for the group. The board reserves the right to amend these conditions.

Contact: John G. Milliken, Secretary of Transportation, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-8032.

DEPARTMENT OF THE TREASURY (TREASURY BOARD)

December 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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† **February 11, 1994** – 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 Department of the Treasury and Treasury Board intend to amend regulations entitled: **VR 640-01-1. Public Participation Guidelines for the Department of the Treasury and Treasury Board.** The proposed amendments provide for public petition to develop or amend a regulation and clarify under what condition the use of public hearings and advisory committees are appropriate.

Statutory Authority: §§ 2.1-179 and 9-6.14:7.1 of the Code of Virginia.

Contact: Robert S. Young, Director of Financial Policy, Department of the Treasury, P. O. Box 1879, Richmond, VA 23215-1879, telephone (804) 225-3131.

VIRGINIA RACING COMMISSION

January 3, 1994 – Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Racing Commission intends to amend regulations entitled: **VR 662-01-01. Public Participation Guidelines.** The purpose of the proposed amendment is to bring the public participation guidelines into conformity with the recent changes in the Administrative Process Act.

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

Contact: William H. Anderson, Policy Analyst, Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23208, telephone (804) 371-7363.

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January 3, 1994 – Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Racing Commission intends to adopt regulations entitled: **VR 662-02-05. Satellite Facilities.** The purpose of the

proposed regulation is to establish conditions under which pari-mutuel wagering on horse races may take place at satellite facilities.

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

Contact: William H. Anderson, Policy Analyst, Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23208, telephone (804) 371-7363.

DEPARTMENT FOR THE VISUALLY HANDICAPPED

Advisory Committee on Services

January 22, 1994 - 11 a.m. - Open Meeting
Administrative Headquarters, 397 Azalea Avenue,
Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

The committee meets quarterly to advise the Virginia Board for the Visually Handicapped on matters related to services for blind and visually impaired citizens of the Commonwealth.

Contact: Barbara G. Tyson, Executive Secretary Senior, 397 Azalea Ave., Richmond, VA 23227, telephone (804) 371-3140, toll-free 1-800-622-2155 or (804) 371-3140/TDD ☎

VIRGINIA VOLUNTARY FORMULARY BOARD

December 16, 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. Thomson, Director, Bureau of Pharmacy Services, 109 Governor St., Room B1-9, Richmond, VA 23219, telephone (804) 786-4326.

VIRGINIA WASTE MANAGEMENT BOARD

December 14, 1993 - 7 p.m. - Information Session
December 14, 1993 - 8 p.m. - Public Hearing
Osborne High School, 9005 Tudor Lane, Lecture Room, Manassas, Virginia.

December 15, 1993 - 7 p.m. - Information Session
December 15, 1993 - 8 p.m. - Public Hearing
College of William and Mary, Landrum Drive, Millington Auditorium, Williamsburg, Virginia.

December 16, 1993 - 7 p.m. - Information Session
December 16, 1993 - 8 p.m. - Public Hearing
Virginia Western Community College, 3095 Colonial Avenue, S.W., Whitman Auditorium, Roanoke, Virginia.

January 17, 1994 - Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Waste Management Board intends to repeal regulations entitled VR 672-40-01. Infectious Waste Management Regulations and adopt regulations entitled VR 672-40-01:1. Regulated Medical Waste Management Regulations. The regulations contain new management rules for certain medical waste concerning generation, treatment, storage, transportation and disposal of the wastes.

The board, in this action to repeal and replace the Commonwealth's regulations on this subject, intends to improve them through several changes. It wishes to direct attention to certain issues for which the board expressly desires the help and opinion of the public. The board is seeking comments that include explanation, suggested regulatory language, data and basis for the comment. Prior to taking action on final regulations, the board wishes to have a full review and thorough discussion of these and any issues citizens feel are important. Attention to the following issues is specifically requested:

