

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, is 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 Registrar and the promulgating agency. The objection will be published in the *Virginia Register*. Within twenty-one days after receipt by the agency of a legislative objection, the agency shall file a response with the Registrar, the objecting legislative committee, and the Governor.

When final action is taken, the promulgating agency must again publish the text of the regulation as adopted, highlighting and explaining any substantial changes in the final regulation. A thirty-day final adoption period will commence upon publication in the *Virginia Register*.

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

A regulation becomes effective at the conclusion of this thirty-day final adoption period, or at any other later date specified by the promulgating agency, unless (i) a legislative objection has been filed, in which event the regulation, unless withdrawn, becomes effective on the date specified, which shall

be after the expiration of the twenty-one day extension period; or (ii) the Governor exercises his authority to suspend the regulatory process for solicitation of additional public comment, in which event the regulation, unless withdrawn, becomes effective on the date specified, which 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-month duration. The emergency regulations will be published as quickly as possible in the *Virginia Register*.

During the time the emergency status is in effect, the agency may proceed with the adoption of permanent regulations through the usual procedures (See "Adoption, Amendment, and Repeal of Regulations," above). If the agency does not choose to adopt the regulations, the emergency status ends when the prescribed time limit expires.

STATEMENT

The foregoing constitutes a generalized statement of the procedures to be followed. For specific statutory language, it is suggested that Article 2 of Chapter 1.1:1 (§§ 9-6.14:6 through 9-6.14:9) of the Code of Virginia be examined carefully.

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NOTICES OF INTENDED REGULATORY ACTION

Symbol Key †

† Indicates entries since last publication of the Virginia Register

STATE AIR POLLUTION CONTROL BOARD

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Air Pollution Control Board intends to consider promulgating regulations entitled: **VR 120-50-04. Regulations for Emissions Trading and Banking.** The purpose of the proposed action is to develop the regulatory basis for a program under which the creation, trading (buying and selling) and banking of emission reduction credits can occur.

Public Meeting: A public meeting will be held by the department in the Board Room, Department of Environmental Quality Office Building, 4900 Cox Road, Innsbrook Corporate Center, Glen Allen, Virginia, at 1:30 p.m. on January 25, 1995, to discuss the intended action. Unlike a public hearing, which is intended only to receive testimony, this meeting is being held to discuss and exchange ideas and information relative to regulation development.

Accessibility to Persons with Disabilities: The meeting is being held at a public facility believed to be accessible to persons with disabilities. Any person with questions on the accessibility of the facility should contact Ms. Deborah Pegram at the Office of Regulatory Services, Department of Environmental Quality, P.O. Box 10009, Richmond, Virginia 23240, or by telephone at (804) 762-4041 or TDD (804) 762-4021. Persons needing interpreter services for the deaf must notify Ms. Pegram no later than January 18, 1995.

Ad Hoc Advisory Group: The department will form an ad hoc advisory group to assist in the development of the regulation. If you desire to be on the group, notify the agency contact in writing by 4:30 p.m. on January 26, 1995, and provide your name, address, phone number and the organization you represent (if any). Notification of the composition of the ad hoc advisory group will be sent to all applicants. If you wish to be on the group, you are encouraged to attend the public meeting mentioned above.

Public Hearing Plans: After publication in the Virginia Register of Regulations, the department will hold at least one public hearing to provide opportunity for public comment on any regulation amendments drafted pursuant to this notice.

Need: Among the primary goals of the Clean Air Act are the attainment and maintenance of the National Ambient

Air Quality Standards (NAAQS) and the prevention of significant deterioration (PSD) of air quality in areas cleaner than the NAAQS. The NAAQS, developed and promulgated by the U.S. Environmental Protection Agency (EPA), establish the maximum limits of pollutants that are permitted in the outside ambient air. The EPA requires that each state submit a plan (called a State Implementation Plan or SIP), including any laws and regulations necessary to enforce the plan, showing how the air pollution concentrations will be reduced to levels at or below these standards (i.e., attainment). Once the pollution levels are within the standards, the plan must also demonstrate how the state will maintain the air pollution concentrations at the reduced levels (i.e., maintenance). The heart of the SIP is the control strategy. The control strategy describes the emission reduction measures to be used by the state to attain and maintain the air quality standards. There are three basic types of measures: stationary source control measures, mobile source control measures, and transportation source control measures. Stationary source control measures are directed at limiting emissions primarily from commercial/industrial facilities and operations. Mobile source control measures are directed at limiting tail pipe and other emissions primarily from motor vehicles and include the following: Federal Motor Vehicle Emission Standards, fuel volatility limits, reformulated gasoline, emissions control system anti-tampering program, and inspection and maintenance program. Transportation source control measures are directed at limiting the location and use of motor vehicles and include the following: carpools, special bus lanes, rapid transit systems, commuter park and ride lots, bicycle lanes, signal system improvements, and many others.

The Clean Air Act requires that states include a New Source Review (NSR) program in the SIP as a control strategy. NSR requires owners of new sources and existing sources which modify their operations to obtain a preconstruction permit. In areas not in compliance with the National Ambient Air Quality Standards (i.e., nonattainment areas), one of the NSR requirements is that the source obtain sufficient surplus emissions reductions to more than "offset" their new emissions. Depending on the nonattainment classification of the area, these "offsets" must be secured at a minimum ratio of 1.1 to 1. Offsets are also required in attainment areas if the new emissions would create a nonattainment situation. The amount of offset would be that necessary to correct the nonattainment situation. These requirements are designed to allow industrial growth without interfering with attainment and maintenance of NAAQS. Emissions trading would facilitate new sources in obtaining these offsets.

The Act requires that states include RACT in the SIP as a

Notices of Intended Regulatory Action

control strategy for existing sources. RACT, or Reasonably Available Control Technology, is a type and level of emissions control, currently technologically and economically feasible, which is required to meet a specific emission limit and which will assist in meeting the air quality standards. Sources required to meet RACT emission limits may install certain control technologies in order to comply. Another method for sources to meet emission limits is bubbling. Bubbling, which allows existing sources to increase emissions at one or more emission sources in exchange for decreases in emissions at other emission sources, can be done through emissions trading. Bubbling gives facilities the ability to implement less costly ways of meeting air pollution control requirements. To be approved, each bubble must achieve an emission level equivalent to or better than the total emission level of the facility prior to the bubble.

Emissions trading and banking can be used to meet the above requirements, as well as additional future requirements. Trading can also be used by sources for exemption from NSR or other process; this is known as netting. Trading and banking involves the creation of surplus emissions reduction credits at sources of air pollution for use to meet SIP air pollution control requirements by the same or other sources. The source creating the emission reduction credit could either sell (trade) the credit to another source or store (bank) the credit for later use or sale. Such a program can provide more flexibility to meet environmental requirements, thus reducing costs and encouraging faster compliance.

Moreover, the development of generic trading rules enables states to expedite the attainment of SIP goals and eliminates the need for case-by-case review of emission trading projects. Credits can be created by both stationary and mobile sources. New and existing sources can take advantage of emissions trading.

Alternatives:

1. Draft a regulation which will provide for the implementation of an emissions trading and banking program for mobile and stationary sources which meets the provisions of the state code, the Clean Air Act and associated EPA policies and guidance.
2. Take no action to implement a trading and banking program. Failure to develop an emissions trading program would create less opportunity for the creation and trade of credits and no banking could occur. In addition, the requirements of the state code would not be met.

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

Applicable statutory requirements: Section 10.1-1322.3 of the Virginia Air Pollution Control Law states that the State Air Pollution Control Board shall promulgate regulations to

create a voluntary air emissions trading and banking program for the Commonwealth. The regulations are to provide for market-based programs to achieve and maintain the NAAQS. The regulations are to create an emissions banking and trading program, to the full extent not prohibited by federal law, that results in net air emission reductions, creates an economic incentive for reducing air emissions, and allows for continued economic growth through a voluntary program of banking and trading credits. In promulgating the regulations consideration shall be given, but not be limited to, the inclusion of provisions concerning: (i) the definition and use of emissions reduction credits from mobile and stationary sources, (ii) the role of offsets in emissions trading, (iii) interstate or regional emissions trading, and (iv) the mechanisms needed to facilitate voluntary emissions trading and banking. The regulations are not to prohibit the direct trading of air emissions credits between private industries.

The 1990 Amendments to the Clean Air Act represent the most comprehensive piece of clean air legislation ever enacted and for the first time delineates nonattainment areas as to the severity of the pollution problem. Nonattainment areas are now classified as marginal, moderate, serious, severe and extreme. Marginal areas are subject to the least stringent requirements and each subsequent classification is subject to successively more stringent control measures. Areas with higher classification of nonattainment must meet the requirements of all the areas in lower classifications plus the additional, more stringent requirements of their class. The classifications for Virginia's nonattainment areas are marginal for the Hampton Roads Nonattainment Area, moderate for the Richmond Nonattainment Area, and serious for the Northern Virginia Nonattainment Area. Section 110(a)(2)(A) of the Act requires that State Implementation Plans contain enforceable emission limitations and other control measures or techniques, including economic incentives such as fees, marketable permits, and auctions of emission rights as well as schedules and timetables for compliance.

Section 182(a)(2)(C) of the Act sets out the general requirements for new source review programs in all nonattainment areas and mandates a new and modified major stationary source permit program that meets the requirements of Sections 172 and 173 of the Act. Section 172 contains the basic requirement for a permit program, while Section 173 contains the specifics some of which cover emissions trading and are summarized below.

Section 173(a) provides that a permit may be issued if offsets have been obtained for the new or expanding sources from existing sources so that total allowable emissions (i) from existing sources in the region, (ii) from new or modified sources which are not major emitting facilities, and (iii) from the proposed new source will be sufficiently less than total emissions from existing sources prior to the application for the permit so as to represent reasonable further progress.

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Section 173(c) provides that the owner of the proposed new or modified source may obtain offsets only from the nonattainment area in which the proposed source is to be located. However, the permit program may provide that offsets may be obtained from other nonattainment areas whose emissions impact in the area where the proposed source is to be located, provided the other nonattainment area has an equal or higher classification and the offsets are based on actual emissions.

Section 173(e) provides that the permit program must allow the use of alternative or innovative means to achieve offsets for emission increases due to rocket engine and motor firing and cleaning related to the firing.

A major stationary source is defined for general application in Section 302 of the Act as "any facility or source of air pollutants which directly emits, or has the potential to emit, 100 tons per year or more of any air pollutant." For nonattainment areas defined as serious or worse, Section 182(c) specifically defines a major stationary source as a facility emitting 50 tons per year or more. Section 182(f) provides that requirements which apply to major stationary sources of volatile organic compounds (VOCs) under the Act shall also apply to major stationary sources of nitrogen oxides (NOX).

Section 182(a)(4) of the Act sets out the requirements for marginal areas (Hampton Roads) with respect to offset ratios, providing for a minimum ratio of total emissions reduction of VOCs to total increased emissions of VOCs of 1.1 to 1. Likewise Section 182(b)(5) sets out the offset requirements for moderate nonattainment areas (Richmond), specifying the ratio to be at least 1.15 to 1. Finally, Section 182(c)(10) sets out the offset requirements for serious nonattainment areas (Northern Virginia), specifying the ratio to be at least 1.2 to 1.

Sections 182(c)(6) through (c)(8) contain some additional specifics for serious or worse nonattainment areas concerning the establishment of a de minimis level for expanding existing sources and the allowance of internal offsets as an alternative to the permit requirements. New source permit programs must include provisions to require permits for modifications of all existing sources unless the increase in net emissions from the source does not exceed 25 tons when aggregated with all other net increases in emissions from the source over any period of five consecutive calendar years, including the calendar year in which the increase occurs. The program must also include provisions concerning internal offsets as alternatives to the permit requirements. For sources emitting less than 100 tons per year and applying for a permit to expand, a permit will be required unless the owner elects to offset the increase by a greater reduction in emissions of the same pollutant from other operations, units, or activities within the source at an internal offset ratio of at least 1.3 to 1. If the owner does not choose the option of an internal offset, a permit will be required but the control technology level required will be best available control technology (BACT) instead of lowest achievable emission

rate (LAER). For sources emitting 100 tons or more per year and applying for a permit to expand, control technology requirements which constitute LAER will be required unless the owner elects to offset the increase by a greater reduction in emissions of the same pollutant from other operations, units, or activities within the source at an internal offset ratio of at least 1.3 to 1.