1. Section 2.4 and others require that existing facilities comply with the regulations immediately, except where the existing permit contains a conflict with the new regulations, the conflicting permit condition may be used for six months. Is this time period appropriate and practical, or should another period or procedure be substituted?
2. Sections 11.3 and 11.4 establish procedures, protocols, forms, and standards for approval of new technologies for treating regulated medical waste. Are these technically adequate and are there additional constraints which should be applied to emerging technologies?
3. Are there units, like limited small clinics, which should be eligible for the partial exemption in § 3.2? Are there other aspects of the regulations to which exemptions should accrue through this item?
4. Do the specific references and monitoring requirements in §§ 4.8, 7.6, 8.5 and 9.5 provide adequate control of radiological materials at treatment facilities. Are there specific standards or means which might improve protection from these materials?
5. The standard in Parts V and VI for nonrefrigerated storage of regulated medical waste is seven days after generation. Is this time period too short or too long?
6. The regulations in Parts VII, IX, and X contain certain new standards, for example grinding of regulated medical waste and testing of treatment equipment for alternative technologies. Three new

Calendar of Events

treatment technologies are approved with specific standards. The board would like comment on those standards and detailed specific recommendations for other requirements that are appropriate.

7. The amended regulations require incinerator ash and pollution control dust to be segregated and tested separately. Should the regulations allow the mixing of the ash and dust after testing is complete? Should the mixing be allowed on-site prior to shipment for disposal?

8. Part X contains new procedures for formal permitting of facilities and Part XI contains new procedures for issuance of variances from the regulations. Do these processes adequately address due process, and are they sufficiently clear and comprehensible?

9. Several requirements in the regulations have threshold size criteria such that small facilities may be exempt from a particular requirement. Should small generators or facilities be given such exemptions, and are each of the thresholds set at an appropriate level?

The General Assembly directed the board to consider nine factors in developing the regulations. The board would like the public to suggest any ways the regulations could better address the following nine factors:

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 or 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 maximum extent.
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 wastes 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 infectious 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.

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).

In addition to the issues and factors listed above, the board welcomes comments on all parts of the proposed regulations. In order to be most helpful, comments need to be very specific and make detailed suggestions for alternative requirements or wording. Support data and related information, of which the board may not be aware, will greatly aid the board in reaching a decision.

Statutory Authority: § 10.1-1402 of the Code of Virginia.

Written comments may be submitted until 5 p.m. on January 17, 1994, to the Department of Environmental Quality, 101 North 14th Street, 11th Floor, Richmond, Virginia 23219. Copies of the proposed new regulations are available by writing the Department of Environmental Quality.

Contact: Robert G. Wickline, Director of Research, ORPD Department of Environmental Quality, 101 N. 14th St., 11th Floor, Richmond, VA 23219, telephone (804) 225-2667.

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January 6, 1994 - 7 p.m. - Public Hearing
Department of Environmental Quality, 4900 Cox Road, Board Room, Innsbrook, Glen Allen, Virginia.

January 31, 1994 - Written comments may be submitted until 4 p.m. on this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Waste Management Board intends to amend regulations entitled: **VR 672-01-1:1. Public Participation Guidelines.** Section 9-6.14:7.1 of the Administrative Process Act (APA) requires each agency to develop, adopt and use public participation guidelines for soliciting the input of interested persons in the formation and development of its regulations. Such guidelines shall not only be used prior to the formation and drafting of proposed regulations, but shall also be used during the entire formation, promulgation and final adoption process. Furthermore, § 10.1-1402 of the Virginia Waste Management Act authorizes the Virginia Waste Management Board to issue regulations as may be necessary to carry out its powers and duties required by the Act and consistent with the federal statutes and regulations.

This action is necessary to replace existing emergency

Public Participation Guidelines with permanent guidelines which will comply with new provisions of the APA enacted by the 1993 General Assembly. These proposed amendments will establish, in regulation, various provisions to ensure that interested persons have the necessary information to comment in a meaningful, timely fashion during all phases of the regulatory process. These proposed amendments are consistent with those of the other agencies within the Natural Resources Secretariat.