Section 182(g)(4) of the Act sets out the requirements for economic incentive programs. If a state fails to meet a milestone as required for serious and severe nonattainment areas in Section 182(g), it must adopt an economic incentive program. This applies to extreme areas as set forth in Section 182(g)(5). States may also adopt an economic incentive program on a voluntary basis. Economic incentive programs must meet guidelines as established in the Economic Incentive Program Rules and in Section 182(g)(4). A state program may include emissions fees, marketable permits, a system of state fees on sale or manufacture of products the use of which contributes to ozone formation or any combination. The program may also include incentives to reduce vehicle miles traveled, consistent with Section 108(f). Any revenues generated by such a program can be used by states to (i) provide incentives for achieving emission reductions, (ii) provide assistance for the development of innovation technologies for the control of ozone air pollution and for the development of lower-polluting solvents and surface coatings but not more than 75% of costs for the development of technology and (iii) fund not more than 50% of administrative costs of the program.

To provide guidance in the development of emissions trading and banking programs, EPA has promulgated the following:

1. Economic Incentive Program Rules (59 FR 16690, April 7, 1994).
2. Interim Guidance on the Generation of Mobile Source Emission Reduction Credits (58 FR 11134, February 23, 1993).
3. Emissions Trading Policy Statement; General Principles for Creation, Banking, and Use of Emission Reduction Credits; Final Policy Statement and Accompanying Technical Issues Document (51 FR 43814, December 4, 1986).
4. Emission Offset Interpretive Ruling (40 CFR, Part 51, Appendix S).
5. NOX Supplement to the General Preamble Providing EPA Policy Concerning Air Quality Planning Under the Act (57 FR 55620, November 25, 1992).

Written comments may be submitted until 4:30 p.m. January 26, 1995, to the Manager, Air Programs Section, Department of Environmental Quality, P.O. Box 10009, Richmond, Virginia 23240.

Notices of Intended Regulatory Action

Statutory Authority: § 10.1-1322.3 of the Code of Virginia.

Contact: Shawn S. King, Environmental Engineer Senior, Air Programs Section, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 762-4433.

V.A.R. Doc. No. R95-173; Filed December 6, 1994, 10:12 a.m.

BOARD OF CONSERVATION AND RECREATION

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Conservation and Recreation intends to consider amending regulations entitled: **VR 215-02-00. Stormwater Management Regulations.** The purpose of the proposed action is to update existing minimum technical criteria to reflect current engineering methods. However, the entire regulation will be reviewed to provide for the efficient and economical performances of stormwater management programs in Virginia.

The basis for this action is the Stormwater Management Act, Article 1.1 (§ 10.1-603.1 et seq.) of Chapter 6 of Title 10.1 of the Code of Virginia and all other Acts of Assembly and the Code of Virginia references conferring powers, duties and responsibilities of the board.

The basic goal of the Virginia Stormwater Management Program is to manage the quality and quantity of stormwater runoff resulting from land conversion and development to protect water quality, living resources and property. Section 10.1-603.1 of the Act states, "The General Assembly has determined that the lands and waters of the Commonwealth are great natural resources; that as a result of intensive land development and other land use conversions, degradation of these resources frequently occurs in the form of water pollution, stream channel erosion, depletion of groundwater resources, and more frequent localized flooding; that these impacts adversely affect fish, aquatic life, recreation, shipping, property values and other uses of lands and waters; that existing authorities under the Code of Virginia do not adequately address all of these impacts. Therefore, the General Assembly finds it in the public interest to enable the establishment of stormwater management programs."

The Act further authorizes the Virginia Conservation and Recreation Board to promulgate regulations which specify minimum technical and administrative procedures for stormwater management programs in Virginia. Among other things, the Act requires that these regulations be periodically modified to reflect current engineering methods. Stormwater management technologies and approaches have evolved rapidly over the past several years. The board finds it necessary to modify these regulations to reflect these changes and provide flexibility as well as consistency with other regulatory programs

affecting stormwater management in the Commonwealth.

There are anticipated impacts on regulated entities and the public since the proposed modifications impose new requirements. Regulated entities and the public should benefit from enhancement of the regulation by increased flexibility of new engineering technologies and improvements in coordinating with other regulatory program requirements.

Alternatives:

1. Draft revisions to the existing regulation VR 215-02-00 and provide the regulated community with increased flexibility through the use of expanded engineering technologies and administrative procedures, and improve consistency with other regulatory requirements affecting stormwater management programs.

2. Take no action to amend the regulations. However, if the board does not amend the regulation, it will not fulfill the legislative intent to periodically modify regulations and incorporate new engineering technologies. Additionally, the regulated community will not benefit from flexibility and consistency of regulatory requirements currently available for stormwater management programs.

The Department of Conservation and Recreation soliciting comments on the cost and benefits of the alternatives stated above or other alternatives.

The board seeks comments from interested persons on the intended action to include recommendations on the regulations and costs and benefits of any alternatives. To be considered, written comments should be directed to David S. Nunnally at the address below and must be received by 4 p.m. on January 4, 1995.

The Director of the Department of Conservation and Recreation has decided to form an ad-hoc advisory committee to assist the department in the development of the regulations. In addition, the department's staff will hold a public meeting at 8 p.m. on Monday, December 19, 1994, in the Board Room of the Henrico County Government Center, Administration Building, 4301 East Parham Road, Richmond, Virginia 23273, to receive views and comments and to answer questions of the public.

The meetings are being held at public facilities believed to be accessible to persons with disabilities. Any person with questions on the accessibility of the facilities should contact Mr. Nunnally at the address below or telephone at (804) 786-3998 or TDD (804) 786-2121. Persons needing interpreter services for the deaf must notify Mr. Nunnally no later than Monday, December 5, 1994.

The board intends to hold an informational proceeding (informal hearing) on the proposed regulations after the proposed regulations are published in *The Virginian*

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Register of Regulations. The board does not intend to hold a public hearing (evidential) on the proposed regulations after the regulations are published in The Virginia Register of Regulations.

Statutory Authority: § 10.1-603.4 of the Code of Virginia.

Written comments may be submitted until 4 p.m. on January 4, 1995.

Contact: David S. Nunnally, Urban Conservation Engineer, Department of Conservation and Recreation, 203 Governor St., Suite 206, Richmond, VA 23219, telephone (804) 786-3998.

V.A.R. Doc. No. R95-79; Filed October 26, 1994, 11:44 a.m.

DEPARTMENT OF CONSERVATION AND RECREATION

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Conservation and Recreation intends to consider promulgating regulations entitled: **VR 217-02-00. Nutrient Management Training and Certification Regulations.** The purpose of the proposed action is to enable the department to operate a voluntary nutrient management training and certification program to certify the competence of persons preparing nutrient management plans. The nutrient management plans are prepared for the purpose of assisting land owners and operators in the management of land application of fertilizers, municipal sewage sludges, animal manures, and other nutrient sources for agronomic benefits, and for the protection of the Commonwealth's ground and surface waters. To accomplish this, the department would establish and implement certification procedures relating to certificate issuance and revocation, provide for nutrient management plan criteria, establish fees relating to a training and certification fund, and provide for other necessary procedures in order to operate a nutrient management training and certification program.

The basis for this action is the addition of § 10.1-104.2 to Article 1 (§ 10.1-100 et seq.) of Chapter 1 of Title 10.1 of the Code of Virginia, to provide for the promulgating of regulations to establish a voluntary nutrient management training and certification program, and a nutrient management training and certification fund.

This proposed regulatory action is necessary to develop and implement a voluntary nutrient management training and certification program required by the amendments of the 1994 Virginia General Assembly to Article 1 of Chapter 1 of Title 10.1 of the Code of Virginia.

There are anticipated impacts on potential nutrient management plan developers from the levy of training course and certification fees, time devoted to training, and program compliance. The public should benefit from

increased consistency in nutrient management plans; increased protection of groundwater used for drinking; and increased protection of rivers, streams, lakes, Chesapeake Bay and other surface waters used for economic, recreational, and other beneficial uses. Additionally, the proposed regulatory action should increase the number of nutrient management plans prepared by private sector individuals, thereby resulting in the availability of more qualified persons to nutrient management plan users, and reducing the need for additional public sector personnel.

The department is unaware of any alternatives to this proposed action at this time which would meet the requirements of § 10.1-104.2 of the Code of Virginia.

The department seeks oral and written comments from interested persons on the intended regulatory action and on the costs and benefits of any alternative actions. To be considered, written comments should be directed to Mr. H.R. Perkinson at the address below, and must be received by 4 p.m. on December 30, 1994. In addition, the department's staff will hold a public meeting on Monday, December 19, 1994, at 7 p.m. in the Board Room of the Henrico County Government Center, Administration Building, 4301 East Parham Road, Richmond, Virginia 23273, to receive views and comments and to answer questions of the public.

The meetings are being held at public facilities believed to be accessible to persons with disabilities. Any person with questions on the accessibility of the facilities should contact Mr. H.R. Perkinson at the address below or by telephone at (804) 786-2064. Persons needing interpreter services for the deaf must notify Mr. Perkinson no later than December 8, 1994.

The agency intends to hold a public hearing on the proposed regulation after publication in the Virginia Register.

Statutory Authority: § 10.1-104.2 of the Code of Virginia.

Written comments may be submitted until 4 p.m. on December 30, 1994.

Contact: H.R. Perkinson, Manager, Nutrient Management Program, Department of Conservation and Recreation, 203 Governor St., Suite 206, Richmond, VA 23219, telephone (804) 786-2064.

V.A.R. Doc. No. R95-78; Filed October 26, 1994, 11:43 a.m.

Notices of Intended Regulatory Action

DEPARTMENT OF EDUCATION (BOARD OF)

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Education intends to consider promulgating regulations entitled: **Regulations Governing Guidance and Counseling in the Public Schools of Virginia**. The purpose of the proposed action is to promulgate regulations that address parental involvement and consent relative to school guidance and counseling programs. The agency intends to hold a public hearing on the proposed regulation after publication in The Virginia Register.

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

Written comments may be submitted until December 28, 1994.

Contact: H. Douglas Cox, Director, Office of Student Services, Department of Education, P.O. Box 2120, Richmond, VA 23216-2120, telephone (804) 225-2402.

VA.R. Doc. No. R95-111; Filed November 9, 1994, 11:55 a.m.

BOARD OF HOUSING AND COMMUNITY DEVELOPMENT

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Housing and Community Development intends to consider amending regulations entitled: **VR 394-01-21. Virginia Uniform Statewide Building Code, Volume I - New Construction Code/1993**. The purpose of the proposed action is to provide the minimum and least intrusive standards for reducing noise levels in residential buildings located in areas adjacent to airports. The board will hold a public hearing regarding this regulatory action to replace the existing emergency regulation with the permanent regulation.

Statutory Authority: § 36-99.10:1 of the Code of Virginia.

Written comments may be submitted until January 13, 1995.

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

VA.R. Doc. No. R95-146; Filed November 22, 1994, 11:35 a.m.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Medical Assistance Services intends to consider amending regulations entitled: **VR 460-02-4.1940, Methods and Standards for Establishing Payment Rates - Long Term Care Services** and **VR 460-04-4.1940:1, Nursing Home Payment System (Smaller Nursing Facility Reimbursement)**. The purpose of the proposed action is to comply with the mandate of Chapter 966 of the 1994 Acts of Assembly, Item 396(K), which required DMAS to effect an increase in the indirect patient care operating per diem ceiling for small nursing facilities. 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 January 11, 1995, to Richard Weinstein, Manager, Division of Cost Settlement and Audit, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, Virginia 23219.

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

VA.R. Doc. No. R95-134; Filed November 17, 1994, 11:53 a.m.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Medical Assistance Services intends to consider amending regulations entitled: **VR 460-04-8.5. Home and Community Based Care Services for Technology Assisted Individuals**. The purpose of the proposed action is to revise the regulations to reflect recent changes in HCFA's interpretation of federal guidelines. The agency does not intend to conduct public hearings regarding this regulatory change.

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

Written comments may be submitted until January 25, 1995, to Michelle Baker, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, Virginia 23219.

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

VA.R. Doc. No. R95-168; Filed December 5, 1994, 3:18 p.m.

Notices of Intended Regulatory Action

DEPARTMENT OF MINES, MINERALS AND ENERGY

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Mines, Minerals and Energy intends to consider amending regulations entitled: **VR 480-03-19. Coal Surface Mining Reclamation Regulations.** The purpose of the proposed action is to modify requirements for backfilling highwalls on coal mine sites. The department will hold a public hearing for the purpose of receiving comments on the proposed regulations.

Statutory Authority: §§ 45.1-161.3 and 45.1-230 of the Code of Virginia.

Written comments may be submitted until January 11, 1995.

Contact: Danny R. Brown, Director, Division of Mined Land Reclamation, Department of Mines, Minerals and Energy, P.O. Drawer 900, Big Stone Gap, VA 24219, telephone (703) 523-8100.