The proposed amendments contain a number of new provisions. Specifically, the proposal includes a definition for "participatory approach" which means the methods for the use of an ad hoc advisory group or panel, standing advisory committee, consultation with groups or individuals or a combination of methods; requires the use of the participatory approach upon receipt of written requests from five persons during the associated comment period; expands the board's procedures for establishing and maintaining lists of persons expressing an interest in the adoption, amendment or repeal of regulations; expands the information required in the Notice of Intended Regulatory Action to include a description of the subject matter and intent of the planned regulation and to include a statement inviting comment on whether the agency should use the participatory approach to assist in regulation development; expands the information required in the Notice of Public Comment Period to include the identity of localities affected by the proposed regulation and to include a statement on the rationale or justification for the new provisions of the regulation from the standpoint of the public's health, safety or welfare; and requires that a draft summary of comments be sent to all public commenters on the proposed regulation at least five days before final adoption of the regulation.

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

Contact: William F. Gilley, Waste Division, Department of Environmental Quality, P. O. Box 10009, Richmond, VA 23240, telephone (804) 225-3966.

BOARD FOR WASTE MANAGEMENT FACILITY OPERATORS

December 15, 1993 - 8:30 a.m. - Open Meeting
Department of Professional and Occupational Regulation,
3600 W. Broad St., Conference Room 2, Richmond, Virginia ☐

December 16, 1993 - 8:30 a.m. - Open Meeting
Department of Professional and Occupational Regulation,
3600 W. Broad St., Conference Room 3, Richmond,
Virginia. ☐

A general board meeting to conduct exam item review.

Contact: David E. Dick, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA, telephone (804) 367-8595.

January 27, 1994 - 8:30 a.m. - Open Meeting

January 28, 1994 - 8:30 a.m. - Open Meeting

Department of Professional and Occupational Regulation,
3600 W. Broad St., Conference Room 3, Richmond,
Virginia. ☐

A general board meeting to conduct regulatory review and final examination review.

Contact: David E. Dick, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA, telephone (804) 367-8595.

STATE WATER CONTROL BOARD

† **January 20, 1994 - 7 p.m. - Open Meeting**

University of Virginia Southwest Center, Highway 19N,
Abingdon, Virginia.

The purpose of the meeting is to receive comments and views from interested persons on the proposed repeal of the existing Tennessee-Big Sandy River Basin Water Quality Management Plan and the adoption of a new, updated plan for the basin.

Contact: Ronald D. Sexton, Department of Environmental Quality, Water Division, P. O. Box 888, Abingdon, VA 24210, telephone (703) 676-5507

January 5, 1994 - 2 p.m. - Public Hearing

James City County Board of Supervisor's Room, 101 C
Mounts Bay Road, Building C, Williamsburg, Virginia.

January 10, 1994 - 2 p.m. - Public Hearing

Prince William County Administration Center, One County
Complex, 4850 Davis Ford Road, McCoart Building, Board
Chambers, Prince William, Virginia.

January 11, 1994 - 2 p.m. - Public Hearing

Municipal Office Building, 150 East Monroe Street,
Multi-Purpose Room/Council Chambers, Wytheville,
Virginia.

January 26, 1994 - Written comments may be submitted until 4 p.m. on this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to adopt regulations entitled: **VR 680-14-16. Virginia Pollutant Discharge Elimination System (VPDES) General Permit Regulation for Storm Water Discharges Associated with Industrial Activity from Heavy Manufacturing Facilities.** The purpose of the proposed regulation is to authorize storm water discharges associated with industrial activity from heavy manufacturing facilities through

Calendar of Events

the development and issuance of a VPDES general permit. A question and answer session will be held one-half hour prior to each of the informational proceedings at the same location. The informational proceedings are being held at 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 address below, (804) 527-5162 or TDD (804) 527-4261. Persons needing interpreter services for the deaf must notify Ms. Dalton no later than Monday, December 27, 1993. Analyses related to the basis, purpose, substance, issues and estimated impacts of the proposed regulation have been completed. Any persons interested in reviewing these materials should notify the contact person listed below.

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

Written comments may be submitted until 4 p.m. on January 26, 1994, to Doneva Dalton, Department of Environmental Quality, P.O. Box 11143, Richmond, Virginia 23230.

Contact: Catherine Boatwright, Department of Environmental Quality, Water Division, P.O. Box 11143, Richmond, VA 23230, telephone (804) 527-5316.

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January 5, 1994 - 2 p.m. – Public Hearing
James City County Board of Supervisor's Room, 101 C Mounts Bay Road, Building C, Williamsburg, Virginia.

January 10, 1994 - 2 p.m. – Public Hearing
Prince William County Administration Center, One County Complex, 4850 Davis Ford Road, McCoart Building, Board Chambers, Prince William, Virginia.

January 11, 1994 - 2 p.m. – Public Hearing
Municipal Office Building, 150 East Monroe Street, Multi-Purpose Room/Council Chambers, Wytheville, Virginia.

January 26, 1994 – 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 Water Control Board intends to adopt regulations entitled: **VR 680-14-17. Virginia Pollutant Discharge Elimination System (VPDES) General Permit for Storm Water Discharges Associated with Industrial Activity from Light Manufacturing Facilities.** The purpose of the proposed regulation is to authorize storm water discharges associated with industrial activity from light manufacturing facilities through the development and issuance of a VPDES general permit. A question and answer session will be held one-half hour prior to each of the informational proceedings at the same

location. The informational proceedings are being held at 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 address below, (804) 527-5162 or TDD (804) 527-4261. Persons needing interpreter services for the deaf must notify Ms. Dalton no later than Monday, December 27, 1993. Analyses related to the basis, purpose, substance, issues and estimated impacts of the proposed regulation have been completed. Any persons interested in reviewing these materials should notify the contact person listed below.

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

Written comments may be submitted until January 26, 1994, to Doneva Dalton, Department of Environmental Quality, P.O. Box 11143, Richmond, Virginia 23230.

Contact: Catherine Boatwright, Department of Environmental Quality, Water Division, P.O. Box 11143, Richmond, VA 23230, telephone (804) 527-5316.

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January 5, 1994 - 2 p.m. – Public Hearing
James City County Board of Supervisor's Room, 101 C Mounts Bay Road, Building C, Williamsburg, Virginia.

January 10, 1994 - 2 p.m. – Public Hearing
Prince William County Administration Center, One County Complex, 4850 Davis Ford Road, McCoart Building, Board Chambers, Prince William, Virginia.

January 11, 1994 - 2 p.m. – Public Hearing
Municipal Office Building, 150 East Monroe Street, Multi-Purpose Room/Council Chambers, Wytheville, Virginia.

January 26, 1994 – Written comments may be submitted until 4 p.m. on this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to adopt regulations entitled: **VR 680-14-18. Virginia Pollutant Discharge Elimination System (VPDES) General Permit Regulation for Storm Water Discharges Associated with Industrial Activity from Transportation Facilities, Landfills, Land Application Sites and Open Dumps, and Materials Recycling Facilities, and Steam Electric Power Generating Facilities.** The purpose of the proposed regulation is to authorize storm water discharges associated with industrial activity from transportation facilities, landfills, land application sites and open dumps, materials recycling facilities and steam electric power generating facilities through the development and issuance of a VPDES general permit. A question and answer session will be held one-half hour prior to each of the informational proceedings at

the same location. The informational proceedings are being held at 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 address below, (804) 527-5162 or TDD (804) 527-4261. Persons needing interpreter services for the deaf must notify Ms. Dalton no later than Monday, December 27, 1993. Analyses related to the basis, purpose, substance, issues and estimated impacts of the proposed regulation have been completed. Any persons interested in reviewing these materials should notify the contact person listed below.

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

Written comments may be submitted until 4 p.m. on January 26, 1994, to Doneva Dalton, Department of Environmental Quality, P.O. Box 11143, Richmond, Virginia 23230.

Contact: Catherine Boatwright, Department of Environmental Quality, Water Division, P.O. Box 11143, Richmond, VA 23230, telephone (804) 527-5316.