VA.R. Doc. No. R95-144; Filed November 22, 1994, 11:24 a.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 amending regulations entitled: **VR 560-01-02. Regulations Governing the Practice of Professional Counseling.** The purpose of the proposed regulation is to establish an application and prescribed fee for the certification of any person who was actively engaged in providing rehabilitation services on January 1, 1994, and to establish grounds for disciplinary action against the certificate of a provider. There will be a public hearing during the 60-day comment period following the publication of the proposed regulations.

Statutory Authority: §§ 54.1-2400 and 54.1-3514 of the Code of Virginia.

Written comments may be submitted until January 12, 1995.

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

VA.R. Doc. No. R95-145; Filed November 22, 1994, 11:01 a.m.

PROPOSED REGULATIONS

For information concerning Proposed Regulations, see information page.

Symbol Key

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

DEPARTMENT OF HEALTH (STATE BOARD OF)

Title of Regulation: VR 355-28-300. Regulations for the Immunization of School Children.

Statutory Authority: §§ 22.1-271.2, 32.1-12 and 32.1-46 of the Code of Virginia.

Public Hearing Date: N/A – Written comments may be submitted through February 24, 1995.

(See Calendar of Events section for additional information)

Basis: The statutory authority for these regulations is found in §§ 32.1-12 and 22.1-271.2 of the Code of Virginia. Section 32.1-12 gives the Board of Health authority to promulgate regulations, § 22.1-271.2 addresses the need for documentary proof of immunizations for children attending school or day care, and § 32.1-46 specifies the immunizations that will be required. The immunization requirements in § 32.1-46 of the Code of Virginia are incorporated by reference in § 22.1-271.2.

Purpose: The purpose of this amendment is limited to the change made in the Code of Virginia by the 1994 General Assembly in HB 1280 (Chapter 62) which states that all children born on or after January 1, 1994, shall be immunized against hepatitis B before their first birthday.

Substance: The amendment will require all children born on or after January 1, 1994, to:

1. Be immunized with hepatitis B vaccine as appropriate for their ages in order to attend a licensed day care center in Virginia; and
2. Be immunized with hepatitis B vaccine as appropriate for their ages in order to attend a public or private school in Virginia.

Issues: The intent of the amendment is not only to prevent the incidence of hepatitis B, but also to prevent its potential long-term consequences - chronic liver disease and liver cancer. Immunization with hepatitis B vaccine is the most effective means of preventing hepatitis B and its consequences. Both the Advisory Committee on Immunization Practices of the U.S. Public Health Service and the Committee on Infectious Diseases of the American Academy of Pediatrics (AAP) recommend the routine immunization of children with hepatitis B vaccine. Because hepatitis B immunization is required only for children born on or after January 1, 1994, children will not be required to have received this vaccine in order to attend

school until they first enter school in 1998.

The primary advantage of this amendment is that it will ensure that children attending licensed day care centers and entering public or private school for the first time in 1998 will be protected against hepatitis B and its complications - acute liver failure and death in some and chronic liver disease and liver cancer in others. Treatment of chronic liver disease and liver cancer creates considerable expense to families and society, and these complications frequently result in premature disability and death. The primary disadvantage of the amendment is that it requires parents to have their children immunized against hepatitis B in order to attend licensed day care or school. Some would say that the decision to protect a child against this disease should be the responsibility of the child's parents; however, the General Assembly has determined that the benefits to the individual child, and to society as a whole, are sufficiently great as to warrant making immunization against hepatitis B a requirement for all Virginia children.

Estimated Impact:

Number and Types of Regulated Entities or Persons Affected

Persons affected by this amendment include physicians (about 3,500), parents of young children, and personnel responsible for checking the immunization records of children attending licensed day care centers (about 1,460). While approximately 90,000 children are born each year in the Commonwealth, only about 50% require day care. However, all children will be required to be immunized in order to attend school when they enter school for the first time in 1998.

Most physicians caring for children are accustomed to administering hepatitis B vaccine pursuant to the recommendations of the AAP and the Public Health Service. Since 1983, officials of day care centers and schools have been utilizing a standard form to ensure that children have complied with immunization requirements. Ensuring that children have received one additional vaccine is not expected to result in any undue inconvenience to those required to review the forms. The amendment will have a beneficial impact by informing licensed day care centers, and eventually schools, of the requirement in the law for attending children to be immunized against hepatitis B. The amendment will also provide the means for day care centers and schools to determine when a child is in compliance with the requirement for hepatitis B vaccine stated in the Code of Virginia.

Projected Cost to Regulated Entities for Implementation and Compliance

Approximately half of all childhood immunizations given in the Commonwealth are administered in local health departments. Local health departments provide vaccines required by the Code of Virginia free of charge to any child.

Projected Cost to the Department for Implementation and Enforcement

Adoption of the amendment will not result in a need for additional state general funds. There are adequate supplies of hepatitis B vaccine purchased with federal funds for immunizing children cared for in local health departments. The cost in federal funds for immunizing each child with three doses of hepatitis B vaccine is \$20. There will be no additional cost to the agency to implement the amendment because the forms utilized by day care centers and schools already provide for recording doses of hepatitis B vaccine administered. Those families which have private physicians can expect to pay approximately \$125 for three doses; all insurance plans may not cover the cost. No particular locality will be more affected by this amendment than any other.

Impact Upon Small Businesses or Organizations

The proposed amendment will not have any impact on small businesses other than licensed day care centers.

Summary:

Chapter 62 of the 1994 Acts of the General Assembly requires that children born on and after January 1, 1994, be immunized against hepatitis B before their first birthday. The Regulations for the Immunization of School Children are being amended to add hepatitis B vaccine to the list of vaccines already required for children to be admitted to day care centers and schools. Several stylistic changes are being made to conform with the style guidelines of the Virginia Register.

VR 355-28-300. Regulations for the Immunization of School Children.

PART I. DEFINITIONS.

§ 1.1. Definitions.

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

"Adequate immunization" means the immunization requirements prescribed under § 3.1.

"Admit" or "admission" means the official enrollment or reenrollment for attendance at any grade level, whether

full-time or part-time, of any student by any school.

"Admitting official" means the school principal or his designated representative if a public school; if a nonpublic school or child care center, the principal, headmaster or director of the school or center.

"Board" means the State Board of Health.

"Commissioner" means the State Health Commissioner.

"Compliance" means the completion of the immunization requirements prescribed under § 3.1.

"Conditional enrollment" means the enrollment of a student for a period of 90 days contingent upon the student having received at least one dose of each of the required vaccines and the student possessing a plan, from a physician or local health department, for completing his immunization requirements within the ensuing 90 days.

"Documentary proof" means an appropriately completed copy of Form MCH 213B and the temporary certification form for Haemophilus influenzae type b disease where applicable, Form MCH 213C (~~Appendix A~~) or a computer generated facsimile of Form 213C signed by a physician or his designee or an official of a local health department. The MCH 213C SUPPLEMENT (~~Appendix B~~) indicating the dates of administration of the required vaccines, shall be acceptable in lieu of recording these dates on Form MCH 213C, as long as the supplement is attached to Form MCH 213C and the remainder of Form MCH 213C has been appropriately completed. For a student new transferring from an out-of-state school, any immunization record, which contains the exact date (month/day/year) of administration of each of the required doses of vaccines when indicated and complies fully with the requirements prescribed under § 3.1 shall be acceptable.

"Immunization" means the administration of a product licensed by the FDA to confer protection against one or more specific pathogens.

"Physician" means any person licensed to practice medicine in any of the 50 states or the District of Columbia.

"School" means:

1. Any public school from kindergarten through grade 12 operated under the authority of any locality within this Commonwealth;
2. Any private or parochial school that offers instruction at any level or grade from kindergarten through grade 12;
3. Any private or parochial nursery school or preschool, or any private or parochial child care center licensed by this Commonwealth; and

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4. Any preschool handicapped classes or Head Start classes operated by the school divisions within this Commonwealth.

"Student" means any person less than 20 years of age who seeks admission to any Virginia school, or for whom admission to any Virginia school is sought by a parent or guardian.

"Twelve months of age" means the 365th day following the date of birth.

PART II. GENERAL INFORMATION.

§ 2.1. Authority.

Section 22.1-271.2 of the Code of Virginia pertains to immunization requirements for attending a school or licensed child care center in the Commonwealth. Section 22.1-271.1 deals with the definitions necessary to implement § 22.1-271.2. Section 22.1-271.2 directs the Board of Health to promulgate regulations for implementing this section in congruence with the board's regulations promulgated under § 32.1-46. Section 32.1-12 of the Code empowers the Board of Health with the authority to adopt regulations. These regulations have been promulgated in cooperation with the State Board of Education.

§ 2.2. 2.1. Purpose.

These regulations are designed to ensure that all students attending any public, private or parochial school and all attendees of licensed child care centers in the Commonwealth, are adequately immunized and protected against diphtheria, pertussis, tetanus, poliomyelitis, rubeola, rubella, mumps, and haemophilus influenzae type b disease as appropriate for the age of the student.

§ 2.3. 2.2. Administration.

A. State Board of Health. The Board of Health has the responsibility for promulgating regulations pertaining to the implementation of the school immunization law and standards of immunization by which a child attending a school or child care center may be judged to be adequately immunized.

B. State Health Commissioner. The state health commissioner is the executive officer for the State Board of Health with the authority of the board when it is not in session, subject to the rules and regulations of the board.

C. Local health director. The local health director is responsible for providing assistance in implementing these regulations to the school divisions in his jurisdiction and for providing immunizations to children determined not to be adequately immunized, who present themselves to the local health department for immunization.

D. Admitting officials. The school principals of public

schools and the principals, headmasters and directors of nonpublic schools and child care centers shall require each student attending their institutions to provide documentary proof of immunization against the diseases listed in § 3.1.

§ 2.4. 2.3. Application of regulations.

These regulations have general application throughout the Commonwealth.

§ 2.5. Effective date of original regulations.

~~July 1, 1983.~~

Effective date of amendment No. 1:
August 13, 1992.

§ 2.6. 2.4. Application of the Administrative Process Act.

The provisions of the Virginia Administrative Process Act, contained in Chapter 1.1:1 (§ 9-6.14:1 *et seq.*) of Title 9 of the Code of Virginia, shall govern the adoption, amendment, modification and revision of these regulations, and the conduct of all proceedings and appeals hereunder.

§ 2.7. 2.5. Powers and procedures of regulations not exclusive.

The board reserves the right to authorize a procedure for enforcement of these regulations which is not inconsistent with the provisions set forth herein and the provisions of Chapter 2 (§ 32.1-35 *et seq.*) of Title 32.1 of the Code of Virginia.

§ 2.8. Terminology.

The use of terminology in these regulations indicating the male gender shall apply equally to the female gender.

PART III. IMMUNIZATION REQUIREMENTS.

§ 3.1. Immunization requirements.

Every new student and every child attending a licensed child care center shall provide documentary proof of adequate immunization with the prescribed number of doses of each of the vaccines and toxoids listed in the following subdivisions, as appropriate for his age. A copy of every student's immunization record shall be on file in his school record.

1. Diphtheria and Tetanus Toxoids and Pertussis Vaccine (DTP). For students less than seven years of age, a minimum of three doses of DTP, with one dose administered after the student's fourth birthday. If any of these three doses must be administered on or after the seventh birthday, Td (adult tetanus toxoid full dose and diphtheria toxoid reduced dose) should be used instead of DTP.

2. **Poliomyelitis Vaccine.** A minimum of three doses of trivalent oral poliomyelitis vaccine (OPV), with one dose administered after the fourth birthday or three doses of enhanced-potency inactivated poliomyelitis vaccine (IPV), with one dose administered after the fourth birthday when OPV is contraindicated.

3. **Measles (Rubeola) Vaccine.** For students enrolling in kindergarten or first grade on and after July 1, 1991, one dose of live measles vaccine administered at age 12 months or older, and a second dose administered prior to entering kindergarten or first grade, whichever occurs first. The two doses must be administered at least one month apart. Students entering sixth grade on and after July 1, 1992, shall also have received two doses of live measles vaccine, with the first dose administered at age 12 months or older and the second dose at least one month after the first dose. All other students shall have received at least one dose of live measles vaccine. Any measles immunization received after 1968 should be considered to have been administered using a live virus vaccine.

4. **German Measles (Rubella) Vaccine.** A minimum of one dose of rubella virus vaccine administered at age 12 months or older.

5. **Mumps Vaccine.** A minimum of one dose of mumps virus vaccine administered at age 12 months or older. The requirement for mumps vaccine shall not apply to any child admitted for the first time to any grade level, kindergarten through grade 12 of a school prior to August 1, 1981.