January 5, 1994 - 2 p.m. - Public Hearing
James City County Board of Supervisor's Room, 101 C Mounts Bay Road, Building C, Williamsburg, Virginia.

January 10, 1994 - 2 p.m. - Public Hearing
Prince William County Administration Center, One County Complex, 4850 Davis Ford Road, McCoart Building, Board Chambers, Prince William, Virginia.

January 11, 1994 - 2 p.m. - Public Hearing
Municipal Office Building, 150 East Monroe Street, Multi-Purpose Room/Council Chambers, Wytheville, Virginia.

January 26, 1994 - Written comments may be submitted until 4 p.m. on this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to adopt regulations entitled: **VR 880-14-19. Virginia Pollutant Discharge Elimination System (VPDES) General Permit Regulation for Storm Water Discharges from Construction Sites.** The purpose of the proposed regulation is to authorize storm water discharges from construction sites. A question and answer session will be held one-half hour prior to each of the informational proceedings at the same location. The informational proceedings are being held at 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 address below, (804) 527-5162 or TDD (804) 527-4261. Persons needing interpreter services for the deaf must notify Ms. Dalton no later

than Monday, December 27, 1993. Analyses related to the basis, purpose, substance, issues and estimated impacts of the proposed regulation have been completed. Any persons interested in reviewing these materials should notify the contact person listed below.

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

Written comments may be submitted until 4 p.m. on January 26, 1994, to Doneva Dalton, Department of Environmental Quality, P.O. Box 11143, Richmond, Virginia 23230.

Contact: Catherine Boatwright, Department of Environmental Quality, Water Division, P.O. Box 11143, Richmond, VA 23230, telephone (804) 527-5316.

December 16, 1993 - 2 p.m. - Public Hearing
Department of Environmental Quality, 4900 Cox Road, Innsbrook Corporate Center, Board Room, Richmond, Virginia.

January 18, 1994 - Written comments may be submitted until 4 p.m. on this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to adopt regulations entitled: **VR 680-14-20. General Virginia Pollutant Discharge Elimination System (VPDES) Permit Regulation for Nonmetallic Mineral Mining.** The purpose of the proposed regulation is to adopt a general VPDES permit for the discharges from establishments primarily engaged in mining or quarrying, developing mines or exploring for nonmetallic minerals, other than fuels. A question and answer session will be held prior to the informational proceeding (public hearing) from 1:30 to 2 p.m. for interested persons to learn more about the regulation and ask questions of the staff. The meeting is being held at a 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 address below, (804) 527-5162 or TDD (804) 527-4261. Persons needing interpreter services for the deaf must notify Ms. Dalton no later than December 9, 1993. Analyses related to the basis, purpose, substance, issues and estimated impacts of the proposed regulation have been completed. Any person interested in reviewing these materials should contact Cindy Berndt, (804) 527-5158, at the address listed below.

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

Written comments may be submitted until 4 p.m. on January 18, 1994, to Doneva Dalton, Department of Environmental Quality, P.O. Box 11143, Richmond, Virginia

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23230.

Contact: Richard Ayers, Department of Environmental Quality, Water Division, P.O. Box 11143, Richmond, VA 23230, telephone (804) 527-5059.

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January 5, 1994 - 7 p.m. - Public Hearing
James City County Board of Supervisor's Room, 101 C Mounts Bay Road, Building C, Williamsburg, Virginia.

January 11, 1994 - 7 p.m. - Public Hearing
Municipal Office Building, 150 East Monroe Street, Multi-Purpose Room/Council Chambers, Wytheville, Virginia.

January 13, 1994 - 7 p.m. - Public Hearing
Rockingham County Administration Center, 20 East Gay Street, Board of Supervisors Room, Harrisonburg, Virginia.