6. **Haemophilus Influenzae Type b (Hib) Vaccine.** A complete series of Hib vaccine i.e., up to a maximum of four doses of vaccine as appropriate for the age of the child and the age at which the immunization series was initiated. The number of doses administered shall be in accordance with current recommendations of either the American Academy of Pediatrics or those of the U.S. Public Health Service. Attestation by the physician or his designee on the temporary form documenting immunizations against Hib, that portion of Form MCH 213C pertaining to Hib vaccine, a computer generated facsimile of MCH 213C, or on the MCH 213C SUPPLEMENT as defined in § 1.1 under "documentary proof" shall mean that the child has satisfied the requirements of this section. This section shall not apply to children older than 30 months of age.

The dosage schedule for Hib vaccine varies with the manufacturer. The number of doses of vaccine required is also governed by the age at which immunization is initiated. Hence the reason why the requirements for Hib vaccine are prescribed in a manner different from those for the other vaccines.

7. **Hepatitis B Vaccine.** A minimum of three doses of hepatitis B vaccine for all children born on or after

January 1, 1994.

§ 3.2. Exemptions from immunization requirements.

A. Religious and medical exemptions. No certificate of immunization shall be required of any student for admission to school if:

1. The student or his parent or guardian submits a Certificate of Religious Exemption (Form CRE 1), to the admitting official of the school to which the student is seeking admission. Form CRE 1 is an affidavit stating that the administration of immunizing agents conflicts with the student's religious tenets or practices. For a student enrolled before July 1, 1983, any document present in the student's permanent school record claiming religious exemption shall be acceptable, or

2. The school has written certification on any of the documents specified under "documentary proof" in § 1.1 from a physician or a local health department that one or more of the required immunizations may be detrimental to the student's health. Such certification of medical exemption shall specify the nature and probable duration of the medical condition or circumstance that contraindicates immunization. For a student enrolled before July 1, 1983, any document attesting to the fact that one or more of the required immunizations may be detrimental to the student's health shall be acceptable.

B. Demonstration of existing immunity. The demonstration in a student of antibodies against either rubeola or rubella in sufficient quantity to ensure protection of that student against that disease, shall render that student exempt from the immunization requirements contained in § 3.1 for the disease in question. Such protection should be demonstrated by means of a serological testing method appropriate for measuring protective antibodies against rubeola or rubella respectively.

PART IV. PROCEDURES AND RESPONSIBILITIES

§ 4.1. Responsibilities of admitting officials.

A. Procedures for determining the immunization status of students. Each admitting official or his designee shall review, before the first day of each school year, the school medical record of every new student seeking admission to his school, and that of every student enrolling in grade six for compliance with the measles vaccine requirements prescribed in § 3.1 3. Such review shall determine into which one of the following categories each student falls:

1. Students whose immunizations are adequately documented and complete in conformance with § 3.1.

2. Students who are exempt from the immunization

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requirements of § 3.1 because of medical contraindications or religious beliefs provided for by § 3.2.

3. Students whose immunizations are inadequate according to the requirements of § 3.1.

4. Students without any documentation of having been adequately immunized.

B. Notification of deficiencies. Upon identification of the students described in categories subdivisions 3 and 4 under of § 4.1 A, the admitting official shall notify the student or his parent or guardian:

1. That there is no, or insufficient, documentary proof of adequate immunization in the student's school records.

2. That the student cannot be admitted to school unless he has documentary proof that he is exempted from immunization requirements pursuant to § 3.1.

3. That the student may be immunized and receive certification by a licensed physician or an official of a local health department.

4. How to contact the local health department to receive the necessary immunizations.

C. Conditional enrollment. Any student whose immunizations are incomplete may be admitted conditionally if that student provides documentary proof at the time of enrollment of having received at least one dose of the required immunizations accompanied by a schedule for completion of the required doses within 90 days, during which time that student shall complete the immunizations required under § 3.1. **Appendix D** The following table contains a suggested plan for ensuring the completion of these requirements within the 90 day conditional enrollment period. The admitting official should examine the records of any conditionally enrolled student at regular intervals to ensure that such a student remains on schedule with his plan of completion.

A SUGGESTED PLAN FOR ENSURING COMPLIANCE

TIME	ACTION STEP
Day 0	Conditional enrollment period starts. If student has not received first dose(s) of required vaccines, exclude student.
Day 1 to Day 42	Student should have received second dose(s) of required vaccines.
Day 43 to Day 88	Student should have received third dose(s) of required vaccines.
Day 89 and Day 90	Confirm that immunizations are completed; exclude children not in compliance.

D. Exclusion. The admitting official shall, at the end of the conditional enrollment period, exclude any student who

is not in compliance with the immunization requirements under § 3.1 and who has not been granted an exemption under § 3.2 until that student provides documentary proof that his immunization schedule has been completed, unless documentary proof, that a medical contraindication developed during the conditional enrollment period, is submitted.

E. Transfer of records. The admitting official of every school shall be responsible for sending a student's immunization records or a copy thereof, along with his permanent academic or scholastic records, to the admitting official of the school to which a student is transferring within 30 days of his transfer to the new school.

F. Report of student immunization status. Each admitting official shall, within 30 days of the beginning of each school year or entrance of a student, or by October 15 of each school year, file with the State Health Department through the health department for his locality, a report summarizing the immunization status of the students in his school. This report shall be filed on Form SIS 1, the Student Immunization Status Report (see Appendix F), and shall contain the number of students admitted to that school with documentary proof of immunization, the number of students who have been admitted with a medical or religious exemption and the number of students who have been conditionally admitted.

§ 4.2. Responsibilities of physicians and local health departments.

A. Documentary proof for students immunized in Virginia. Every physician and local health department providing immunizations to a child shall provide documentary proof, as defined in § 1.1, to the child or his parent or guardian of all immunizations administered.

B. Documentary proof for out-of-state students. For a student transferring from an out-of-state school to a Virginia school, the admitting official may accept as documentary proof any immunization record for that student which contains the exact date (month/day/year) of administration of each of the required doses of vaccines when indicated and which complies fully with the requirements prescribed under § 3.1. Any immunization record which does not contain the month/day/year of administration of each of the required vaccine doses shall not be accepted by the admitting official as documentary proof of adequate immunization with the exception of immunization against Hib. Such a student's record shall be evaluated by an official of the local health department who shall determine if that student is adequately immunized in accordance with the provisions of § 3.1. Should the local health department determine that such a student is not adequately immunized, that student shall be referred to his private physician or local health department for any required immunizations.

PART V.
PENALTIES.

§ 5.1. Exclusion of students.

Any student who fails to provide documentary proof of immunization in the manner prescribed, within the time periods provided for in these regulations and §§ 22.1-271.1 and 22.1-271.2 of the Code of Virginia, shall be excluded from school attendance by the school's admitting official.

§ 5.2. Exclusion of students unprotected against vaccine - preventable diseases.

In accordance with § 32.1-47 of the Code of Virginia, any student exempted from immunization requirements pursuant to § 3.2 A of these regulations, shall be excluded from school attendance for his own protection until the danger has passed, if the commissioner so orders such exclusion upon the identification of an outbreak, potential epidemic or epidemic of a vaccine-preventable disease in that student's school.

§ 5.3. Responsibility of parent to have a child immunized.

In accordance with § 32.1-46 of the Code of Virginia, "the parent, guardian or person in loco parentis of each child within this Commonwealth shall cause such child to be immunized by vaccine against diphtheria, tetanus, whooping cough and , poliomyelitis , and hepatitis B before such child attains the age of one year, against Haemophilus influenzae type b before he attains the age of 30 months, and against measles (rubeola), German measles (rubella) and mumps before such child attains the age of two years. All children shall also be required to receive a second dose of measles (rubeola) vaccine in accordance with the regulations of the board. The board's regulations shall require that all children receive a second dose of measles (rubeola) vaccine prior to first entering kindergarten or first grade and that all children who have not yet received a second dose of measles (rubeola) vaccine receive such second dose prior to entering the sixth grade."

§ 5.4. General penalties.

In accordance with § 32.1-27 of the Code of Virginia, "any person willfully violating or refusing, failing or neglecting to comply with any regulation or order of the board or commissioner of any provision of this title shall be guilty of a Class 1 misdemeanor unless a different penalty is specified."

V.A.R. Doc. No. R95-178; Filed December 7, 1994. 12:09 p.m.

PART II

CERTIFICATION OF SCHOOL HEALTH EXAMINATION

PART II TO BE COMPLETED BY A PHYSICIAN

(Reverse to be completed by parent/guardian)

Student's Name: _____, Birth Date: ____/____/____
LAST FIRST MI MO DAY YR
 Height: _____; Weight: _____; Head Circumference: _____; BP: _____
 Hemoglobin or Hematocrit: _____ gm%; Urine Albumin: _____; Sugar: _____; Other: _____
 Most recent Tuberculin Test Date: ____/____/____; Results: _____; Hearing R: _____; L: _____
 Vision (w/out glasses) R20/____; L20/____; Hearing test performed? Audiogram _____; Voice _____
 Vision (with glasses) R20/____; L20/____; Tympanogram (if indicated): normal _____; abnormal _____

Systems Examination	Exam.	Not Exam.	Comments About Findings
General Appearance, Nutrition			
Posture, Gait			
Skin			
Head			
Eyes: External			
Fundi			
Ears: External & Canal			
Tympanic Membrane			
Nose			
Throat			
Neck			
Heart			
Lungs			
Abdomen			
Genitalia (Tanner Stage)			
Bones, joints, muscles			
Neurological			
Other			
Est. of developmental level			
Behavioral Observations			
Cooperation			
Emotional tone			
Activity level			

Summary of abnormal conditions which may require: (a) Educational evaluation, (b) Environmental adjustment, or (c) Activities to be limited: _____

Special notes: _____

Physician (print): _____; Signature: _____; Date: ____/____/____

Address: _____; Phone: (____) _____

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PART III

CERTIFICATION OF IMMUNIZATION

Part III to be Completed by a Physician or Health Department Official

Student's Name: _____ DOB: / /
LAST FIRST MI MO DAY YE

Student's S.S. #: _____ ; I.D. #: _____

Parent/Guardian: _____

IMMUNIZATIONS	RECORD COMPLETE DATES (month,day,year) OF VACCINE DOSES ADMINISTERED				
Diphtheria/Tetanus/Pertussis (DTP)	/ /	/ /	/ /	/ /	/ /
Diphtheria/Tetanus (DT or Adult Td)	/ /	/ /	/ /	/ /	/ /
Polio (OPV or eIPV)	/ /	/ /	/ /	/ /	/ /
Measles (Rubella)	/ /	/ /	Serological Confirmation of Measles Immunity	/ /	/ /
Rubella	/ /	/ /	Serological Confirmation of Rubella Immunity	/ /	/ /
Mumps	/ /	/ /	Child Entered School Before 08/01/81	/ /	/ /
Measles, Mumps, Rubella (MMR)	/ /	/ /			
Hepatitis B Vaccine	/ /	/ /		Other	/ /

Haemophilus influenzae Type b (Hib Conjugate): PLEASE COMPLETE THE APPROPRIATE SECTION BELOW.

- Has received complete series of Hib vaccine in accordance with current recommendations of the AMERICAN ACADEMY OF PEDIATRICS OR THE U.S. PUBLIC HEALTH SERVICE.
- Has received the AGE-APPROPRIATE doses of Hib vaccine as recommended by the AMERICAN ACADEMY OF PEDIATRICS OR THE U.S. PUBLIC HEALTH SERVICE, the series will be completed on (RECORD COMPLETE DATE (month,day,year):
 Series Completion Date: / /
MO DAY YE
- Hib vaccine is not indicated because this child has had Hib disease at 24 months of age or older.
- Being over 30 months of age, this child is not required by law to have proof of immunization against Hib.

MEDICAL EXEMPTION: DTP / / ; Td / / ; OPV / / ; Hib / / ; Measles / / ; Mumps / / ; Rubella / / .
 As specified in 22.1-271.2.c(1) of the Code of Virginia, I certify that administration of the vaccine(s) designated above would be detrimental to this student's health. The vaccine(s) is (are) specifically contraindicated because (please specify): _____

This contraindication is permanent / / , or temporary / / and expected to preclude immunization until _____

Signature of PHYSICIAN or HEALTH DEPT. OFFICIAL: _____ Date: / /

RELIGIOUS EXEMPTION: The Code of Virginia allows a child an exemption from receiving immunizations required for school attendance if the student or the student's parent/guardian submits an affidavit to the school's admitting official stating that the administration of immunizing agents conflicts with the student's religious tenets or practices. Any student entering school for the first time after July 1, 1983, must submit this affidavit on a CERTIFICATE OF RELIGIOUS EXEMPTION (Form CRE-1) which may be obtained at any local health department, school division superintendent's office or local department of Social Services. Ref. Code 22.1-271.2, C(1), CODE OF VIRGINIA

I certify that this student has received at least one dose of each of the vaccines required by the State Board of Health for attending school and that this student has a plan for the completion of his/her requirements within the next 90 days (conditional enrollment).

Signature of Physician or Health Dept. Official: _____ ; Date (mo,day,yr) / /

I certify that this student is ADEQUATELY IMMUNIZED in accordance with the MINIMUM requirements for attending school prescribed by the State Board of Health on the reverse side of this form.

Signature of Physician or Health Dept. Official: _____ ; Date (mo,day,yr) / /

PART IV

MINIMUM IMMUNIZATIONS REQUIRED OF NEW STUDENTS BY THE STATE BOARD OF HEALTH FOR *SCHOOL ATTENDANCE

DTP: THREE (3) doses of DTP with one (1) of the three (3) administered after the fourth birthday. If any of these doses must be administered on or after the seventh birthday, ADULT Td should be used instead of DTP.

OPV: THREE (3) doses of trivalent OPV with one of the three administered after the fourth birthday or three (3) doses of eIPV with one of the three administered after the fourth birthday.

MEASLES: TWO (2) doses of live virus measles (rubeola) vaccine, one dose given at 12 months of age or older and a second dose administered prior to entering KINDERGARTEN or first grade, whichever occurs first, effective JULY 1, 1991. Two (2) doses of live measles vaccine shall also be required of students enrolling in grade six (6) in 1992 and thereafter. All other students should have received one (1) dose of live measles vaccine.

RUBELLA: ONE (1) dose of rubella vaccine received at 12 months of age or older.

MUMPS: ONE (1) dose of mumps vaccine received at 12 months of age or older for students entering school on or after AUGUST 1, 1981.

HEPATITIS B: For children born on or after January 1, 1994, three (3) doses of hepatitis B vaccine should be administered before their first birthday.

Haemophilus influenzae Type b (Hib): For children through 30 months of age, Hib vaccine should be administered as recommended by the American Academy of Pediatrics or the U.S. Public Health Service.

*SCHOOL DEFINITION: a) Any public school from kindergarten through grade 12 operated under the authority of any locality within this Commonwealth; b) Any private or parochial school that offers instruction at any level or grade from kindergarten through grade 12; c) Any private or parochial nursery school or preschool, or any private or parochial child care center licensed by this Commonwealth; and d) Any preschool handicapped classes or Head Start classes operated by the school divisions within this Commonwealth.

If there are questions please call your local health department.

MCH-213C, Rev. 05/94

VIRGINIA DEPARTMENT OF HEALTH

**COMMONWEALTH OF VIRGINIA
CERTIFICATE OF RELIGIOUS EXEMPTION**

Date: _____
Patient #: _____
S.S #: _____

IMMUNIZATION RECORD

VIRGINIA DEPARTMENT OF HEALTH

Name: _____ DOB: _____

	<u>DATE</u>	<u>DATE</u>	<u>DATE</u>	<u>DATE</u>	<u>DATE</u>
Diphtheria/Tetanus/ Pertussis (DTP)	_____	_____	_____	_____	_____
Diphtheria/Tetanus (DT or Adult Id)	_____	_____	_____	_____	_____
Poliomyelitis (OPV or eIPV)	_____	_____	_____	_____	_____
Measles (Rubeola)	_____	_____	_____	_____	_____
Rubella	_____	_____	_____	_____	_____
Mumps	_____	_____	_____	_____	_____
Measles, Mumps, Rubella (MMR)	_____	_____	_____	_____	_____
Hepatitis B Vaccine	_____	_____	_____	_____	_____
Haemophilus Influenza type b (Hib)	_____	_____	_____	_____	_____

Serological Confirmation of Measles Immunity _____

Serological Confirmation of Rubella Immunity _____

*Child Entered School Before 08/01/81 _____
 *(Mumps vaccine is not required if the child entered school before 08/01/81)

This is an official replication of the vaccination record for the above patient. Dates of immunizations listed above are either dates of vaccinations given or dates recorded with the Virginia Department of Health by the Patient.

Public Health Official _____ Date _____
MCB 213C-SUPPLEMENT

Name _____ Birth Date _____

Student I.D. Number _____

The administration of immunizing agents conflicts with the above named student's/my religious tenets or practices. I understand, that in the occurrence of an outbreak, potential epidemic or epidemic of a vaccine-preventable disease in my/my child's school, the State Health Commissioner may order my/my child's exclusion from school, for my/my child's own protection, until the danger has passed.

Signature of parent/guardian/student _____ Date _____

I hereby affirm that this affidavit was signed in my presence on
 this _____ day of _____

Notary Public Seal

**COMMONWEALTH OF VIRGINIA
STUDENT IMMUNIZATION STATUS REPORT**

Please Type or Print All Information!

TILITY: _____

MAILING ADDRESS: _____

CITY: _____ ZIP: _____

LOCATION: STREET: _____

COUNTY: _____ CITY: _____

PERSON PREPARING REPORT (PRINT): _____ TITLE: _____

SIGNATURE: _____ DATE: _____ PHONE: _____

TYPE OF FACILITY REPORTING!
1) Please check one of the following:
PUBLIC SCHOOL/ <input type="checkbox"/> PRIVATE SCHOOL/ <input type="checkbox"/> PAROCHIAL SCHOOL/ <input type="checkbox"/> HEAD START/ <input type="checkbox"/> CHILD CARE CENTER/ <input type="checkbox"/>

INSTRUCTIONS!

- 1) Please complete this report using information in each student's school medical record.
- 2) Please refer to the back section of this form for the MINIMUM IMMUNIZATIONS REQUIRED BY THE CODE OF VIRGINIA.
- 3) ALL SCHOOLS: Please submit to the ADDRESS BELOW by **OCTOBER 15**.

**VIRGINIA DEPARTMENT OF HEALTH
BUREAU OF IMMUNIZATION
1500 E. MAIN ST., SUITE 120
RICHMOND, VIRGINIA 23219
PHONE # (804) 786-6246**

COMPLETE THE SECTION(S) APPLICABLE TO YOUR FACILITY

Please note in each section, numbers in columns (b) through (f) should add together to equal the total number of students in column (a).

****SECTION I****

CHILD CARE CENTERS, HEAD STARTS OR PRESCHOOLS

(a) Number of Students Enrolled	(b) Number Adequately Immunized	(c) Number of Medical Exemptions	(d) Number of Religious Exemptions	(e) Number of Conditionally Enrolled	(f) Number Without Records

****SECTION II****

KINDERGARTEN OR FIRST GRADE IF THERE IS NO KINDERGARTEN(PUBLIC, PRIVATE, PAROCHIAL)

(a) Number of Students Enrolled	(b) Number Adequately Immunized	(c) Number of Medical Exemptions	(d) Number of Religious Exemptions	(e) Number Conditionally Enrolled	(f) Number Without Records

(For Minimum Immunization Requirements Refer to Back)

Form SIS-2, Rev. 09/92

Proposed Regulations

MINIMUM IMMUNIZATIONS REQUIRED OF NEW STUDENTS BY THE STATE BOARD OF HEALTH FOR SCHOOL ATTENDANCE

For More Information Please Refer to the Code of Virginia 22.1-271.2 Immunization Requirements and Section 3.00 of the Rules and Regulations for the Immunization of School Children.

DTP: THREE (3) doses of DTP with one (1) of the three (3) administered after the fourth birthday. If any of these doses must be administered on or after the seventh birthday, ADULT Td vaccine should be used instead of DTP.

OPV: THREE (3) doses of trivalent OPV or THREE (3) doses eIPV with one of the three administered after the fourth birthday.

MEASLES: TWO (2) doses of live virus measles (rubeola) vaccine, one (1) dose given at 12 months of age or older and a second dose administered prior to entering KINDERGARTEN or first grade, whichever occurs first, effective JULY 1, 1991. Two (2) doses of live measles vaccine shall also be required of students enrolling in grade six (6) in 1992 and thereafter. All other students should have received one (1) dose of live measles vaccine.

RUBELLA: ONE (1) dose of rubella vaccine received at 12 months of age or older.

MUMPS: ONE (1) dose of mumps vaccine received at 12 months of age or older for students entering school on or after August 1, 1981.

CONDITIONAL ENROLLMENT: In order for a student to be **CONDITIONALLY ENROLLED**, the student must have proof of having received at least one (1) dose of each of the required immunizations (DTP, OPV, MEASLES, MUMPS, and RUBELLA) and have a schedule on file to receive the remainder of the required doses within 90 DAYS.

RELIGIOUS EXEMPTIONS: The student or his parent or guardian submits a **CERTIFICATE OF RELIGIOUS EXEMPTION** (FORM CRE-1), to the admitting official of the school to which the student is seeking admission. Form CRE-1 is an affidavit stating that the administration of immunizing agents conflicts with the student's religious tenets or practices. The CRE-1 must be signed by a **NOTARY PUBLIC AND STAMPED WITH THE NOTARY'S SEAL**.

MEDICAL EXEMPTIONS: The school must have written certification from a physician or a local health department on FORM MCH213B that one or more of the required immunizations may be detrimental to the student's health. Such certification of medical exemption shall specify the nature and probable duration of the medical condition or circumstance that contraindicates immunization.

IF THERE ARE QUESTIONS REGARDING IMMUNIZATIONS PLEASE CALL YOUR LOCAL HEALTH DEPARTMENT OR THE BUREAU OF IMMUNIZATION
@ (804) 786-6146

Form SIS-2, Rev. 09/92

* * * * *

REGISTRAR'S NOTICE: Due to its length, only the proposed amendments to the regulation entitled "Rules and Regulations for the Licensure of Hospitals in Virginia" (VR 355-33-500) filed by the Department of Health are being published. 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 and at the Department of Health.

Title of Regulation: VR 355-33-500. Rules and Regulations for the Licensure of Hospitals in Virginia (§ 2.22 D, Neonatal Services).

Statutory Authority: §§ 32.1-12 and 32.1-127 of the Code of Virginia.

Public Hearing Dates:

February 10, 1995 - 9 a.m.

February 15, 1995 - 10 a.m.

Written comments may be submitted until February 27, 1995.

(See Calendar of Events section for additional information)

Basis: The proposed regulations are promulgated under the authority of §§ 32.1-12 and 32.1-127 of the Code of Virginia. Section 32.1-12 grants the Board of Health the legal authority to make, adopt, promulgate and enforce regulations necessary to carry out the provisions of Title 32.1 of the Code of Virginia. Section 32.1-127 of the Code of Virginia authorizes regulations that require the Board of Health to establish standards and maintain a process for designation of levels or categories of care in neonatal services according to an applicable national or state-developed evaluation system. Such standards may be differentiated for various levels or categories of care and may include, but need not be limited to, requirements for staffing credentials, staff/patient ratios, equipment, and medical protocols.

Purpose: The proposed regulations implement the legislative mandate of the General Assembly. The former State Perinatal Services Advisory Board (SPSAB) specified in its 1991-1992 work plan that there was a need to establish criteria for defining the capability of hospitals to provide various categories of neonatal care. The SPSAB had studied the fact that the Commonwealth historically had an infant mortality rate that significantly exceeded the national average, with the majority of infant deaths recorded as occurring in the neonatal period (less than 28 days from birth). In 1979, Virginia's neonatal mortality rate was worse than 46 other states. In 1981, its infant mortality rate was worse than 31 other states.

It was originally proposed by the SPSAB that an evaluation of all hospitals' neonatal services be conducted voluntarily by regional perinatal coordinating councils. The regional perinatal coordinating councils were to be developed by

the Department of Health. Currently, although informally recognized by the department as a vehicle for discussions on issues pertinent to neonatal care in their geographic areas, they have no statutory authority to designate levels of care nor to evaluate the care rendered by healthcare facilities within their regions.

The recommendation to designate levels of neonatal care was endorsed by the Commission on Healthcare for All Virginians. The Commission's endorsement resulted in the introduction of Senate Bill 502. Senate Bill 502 empowered the State Board of Health to establish a process for designation of levels or categories of neonatal care with the appropriate attendant standards within the structure of the state's hospital licensure program. Section 32.1-127 of the Code of Virginia, which mandates the establishment of hospital and nursing home regulations, was amended to include the requirement that hospital regulations address the establishment of the levels of care and requirements for staff credentials, staff patient ratios, equipment, and medical protocol among other standards commonly included within the hospital licensure regulations.