January 28, 1994 - 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 Water Control Board intends to adopt regulations entitled: **VR 680-14-22. Virginia Pollution Abatement General Permit for Intensified Animal Feeding Operations of Swine, Dairy, and Slaughter and Feeder Cattle.** The purpose of the proposed regulation is to authorize pollutant management activities at intensified animal feeding operations of swine, dairy, and slaughter and feeder cattle through the adoption of a Virginia Pollution Abatement general permit. A question and answer session will be held one-half hour prior to each of the informational proceedings at the same location. The informational proceedings are being held at 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 address below, (804) 527-5162 or TDD (804) 527-4261. Persons needing interpreter services for the deaf must notify Ms. Dalton no later than Monday, December 27, 1993. Analyses related to the basis, purpose, substance, issues and estimated impacts of the proposed regulation have been completed. Any persons interested in reviewing these materials should notify the contact person listed below.

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

Written comments may be submitted until January 28, 1994, to Doneva Dalton, Department of Environmental Quality, P.O. Box 11143, Richmond, Virginia 23230.

Contact: Catherine Boatwright, Department of Environmental Quality, Water Division, P.O. Box 11143, Richmond, VA 23230, telephone (804) 527-5316.

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January 5, 1994 - 7 p.m. - Public Hearing
James City County Board of Supervisor's Room, 101 C Mounts Bay Road, Building C, Williamsburg, Virginia.

January 11, 1994 - 7 p.m. - Public Hearing
Municipal Office Building, 150 East Monroe Street, Multi-Purpose Room/Council Chambers, Wytheville, Virginia.

January 13, 1994 - 7 p.m. - Public Hearing
Rockingham County Administration Center, 20 East Gay Street, Board of Supervisors Room, Harrisonburg, Virginia.

January 28, 1994 - 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 Water Control Board intends to adopt regulations entitled: **VR 680-14-23. Virginia Pollution Abatement General Permit for Concentrated Animal Feeding Operations of Swine, Dairy, and Slaughter and Feeder Cattle.** The purpose of the proposed regulation is to authorize pollutant management activities at concentrated animal feeding operations of swine, dairy, and slaughter and feeder cattle through the adoption of a Virginia Pollution Abatement general permit. A question and answer session will be held one-half hour prior to each of the informational proceedings at the same location. The informational proceedings are being held at 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 address below, (804) 527-5162 or TDD (804) 527-4261. Persons needing interpreter services for the deaf must notify Ms. Dalton no later than Monday, December 27, 1993. Analyses related to the basis, purpose, substance, issues and estimated impacts of the proposed regulation have been completed. Any persons interested in reviewing these materials should notify the contact person listed below.

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

Written comments may be submitted until January 28, 1994, to Doneva Dalton, Department of Environmental Quality, P.O. Box 11143, Richmond, Virginia 23230.

Contact: Catherine Boatwright, Department of Environmental Quality, Water Division, P.O. Box 11143, Richmond, VA 23230, telephone (804) 527-5316.

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January 6, 1994 - 7 p.m. - Public Hearing
Department of Environmental Quality, Innsbrook Office, 4900 Cox Road, Glen Allen, Virginia.

Calendar of Events

January 31, 1994 – Written comments may be submitted until 4 p.m. on this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to amend regulations entitled: **VR 680-41-01:1. Public Participation Guidelines.** The purpose of the proposed amendments is to replace existing emergency public participation guidelines with permanent guidelines in compliance with the Administrative Process Act.

The board has conducted analyses related to the basis, purpose, substance, issues and estimated impacts of the proposed amendments. Any persons interested in reviewing these materials should contact Cindy Berndt at the Department of Environmental Quality, Office of Regulatory Service, P. O. Box 11143, Richmond, VA 23230. The meeting is being held at a facility believed to be accessible to persons with disabilities. Any person with questions on the accessibility of the facilities should contact Ms. Doneva Dalton, Office of Regulatory Services, P. O. Box 11143, Richmond, VA 23230, (804) 527-5162 or TDD (804) 527-4261. Persons needing interpreter services for the deaf must notify Ms. Dalton no later than December 27, 1993.

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

Written comments may be submitted until 4 p.m. on January 31, 1994, to Ms. Doneva Dalton, Department of Environmental Quality, P. O. Box 11143, Richmond, VA 23230.