Substance: The American Academy of Pediatrics (AAP) and the American College of Obstetricians and Gynecologists (ACOG) recommend that hospitals be classified according to a system comprised to provide at least three distinct levels of neonatal care. The levels of care are based upon the hospitals' capabilities to treat a range of neonates within the system from normal newborns to the sickest, high-risk newborns. AAP and ACOG's recommendations, as found in their publication, The Guidelines for Perinatal Care (1992), are recognized as the national standard for neonatal care.

For each level of care, AAP and ACOG have recommended the types of medical personnel, equipment, physical facilities, and medical procedures that each level should have the capability of providing.

Currently, the public, third party payers, and others, including families needing services, have no way of distinguishing between the types of neonatal services and capabilities that hospitals in the Commonwealth profess to offer. The proposed hospital regulations establish a service level distinction based upon national standards recommended by experts in neonatology and obstetrics while recognizing the necessity for standards to be adopted that meet the needs of the citizens and healthcare providers of the Commonwealth. The proposed regulations provide a basis for determining what neonatal units currently in operation qualify to be designated as a specific category of service, e.g., general level, intermediate level, specialty level or subspecialty level; allow a basis for future units to be appropriately designated rather than allow the self-designation that currently exists; and allow insurers and families to have a clear understanding of what neonatal services are provided in hospitals within Virginia.

The proposed regulations establish the minimum hospital

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resources required at each level in an effort to ensure quality health care for all neonates.

Four service levels for neonatal care have been established in the proposed regulations: general, intermediate, specialty and subspecialty. The general level is the basic newborn service currently provided for in the existing hospital regulations. Only minor revisions have been made to the requirements of the general level. The general level newborn service is designated as the service level designed to provide care to newborns of low risk. The revisions to the requirements of the general level address the temporary management of the high-risk neonate until the newborn can be transferred to a facility with capabilities to treat the newborn that are not available on-site or through consultation at the birth hospital. In most part, the general level, however, is geared to the hospital's capabilities to treat the normal newborn.

Historically, the requirements for the lowest level of care (general level) and the highest level of care (subspecialty level) have been the easiest to define since they are at either end of a spectrum of services. Those services in the middle of the spectrum have developed a variable degree of specialization especially since there have been rapid technological advances in the field of neonatal medicine and a diffusion of this technology to community hospitals. The department recognizes that there is a wide range of services being provided by this middle portion of the spectrum among Virginia hospitals and has accommodated community hospitals in the state by creating both an intermediate level and a specialty level of care. The effect of limiting service to three instead of four service levels in the Commonwealth would be to either dilute the intermediate level to such a degree that community hospitals with more sophisticated technical equipment and expertise would not be recognized for their advanced services, or to force hospitals at the intermediate level to operate at a higher level of specialty service than justified by resources or patient volume.

The intermediate level is designed to provide care to moderately ill neonates or stable-growing, low birthweight neonates who require only a weight increase to be ready for discharge. Like the general level, requirements for physician consultation, nurse staffing, etc., are delineated as specific to the patient served by the intermediate level.

Building upon the general level and intermediate level services, the specialty level service provides intensive care to high-risk neonates with neonatal illnesses as specified in the services' medical protocol. In addition to the capabilities required of the lower level nurseries, the specialty level nursery is required to provide neonatal mechanical ventilation beyond the immediate stabilization period, an appropriate array of specialized physicians, and nursing and allied health staff to support the functions of the level.

The specialty level service provides sophisticated technical

services and expertise not required of the lower level services and hence receives referrals of sicker neonates from the lower level nurseries. The specialty level is not expected to have a comprehensive range of on-staff medical and pediatric subspecialists available to treat a majority of neonatal conditions. Specialty level nurseries frequently rely on consultation provided by physicians on staff at the subspecialty level facilities. The specialty level service provides care to neonates with prematurity not complicated by other medical conditions. The neonates needing this level of service tend to be more premature than those served by the intermediate level nursery but not as premature as low-birth weight neonates served by the subspecialty level nurseries. Generally, the more premature the newborn the greater the medical needs and the more intensive the need for specialized personnel and equipment.

As the health of neonates requiring specialty level care improves, back transfer to lower level services should be encouraged to meet the neonates' lessening needs for specialty care and to conserve the resources of the higher level nursery.

The subspecialty level newborn service provides intensive care for high risk, critically ill neonates with complex neonatal illnesses. The subspecialty level nursery is required to provide, in-house, a full range of pediatric medical and surgical subspecialists to care for critically ill neonates. Rarely, the availability of highly technical and specialized physicians at another subspecialty center will indicate consultation and possibly transfer.

The subspecialty nursery serves as the referral source for the general, intermediate, and specialty nurseries for neonates with medical conditions that cannot be treated in these lower level nurseries. With rare exceptions, the subspecialty nursery is the end point for consultation and care. The subspecialty level nursery also is required to have the capability in-house to care for neonates born within its facility. The need to provide highly technical care to critically ill, unstable neonates requires nursing staff with advanced training and education in neonatal care.

National standards that define the subspecialty level recognize that level of facility as one that participates in advanced clinical neonatal research, provides graduate nursing and medical education, and establishes and maintains a database for evaluation of neonatal care.

Issues: No uniform minimum standards have been proposed previously for Virginia's hospitals that address the quality assurance of this highly technical, resource-intensive service that has developed rapidly in the last several years. Because severely ill neonates often have health problems that persist through infancy and childhood, appropriate neonatal care is vital to improving the health status of infants and children contributing to improving the quality of family life in Virginia. It is wholly consistent with the department's public health

mission to extend its quality assurance role, through its regulatory responsibilities, to assure the protection of the sickest, smallest, and most critically ill infants. Families in Virginia are strengthened through the state's interest in sustaining the lives of all high-risk infants as well as promoting the highest quality of life for surviving infants. It is incumbent upon the Commonwealth to ensure that the appropriate hospital resources for neonatal care are identified and provided to increase infants' survival and decrease long-term disabilities which are common to infants who have survived life-threatening medical conditions.

The hospitalization of a newborn in a neonatal intensive care unit places a great emotional burden on the affected family as well as creates an extraordinary financial demand on the resources of the Commonwealth's health care system. Neonatal intensive care units require a higher ratio of specialized equipment and personnel per patient than less specialized care. Neonatal designation is cost effective because it is the first step towards ensuring that expensive technical equipment and other resources are not duplicated unnecessarily while still ensuring access to care. Appropriate distribution of personnel and equipment reduces the potential for underutilization of neonatal care units while assuring that enough resources are allocated for high-risk infants.

Because a significant number of high-risk infants are born to indigent families who are without health insurance, considerable state Medicaid resources are currently allocated to a select number of hospitals that agree to provide indigent care. Medicaid payments for 1993 for neonatal hospital services in the state totaled \$100 million.

As a major payer of neonatal care, it is important for the state to be vigilant regarding total costs for neonatal hospitalizations and follow-up care for infants with disabilities. In light of the trend for a greater percentage of very low birthweight neonates to survive after long hospitalizations and with a greater potential for long-term disabilities, total costs in the area of health care in Virginia are likely to continue to increase.

The state has a substantial interest in ensuring that there is optimum utilization of the significant neonatal hospital resources available in Virginia to prevent duplication of resources which increases the total costs of care. The Commonwealth has experienced a dramatic increase over the past 10 years in the availability of specialized neonatal hospital services.

The Office of Technology Assessment's 1987 report *Neonatal Intensive Care for Low Birthweight Infants: Costs and Effectiveness* states: "Neonatal intensive care is expensive, ranking among the most costly of all hospital care. The costs for the sickest and tiniest infants in neonatal intensive care rank with the most expensive medical procedures that are performed today, like cardiac or bone marrow transplantation."

Neonatal intensive care can be very profitable for private hospitals because of the willingness of private third party payers to pay hospitals and physicians for high-risk care. This has resulted in a proliferation of private hospital neonatal units in the state in the past several years without an evaluation of whether the volume of patients necessitated the service or without any measurement in terms of quality of service based on patient outcomes. The proliferation of private neonatal intensive care units drains off paying, insured patients leaving a disproportionate number of the highest risk and most costly patients, socially and medically, to institutions largely state supported.

Many community hospitals with neonatal intensive care units have expressed their desire to be designated at the highest level of service equal to academic medical centers providing neonatal intensive care services. Though relatively few in number, the smallest of neonates, especially those whose birthweights are below 1000 grams, have lengthy hospital stays that account for significant proportions of patient-days and resulting reimbursement. The financial incentive of any institution would be to retain, rather than transfer, these neonates. Retaining such a neonate by the specialty nursery in the community hospital may not always be in the best interest of an individual neonate because the specialty nursery does not have all of the capabilities of the subspecialty nursery at an academic medical center.

Because neonatal intensive care services have been allowed to proliferate without regulation during the past 10 years, there has been resistance expressed by some community hospital neonatologists to the state instituting regulations. The lack of support for regulation for this highly technical critical care area by some community neonatologists is in sharp contrast to the fact that basic obstetric and newborn hospital services have been regulated for over 10 years.

Community hospitals allege that they can provide the same level of care to the majority of high-risk neonates in the community where the infants are born through consultation only, rarely referring infants to a subspecialty center. Community hospitals contend that when referral is necessary, an informal working relationship with a subspecialty nursery is all that is necessary, contrary to national standards for neonatal care that strongly advocate close association, consultation, and referral.

The 1993 March of Dimes' edition of *Toward Improving the Outcome of Pregnancy* states: "Specifically, premature and low birthweight infants born in Level III, subspecialty care hospitals had better survival rates, even after controlling for inter-hospital differences in birthweight distribution, race, gestational age and multiple births. The greatest impact has been in reducing the mortality of very low-birthweight infants [less than 1500 grams]. The chances for survival among very low-birthweight infants increased significantly when they are born in Level III perinatal units."

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A recent Washington state study of 44,000 live births showed that mortality for infants with birthweights of 1,500 - 1,999 grams "was nearly threefold greater in infants born at Level II hospitals than those delivered at tertiary care centers." July 1994 "Pediatric News."

Numbers and Types of Regulated Entities or Persons Affected: All 100 licensed hospitals would be required to follow the proposed regulations if they offer any level of neonatal service. In 1993, 30 hospitals were identified as providing neonatal special care services. No localities will be particularly affected by this regulation.

Projected Cost to Regulated Entities for Implementation and Compliance: No additional licensure fees beyond those currently required are projected for the 30 facilities with existing nurseries that may apply for a neonatal special care designation. In the future, the department intends to evaluate the cost of implementation for a number of new statutorily-mandated hospital regulations to determine if an increase in licensure fees is warranted since the licensure fees have not been increased since 1979.

Hospitals may have to devote some additional staff time to prepare for announced inspections to ensure that facility nurseries meet the requirements for the annual hospital inspection. Hospitals that wish to be designated at a certain level that lack either staff or equipment that would qualify them for the level they desire will need to expend the amount necessary to meet the requirements of that level.

Initially, some public comments received from some community hospitals expressed the fear that a designation of levels with transfer criteria provisions economically disadvantaged the community hospitals by requiring these hospitals to refer neonates to higher level institutions they consider to be competitors. This concern is negated in the current proposed regulations by the medical protocol provisions of the regulations which allow all hospitals to self-identify what neonatal services they can provide. The proposed transfer criteria only provides for a transfer if it is medically in the best interest of the infant for it to be transferred because the birth hospital does not have all of the capabilities to treat the infant. The collaboration agreement allowing for transfer provides a due process right for the infant's parents to allow them to make an informed decision regarding the transfer of their infant.

Hospitals should be able to provide the same services that they now offer once the regulations are in effect as long as they define those services through their medical protocols. Hospitals will not be limited to meeting only the minimum standards required for any level, but they cannot be designated at a higher level of service unless they meet all of the capabilities required of a higher level of service.

No construction costs should be incurred by a facility initially in order to meet the regulations unless the facility wishes to renovate or construct a new nursery; in which

case, it will have to meet the proposed construction requirements if the existing nursery does not already meet those requirements.

In regard to the availability of registered nurse staffing, only all registered nurse staffing is required for the subspecialty level. If there are different levels of neonates in the same nursery, the department has allowed nurse-patient staffing ratios to be provided according to appropriate acuity levels.

Some hospitals have argued against the requirement for a dietician to participate in the service at the specialty level. The department's recommendation is consistent with national standards. The dietician does not have to be full-time nor assigned strictly to neonatal services but can be shared with other services within the hospital.

Projected Cost to the Department for Implementation and Enforcement: The department employs seven full-time inspectors to conduct the annual licensure inspections of hospitals, process Medicare certification, and investigate complaints filed against hospitals. State general funds and licensure services fees fund the annual hospital licensure inspection program. Currently, hospital licensure service fees, established in 1979, average \$30,000 annually.

With the implementation of these regulations, an increase in the time needed to conduct an inspection to ensure compliance with these regulations is expected. Compliance determination includes reviewing (i) hospital medical protocol, (ii) a random sample of patient records, (iii) selected staffing criteria and credentials and (iv) policies and procedures among other items necessary for compliance for the approximately 30 specialized neonatal services and 71 basic obstetric services. It is anticipated that approximately two hours could be added to licensure inspections per hospital with the inclusion of these regulations.

While it is anticipated that enforcement of these regulations should require no more resources at present, future continued revisions to the regulations to meet statutory mandates may very likely result in the need for additional inspection staff and an increase in licensure service charges.

Beneficial Impact Produced by the Regulation: Historically, Virginia has had a higher mortality rate than the national average.

The Perinatal Services Advisory Board, the Commission on Healthcare for all Virginians and the General Assembly reacted when faced with the fact that the Commonwealth's infant mortality rate of 9.3 per one thousand live births compared negatively to a national average of 8.9 per one thousand live births in 1992. The Virginia white infant mortality rate was 6.9 per one thousand live births in 1992 compared with the African-American rate of 17.2 per one thousand live births.

Although Virginia made steady improvement with the state's infant mortality rate during the 1980's, not as much progress was made with the state's low birthweight rate. From 1980 to 1989, Virginia's infant mortality rate declined 26%. During the same period, however, the state's low birthweight rate declined only 5.3%. Low birthweight is the factor most closely associated with death in the neonatal period.

While the rate of low birthweight is higher for most minorities as compared with whites, it is highest for African-Americans. According to nationally collected data for 1991, the incidence of low birthweight was 13.6% of all African-American births in the United States as compared with an incidence of 5.8% of all live white births. African-American neonatal mortality in Virginia in 1992 was 12.1 per one thousand live birth as compared with 4.4 per one thousand live births for whites during this same period.

Nationwide survival rates for low birth-weight infants have increased dramatically over the past 10 years. Experts in neonatal care estimate that to save an infant weighing 1 pound 10 ounces it costs \$100,000 to \$150,000 for hospital neonatal services. The costs extend beyond the medical care expenditures for low birthweight infants who survive with physical and/or neurological impairments. The lifetime costs of special education/residential care for a child may exceed \$450,000.

The amendment to § 32.1-127 of the Code of Virginia was seen as a proactive approach to addressing infant mortality.

Although hospital regulations do not guarantee quality healthcare, they assure that the appropriate inputs (personnel, policies, equipment, etc.) are in place that should result in good outputs (quality healthcare for all neonates at the appropriate service level).

Benefits to the Commonwealth of the proposed regulations also include the fact that these neonatal standards of care are applicable to the entire state. Currently, some hospitals self-designate as to the level of neonatal care they provide and this self-designation may or may not be in accordance with national standards for neonatal care. Regulations for neonatal care with defined levels of services have the advantage of providing the Commonwealth with knowledge of the minimum services (by designation level) that each nursery in the state provides.

As a payer of indigent neonatal care, the Commonwealth has an interest in establishing a basis for the provision of services provided by all levels of nurseries in the state. Additionally, Certificate of Public Need decisions in the state regarding new or expanded nurseries are facilitated by having all existing nurseries designated by service level. Designation of existing services assists the Commonwealth in identifying the need for services when a COPN application is being processed.

Lastly, Virginia citizens currently do not have an objective method of comparing various hospital neonatal services when making consumer choices. The description of all nurseries by four levels in the state assists families in knowing what services are available in the local community, as well as regionally and statewide, when a need for services exists, empowering families to make appropriate healthcare decisions for their children.

Impact Upon Small Businesses or Organizations: No negligible impact is anticipated in terms of small businesses or organizations. Medical equipment supply houses and medical facility construction really should not be impacted since a number of hospitals with neonatal units have commented that they believe that they have the necessary resources that they will need to meet the regulations.

Summary

Pursuant to the Commonwealth's commitment to reduce infant mortality, the proposed regulations establish a service level distinction based upon national standards to ensure treatment of a range of neonates from normal newborns to the sickest, high-risk newborns. The proposed regulations are the minimum quality assurance standards that must be uniformly met if hospitals want to provide neonatal services in the Commonwealth.

VR 355-33-500. Rules and Regulations for the Licensure of Hospitals in Virginia (§ 2.22 D, Neonatal Services).

§ 2.22. Obstetric and newborn services.

A. Hospitals with licensed obstetric and newborn services in operation prior to the effective date of these regulations or revisions to thereof shall comply with all of the requirements of this section within 12 months of the effective date of these regulations, with the exception of specified sections of subdivision C 5 of this section. Hospitals that establish and organize obstetric and newborn services after the effective date of these regulations shall comply with all requirements of this section before licensure approval is granted.

A. General Requirements

B. A hospital with organized obstetric and newborn services shall comply with the following general requirements:

1. Administrative management. The governing body of the hospital or the chief executive officer shall appoint an administrative manager for the obstetric and newborn services. The administrative manager may serve as an administrator of another hospital service but must be available to the obstetric and newborn services. The chief executive officer shall designate, in writing, an individual to act in the administrative manager's behalf during a temporary

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absence of the administrative manager.

2. Services plan. The hospital is responsible for the development, periodic review and revision of a service management plan. The plan must include provisions to assure that the hospital complies with all state and federal regulations and guidelines applicable to obstetric and neonatal care as well as the policies and procedures for obstetric and newborn care adopted by the hospital's governing body and medical staff. The plan is to be developed and maintained as follows:

a. The plan shall be developed in cooperation with the medical directors and nursing staffs assigned to each of the services.

b. The plan shall include the protocol, required by § 32.1-127 of the Code of Virginia, for the admission or transfer of any pregnant woman who presents in labor.

c. The plan shall be the responsibility of the administrative manager who is to assure that the plan is developed, that it complies with state and federal requirements and the hospital's policies and procedures, and that it is periodically reviewed and revised.

d. A copy of the plan shall be readily available at each nursing station within the obstetric and newborn services for staff reference.

e. A copy of the plan shall be made available, upon request, to the hospital state licensing inspector for review.

3. Support services. The hospital shall provide the following services in support of the obstetric and newborn services units:

a. Clinical laboratory services and blood bank services shall be available in the hospital on a 24-hour basis. Laboratory and blood bank personnel shall be available on-site or on-call on a 24-hour basis. The blood bank shall have group O Rh negative blood available at all times and be able to provide correctly matched blood in 45 minutes from request. The hospital's laboratory and blood bank personnel must be capable of performing the following tests with less than 1.0 ml of blood within one hour of request or less if specified:

- (1) Blood group and Rh type determination/cross matching
- (2) Arterial blood gases within 20 minutes
- (3) Blood glucose within 20 minutes
- (4) Complete Blood Count

(5) Total protein

(6) Total bilirubin

(7) Direct Coombs test

(8) Electrolytes

(9) Blood Urea Nitrogen

(10) Clotting profile (may require more than one cc of blood)

b. Portable radiological services for basic radiologic studies in each labor room, delivery room, and nursery shall be available on call on a 24-hour basis.

c. In addition to the requirements specified in § 2.8 of these regulations, anesthesia service personnel shall be available on-site or on-call to begin anesthesia within 30 minutes of notification.

B. C. Obstetric service requirements are as follows:

1. Medical direction.

a. The governing body shall appoint a physician as medical director of the organized obstetric service who meets the qualifications specified in the medical staff bylaws.

b. If the medical director is not a board certified obstetrician or board eligible in obstetrics, the hospital shall have a written agreement with one or more board-certified or board-eligible obstetricians to provide consultation on a 24-hour basis. Consultation may be by telephone.

c. The duties and responsibilities of the medical director of obstetric services shall include but not be limited to:

- (1) The general supervision of the quality of care provided patients admitted to the service;
- (2) The establishment of criteria for admission to the service;
- (3) The adherence to standards of professional practices and policies and procedures adopted by the medical staff and governing body;
- (4) The development of recommendations to the medical staff on standards of professional practice and staff privileges;
- (5) The identification of clinical conditions and medical or surgical procedures that require physician consultation;

(6) Arranging conferences, at least quarterly, to review obstetrical surgical procedures, complications and infant and maternal mortality and morbidity. Infant mortality and morbidity shall be discussed jointly between the obstetric and newborn service staffs.

2. Physician consultation and coverage.

a. A physician with obstetrical privileges capable of arriving on-site within 30 minutes of notification shall be on a 24-hour on-call duty roster.

b. A physician with obstetrical privileges shall be accessible for patient treatment within 10 minutes during the administration of an oxytocic agent to an antepartum patient.

c. A physician or a certified nurse-midwife, under the supervision of a physician with obstetrical privileges, shall be in attendance for each delivery. Physician supervision of the nurse-midwife shall be in compliance with the regulations of the State Boards of Nursing and Medicine.

d. A physician shall be in attendance during all high-risk deliveries. High-risk deliveries shall be defined by the obstetric service medical staff.

e. A physician or a nurse skilled in neonatal cardiopulmonary resuscitation (CPR) shall be available in the hospital at all times.

f. A current roster of physicians, with a delineation of their obstetrical, newborn, pediatric, medical and surgical staff privileges, shall be posted at each nurses' station in the obstetric suite and in the emergency room.

g. A copy of the 24-hour on-call duty schedule, including the list of on-call consulting physicians, shall be posted at each nurses' station in the obstetric suite and in the emergency room.

3. Nursing staff and coverage.

a. An occupied unit of the obstetrics service shall be supervised by a registered nurse 24 hours a day.

b. If the postpartum unit is organized as a separate nursing unit, staffing shall be based on a formula of one nursing personnel for every six to eight obstetric patients. Staffing shall include at least one registered nurse for the unit for each duty shift.

c. If the postpartum and general care newborn units are organized as combined rooming-in or modified rooming-in units, staffing shall be based on a formula of one nursing personnel for every four mother-baby units. The rooming-in units shall be staffed at all times with no less than two nursing

personnel each shift. At least one of the two nursing personnel on each shift shall be a registered nurse.

d. A registered nurse shall be in attendance at all deliveries. The nurse shall be available on-site to monitor the mother's general condition and that of the fetus during labor, at least one hour after delivery, and longer if complications occur.

e. Nurse staffing of the labor and delivery unit shall be scheduled to ensure that the total number of nursing personnel available on each shift is equal to one half of the average number of deliveries in the hospital during a 24-hour period.

f. At least one of the personnel assigned to each shift on the obstetrics unit shall be a registered nurse. At no time when the unit is occupied shall the nursing staff on any shift be less than two staff members.

g. Patients placed under analgesia or anesthesia during labor or delivery shall be under continuous observation by a registered nurse or a licensed practical nurse for at least one hour after delivery.

h. To ensure adequate nursing staff for labor, delivery, and postpartum units during busy or crisis periods, duty schedules shall be developed in accordance with the following nurse/patient ratios:

(1) 1:1 to 2 Antepartum testing

(2) 1:2 Laboring patients

(3) 1:1 Patients in second stage of labor

(4) 1:1 Ill patients with complications

(5) 1:2 Oxytocin induction or augmentation of labor

(6) 1:2 Coverage of epidural anesthesia

(7) 1:1 Circulation for cesarean delivery

(8) 1:6 to 8 Antepartum/postpartum patients without complications

(9) 1:2 Postoperative recovery

(10) 1:3 Patients with complications, but in stable condition

(11) 1:4 Mother-newborn care

i. Student nurses, licensed practical nurses and nursing aides who assist in the nursing care of obstetric patients shall be under the supervision of a registered nurse.

j. At least one registered nurse trained in obstetric

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and neonatal care shall be assigned to the care of mothers and infants at all times.

k. At least one member of the nursing staff on each shift who is skilled in cardiopulmonary resuscitation of the newborn must be immediately available to the delivery suite.

l. All nursing personnel assigned to the obstetric service shall have orientation to the obstetrical unit.