Contact: Cindy Berndt, DEQ, P.O. Box 11143, Richmond, VA 23230, telephone (804) 527-5158.

BOARD FOR WATERWORKS AND WASTEWATER WORKS OPERATORS

January 31, 1994 – Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board for Waterworks and Wastewater Works Operators intends to repeal regulations entitled: **VR 675-01-01. Public Participation Guidelines** and adopt regulations entitled: **VR 675-01-01:1. Public Participation Guidelines.** The purpose of the proposed regulations is to implement the requirements of the Administrative Process (APA) and the legislative changes to the APA made by the 1993 General Assembly by establishing regulatory board (agency) procedures for soliciting, receiving and considering input from interested parties in the formulation, adoption and amendments to new and existing regulations governing the licensure of waterworks and wastewater works operators in Virginia.

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

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



BOARD OF YOUTH AND FAMILY SERVICES

January 13, 1994 - 8:30 a.m. – Open Meeting
700 Centre Building, 7th and Franklin Streets, 4th Floor,
Richmond, Virginia. ☐

Committee meetings will begin at 8:30, and a general meeting will begin at 10 a.m. to review programs recommended for certification or probation, to consider adoption of draft policies, and to discuss other matters that may come before the board.

Contact: Donald R. Carignan, Policy Coordinator, Department of Youth and Family Services, P.O. Box 1110, Richmond, VA 23208-1110, telephone (804) 371-0692.

LEGISLATIVE

JOINT SUBCOMMITTEE STUDYING EDUCATIONAL MUSEUMS

December 15, 1993 - 10 a.m. – Open Meeting
Art Museum Lecture Hall, Roanoke, Virginia.

The subcommittee will meet to hear public comments on educational museums. HJR 453.
Those persons wishing to speak should contact Dawn B. Smith, House of Delegates, P. O. Box 406, Richmond, VA 23203, telephone (804) 786-7681.

Contact: Kathy Harris, Staff Attorney, Division of Legislative Services, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

JOINT LEGISLATIVE AUDIT AND REVIEW COMMISSION

December 13, 1993 - 9:30 a.m. – Open Meeting
General Assembly Building, Senate Room A, Lobby,
Richmond, Virginia.

Calendar of Events

Staff briefing on the Virginia Retirement System and the 900 East Main Street Project.

Contact: Phil Leone, Suite 1100, General Assembly Building, Capitol Square, Richmond, VA 23219, telephone (804) 786-1258.

Transportation Board, Commonwealth
Voluntary Formulary Board, Virginia
Waste Management Facility Operators, Board for

CHRONOLOGICAL LIST

OPEN MEETINGS

December 13

Hazardous Materials Emergency Response Advisory Council
Health, State Board of
Joint Legislative Audit and Review Commission
† Labor and Industry, Department of
- Safety and Health Codes Board, Virginia
† Medical Assistance Services, Board of
† Networking Users Advisory Board, State

December 14

Chesapeake Bay Local Assistance Board
- Northern Area Review Committee
† Contractors, Board for
† Corrections, Board of
† Emergency Planning Committee, Local - County of Montgomery/Town of Blacksburg
Higher Education for Virginia, State Council of
Museum of Fine Arts, Virginia
- Collections and Executive Committees
† Resources Authority, Virginia

December 15

Chesapeake Bay Local Assistance Board
- Central Area Review Committee
- Southern Area Review Committee
† Conservation and Recreation, Board of
Contractors, Board for
Corrections, Board of
Educational Museums, Joint Subcommittee Studying
Environmental Quality, Department of
† Historic Resources, Department of
- Board of Historic Resources
Local Debt, State Council on
Transportation Board, Commonwealth
Treasury Board
Waste Management Facility Operators, Board for

December 16

Fire Services Board, Virginia
- Fire/EMS Education and Training Committee
- Fire Prevention and Control Committee
- Legislative/Liaison Committee
† Real Estate Board

December 17

† Conservation and Recreation, Department of
- Falls of the James Scenic River Advisory Board
Fire Services Board, Virginia
Interdepartmental Regulation of Children's Residential Facilities, Coordinating Committee for
† Medicine, Board of
- Informal Conference Committee
† Mental Health, Mental Retardation and Substance Abuse Services, Department of
- Human Rights Committee, State
Outdoors Foundation, Virginia
Prevention and Early Intervention Steering Committee, Comprehensive Services

December 20

† Health Professions, Board of
Lottery Board, State

December 21

† Environmental Quality, Department of
Health Services Cost Review Council, Virginia
† Housing Development Authority, Virginia
Marine Resources Commission, Virginia

December 22

Compensation Board

January 4, 1994

† Funeral Directors and Embalmers, Board of

January 5

Geology, Board for
† Real Estate Appraiser Board
- Complaints Committee

January 6

Emergency Planning Committee, Local - Chesterfield County

January 7

Medical Assistance Services, Department of
- Drug Utilization Review Board

January 10

† Cosmetology, Board for

January 11

Higher Education for Virginia, State Council of
† Resources Authority, Virginia

January 12

Environmental Quality, Department of
- Work Group on Detection/Quantitation Levels
Professional Soil Scientists, Board for
† Winegrowers Advisory Board, Virginia

PUBLIC HEARINGS

January 13

- † Agriculture and Consumer Services, Department of
 - Pesticide Control Board
- Forestry, Board of
- † Medicine, Board of
 - Physical Therapy, Advisory Board on
- Youth and Family Services, Board of

January 14

- † Agriculture and Consumer Services, Department of
 - Pesticide Control Board
- Medicine, Board of
 - Ad Hoc Committee on HIV

January 18

- † Interagency Coordinating Council on Early Intervention, Virginia
- † Real Estate Appraiser Board

January 19

- † Mental Health, Mental Retardation and Substance Abuse Services Board, State

January 20

- † Motor Vehicles, Department of
 - Motor Vehicle Dealers Advisory Board
- † Water Control Board, State

January 22

- Visually Handicapped, Department for
 - Advisory Committee on Services

January 24

- † Library Board
 - Archives and Record Management Committee
 - Public Library Development Committee

January 25

- Health Services Cost Review Council, Virginia

January 27

- Education, Board of
- Waste Management Facility Operators, Board for

January 28

- † Medicine, Board of
 - Informal Conference Committee
- Waste Management Facility Operators, Board for

February 2

- Mines, Minerals and Energy, Department of

February 9

- † Resources Authority, Virginia

February 24

- Education, Board of

December 14

- Air Pollution Control Board, State
- Education, State Board of
- Waste Management Board, Virginia

December 15

- Air Pollution Control Board, State
- Corrections, Department of
- Waste Management Board, Virginia

December 16

- Air Pollution Control Board, State
- Waste Management Board, Virginia
- Water Control Board, State

December 17

- Professional Counselors, Board of

December 20

- Alcoholic Beverage Control Board

December 21

- Health Services Cost Review Council, Virginia

January 5, 1994

- Water Control Board, State

January 6

- Air Pollution Control Board, State
- Chesapeake Bay Local Assistance Board
- Conservation and Recreation, Board of
- Conservation and Recreation, Department of
- Environmental Quality, Department of
- † Game and Inland Fisheries, Department of
- Historic Resources, Board of
- Historic Resources, Department of
- Marine Resources Commission
- Soil and Water Conservation Board, Virginia
- Waste Management Board, Virginia
- Water Control Board, State

January 10

- Taxation, Department of
- Water Control Board, State

January 11

- † Health, Department of
- † Social Services, Department of
- Water Control Board, State

January 12

- Corrections, Department of
- † Social Services, Department of

January 13

- † Social Services, Department of
- Water Control Board, State

Calendar of Events

January 14

Agriculture and Consumer Services, Department of
- Pesticide Control Board
† Asbestos Licensing Board, Virginia
† Social Services, Department of

January 18

† Social Services, Department of

January 19

Education, State Board of

January 20

Education, State Board of

January 24

Lottery Board, State

January 27

† Education, Department of

February 2

† Mines, Minerals and Energy, Department of