4. Policies and procedures.

a. General policies and procedures. The governing body shall adopt written policies and procedures for the management of obstetric patients approved by the medical and nursing staff assigned to the service. The policies and procedures shall include, but not be limited to, the following:

(1) Criteria for the identification and referral of high-risk obstetric patients;

(2) The types of birthing alternatives, if offered, by the hospital;

(3) The monitoring of patients during antepartum, labor, delivery, recovery and postpartum periods with or without the use of electronic equipment;

(4) The use of equipment and personnel required for high-risk deliveries, including multiple births;

(5) The presence of family members or chosen companions during labor, delivery, recovery, and postpartum periods;

(6) The reporting, to the Department of Health, of all congenital defects;

(7) The care of patients during labor and delivery to include the administration of Rh O(D) immunoglobulin to Rh negative mothers who have met eligibility criteria. Administration of RH O(D) immunoglobulin shall be documented in the patient's medical record;

(8) The provision of family planning information, to each obstetric patient at time of discharge, in accordance with § 32.1-134 of the Code of Virginia;

(9) The use of specially trained paramedical and nursing personnel by the obstetrics and newborn service units;

(10) A protocol for hospital personnel to use to assist them in obtaining public health, nutrition, genetic and social services for patients who need those services;

(11) The use of anesthesia with obstetric patients;

(12) The use of radiological and electronic services, including safety precautions, for obstetric patients;

(13) The management of mothers who utilize breast milk with their newborns. Breast milk shall be collected in sterile containers, dated, stored under refrigeration and consumed or disposed of within 24 hours of collection if the breast milk has not been frozen. This policy pertains to breast milk collected while in the hospital or at home for hospital use;

(14) Staff capability to perform cesarean sections within 30 minutes of notice;

(15) Emergency resuscitation procedures for mothers and infants;

(16) The treatment of volume shock in mothers;

b. Policies and procedures for the use of the labor, delivery and recovery rooms/labor, delivery, recovery and postpartum rooms. The obstetric service shall adopt written policies and procedures for the use of the labor, delivery and recovery rooms (LDR)/Labor, delivery, recovery and postpartum rooms (LDRP) that include, but are not limited to the following:

(1) The philosophy, goals and objectives for the use of the LDR/LDRP rooms;

(2) Criteria for patient eligibility to use the LDR/LDRP rooms;

(3) Identification of high-risk conditions which disqualify patients from use of the LDR/LDRP rooms;

(4) Patient care in LDR/LDRP rooms, including but not limited to, the following:

(a) Defining vital signs, the intervals at which they shall be taken, and requirements for documentation; and

(b) Observing, monitoring, and assessing the patient by a registered nurse, certified nurse midwife, or physician;

(5) The types of analgesia and anesthesia to be used in LDR/LDRP rooms;

(6) Specifications of conditions of labor or delivery requiring transfer of the patient from LDR/LDRP rooms to the delivery room;

(7) Specification of conditions requiring the transfer of the mother to the postpartum unit or the newborn to the nursery;

(8) Criteria for early or routine discharge of the

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mother and newborn;

(9) The completion of medical records;

(10) The presence of family members or chosen companions in the delivery room or operating room in the event that the patient is transferred to the delivery room or operating room;

(11) The number of visitors allowed in the LDR/LDRP room, and their relationship to the mother;

(12) Infection control, including, but not limited to, gowning and attire to be worn by persons in the LDR/LDRP room, upon leaving it, and upon returning.

5. Obstetric service design criteria. In addition to complying with § 2.27 of these regulations, a hospital shall comply with the following requirements of this section for the physical design of obstetric service facilities. Existing hospitals with licensed obstetric and newborn services in operation prior to the effective date of the regulations or revisions thereof, shall comply with all of the regulations of this section with the exception of the minimum dimension and square footage requirements for labor rooms and LDR/LDRP rooms provided for in *subdivisions e, f, and i* of this section *subdivision*. Existing hospitals with an obstetric service may not decrease the dimensions of the labor rooms and the LDR/LDRP rooms from what was granted approval at the time the service was licensed. Labor rooms and LDR/LDRP rooms that are renovated or constructed after the effective date of these regulations shall conform with all of the room dimensions specified in this section of the regulations.

a. The space and arrangement of a hospital building or a section of the hospital designated as the obstetric unit (antepartum and postpartum) shall be designed to assure the separation of obstetric patients from other patients with the exception of clean gynecological patients. Clean gynecological patients shall be defined in approved written hospital policy.

b. The hospital shall identify specific rooms and beds as obstetric rooms and beds. Adjacent rooms and beds may be used for clean gynecological cases.

c. Labor, delivery, recovery and labor, delivery, recovery and postpartum rooms shall be physically separate from emergency and operating rooms.

d. The obstetric nursing unit shall meet the requirements of § 3.11 A of these regulations, except for the following:

(1) A handwashing lavatory must be provided in each patient room;

(2) The soiled workroom and janitors' closet in the obstetric nursing unit shall only be shared with the newborn services unit;

(3) All bathing facilities shall be showers or tub units with showers.

e. Labor rooms shall be single-bed or two bed rooms with a minimum clear area of 180 square feet for each bed.

f. In hospitals having only one delivery room, two labor rooms shall be provided. One labor room shall be large enough to function as an emergency delivery room with a minimum of 300 square feet (27.87 sq. m). Each room shall have at least two oxygen and two wall-mount suction outlets. Hospitals must equip a labor room with the same equipment as a delivery room if it is to be used as a delivery room. Each labor room shall contain a handwashing lavatory. Each labor room shall have access to a toilet room. One toilet room may serve two labor rooms. At least one shower shall be provided for labor room patients. A water closet shall be accessible to the shower without patients having to enter a corridor or general area.

g. The delivery room shall have a minimum clear area of 300 square feet (27.87 sq. m) exclusive of fixed and movable cabinets and shelves. The minimum dimensions shall be 16'0" (4.88 m) in any direction between two walls. Separate resuscitation facilities (electrical outlets, oxygen, suction, and compressed air) shall be provided for newborn infants.

h. The recovery room shall contain a minimum of two beds, charting facilities located to permit staff to have visual control of all beds, facilities for medicine dispensing, handwashing facilities, a clinical sink with a bedpan flushing device, and storage for supplies and equipment.

i. Hospitals that include *birthing* LDR/LDRP rooms in their obstetrical program shall designate room(s) within the labor suite for this purpose. *Birthing* LDR/LDRP rooms shall be designed to prohibit unrelated traffic through the labor and delivery suite and to be readily accessible to delivery rooms and operating rooms. *Birthing* LDR/LDRP rooms shall meet the requirements of labor rooms which may be used as emergency delivery rooms as specified in § 3.19 D of these regulations. The minimum dimensions shall be 16'0" (4.88 m) clear between walls or fixed cabinets or shelving and shall have a clear area of 300 square feet (27.87 sq. m). Each *birthing* LDR/LDRP room shall have a private water closet, shower, and handwashing lavatory.

j. When specified in this subsection, service areas

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shall be located in individual rooms. Alcoves or other open spaces that do not interfere with traffic may be used unless individual rooms are specified. Service areas, except the soiled workroom and the janitors' closet, may be shared within the obstetrical unit. If shared, service areas shall be arranged to avoid direct traffic between the delivery and operating rooms. The following service areas shall be provided:

- (1) A control station that is located to permit visual surveillance of all traffic that enters the labor and delivery suite;
- (2) A supervisor's office or station;
- (3) Sterilizing facilities with high speed autoclaves conveniently located to serve all delivery rooms. If provisions have been made for the replacement of sterile instruments during a delivery, sterilizing facilities will not be required;
- (4) A drug distribution station equipped for storage, preparation, and dispensing of medication;
- (5) At least two scrub stations located near the entrance to each delivery room. Two scrub stations may serve two delivery rooms if the stations are located adjacent to the entrance to each delivery room. Scrub facilities shall be arranged to minimize any incidental splatter on nearby personnel or supply carts;
- (6) A soiled workroom for the exclusive use of the labor and delivery room personnel. The workroom shall contain a clinical sink or equivalent flushing type fixture, a work counter, a handwashing lavatory, a waste receptacle and a linen receptacle;
- (7) Fluid waste disposal facilities conveniently located to the delivery rooms. A clinical sink or equivalent equipment in a soiled workroom or soiled holding room may meet this requirement;
- (8) A clean workroom that contains a work counter, handwashing lavatory, and space for clean and sterile supplies;
- (9) Anesthesia storage facilities. Unless official hospital board action, in writing, prohibits use of flammable anesthetics, a separate room shall be provided for storage of flammable gases in accordance with the requirements detailed in NFPA 99 and NFPA 70;
- (10) An anesthesia workroom for cleaning, testing, and storing anesthesia equipment. The workroom shall contain a work counter and sink;
- (11) A space for reserve storage of nitrous oxide and oxygen cylinders;

(12) Equipment storage rooms for equipment and supplies used in the labor and delivery suite;

(13) Staff's clothing change areas. Clothing change areas shall be provided for personnel working within the labor and delivery suite. The areas shall contain lockers, showers, toilets, handwashing lavatories, and space for donning scrub suits and boots;

(14) Lounge and toilet facilities for obstetrical staff. A nurses' toilet room shall be provided near the labor rooms and recovery room(s);

(15) A janitors' closet. A closet containing a floor receptor or service sink and storage for housekeeping supplies and equipment shall be provided for the labor and delivery suite to be shared only with the newborn services unit;

(16) A stretcher storage area. This area shall be out of direct line of traffic.

6. Equipment requirements.

a. Delivery rooms, LDR/LDRP rooms, and nurseries shall be equipped to provide emergency resuscitation for mothers and infants.

b. Equipment and supplies shall be assigned for exclusive use in the obstetric and newborn units.

c. The same equipment and supplies required for the labor room and delivery room shall be available for use in the LDR/LDRP rooms during periods of labor, delivery, and recovery.

d. Sterilizing equipment shall be available in the obstetric unit or in a central sterilizing department. Flash sterilizing equipment or sterile supplies and instruments shall be provided in the obstetric unit.

e. Daily monitoring is required of the stock of necessary equipment in the labor, delivery, and recovery rooms (LDR) and labor, delivery, recovery and postpartum (LDRP) rooms and nursery.

f. The hospital shall provide the following equipment in the labor, delivery and recovery rooms and, except where noted, in the LDR/LDRP rooms:

(1) Labor rooms.

(a) A labor or birthing bed with adjustable side rails

(b) Adjustable lighting adequate for the examination of patients

(c) An emergency signal and intercommunication system

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- (d) A sphygmomanometer, stethoscope and fetoscope or doppler
- (e) Fetal monitoring equipment with internal and external attachments
- (f) Mechanical infusion equipment
- (g) Wall-mounted oxygen and suction outlets
- (h) Storage equipment
- (i) Sterile equipment for emergency delivery to include at least one clamp and suction bulb
- (j) Neonatal resuscitation cart
- (2) Delivery rooms.
 - (a) A delivery room table that allows variation in positions for delivery. This equipment is not required for the LDR/LDRP rooms.
 - (b) Adequate lighting for vaginal deliveries or cesarean deliveries
 - (c) Sterile instruments, equipment, and supplies to include sterile uterine packs for vaginal deliveries or cesarean deliveries, episiotomies or laceration repairs, postpartum sterilizations and cesarean hysterectomies
 - (d) Continuous in-wall oxygen source and suction outlets for both mother and infant
 - (e) Equipment for inhalation and regional anesthesia. This equipment is not required for LDR/LDRP rooms.
 - (f) A heated, temperature-controlled infant examination and resuscitation unit
 - (g) An emergency call system
 - (h) Plastic pharyngeal airways (adult and newborn size)
 - (i) Laryngoscope and endotracheal tubes (adult and newborn size)
 - (j) A self-inflating bag with manometer and adult and newborn masks that can deliver 100% oxygen
 - (k) Separate cardiopulmonary crash carts for mothers and infants
 - (l) Sphygmomanometer
 - (m) Cardiac monitor. This equipment is not required for the LDR/LDRP rooms.
- (n) Gavage tubes
- (o) Umbilical vessel catheterization trays. This equipment is not required for LDR/LDRP rooms.
- (p) Equipment that provides a source of continuous suction for aspiration of the pharynx and stomach
- (q) Stethoscope
- (r) Fetoscope
- (s) Intravenous solutions and equipment
- (t) Wall clock with a second hand
- (u) Heated bassinets equipped with oxygen and transport incubator
- (v) Neonatal resuscitation cart
- (3) Recovery rooms.
 - (a) Beds with side rails
 - (b) Adequate lighting
 - (c) Bedside stands, overbed tables, or fixed shelving
 - (d) An emergency call signal
 - (e) Equipment necessary for a complete physical examination
 - (f) Accessible oxygen and suction equipment

☒ D. Newborn service requirements are as follows:

1. Designation of newborn service levels.

a. If a hospital intends to provide newborn services, it shall make application to the department requesting approval for a level of newborn service as specified in subdivision 2 of this subsection.

Application shall be made at least 60 days prior to the desired date of approval. Approval is required to be renewed annually. Newborn service level approval shall be based upon the hospital's certification and the department's verification that the hospital meets the requirements of these regulations for the level requested.

b. No approval for a general level newborn service designation will be granted without a Certificate of Public Need (COPN) or without documentation by the applicant that it provided general level newborn services prior to July 1, 1992, or that the provision of general level newborn services was found to be exempt from Certificate of Public Need review pursuant to § 32.1-102.11 of the Code of Virginia.

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c. No approval for a newborn service level designation higher than general level will be granted without a Certificate of Public Need or without documentation by the applicant that it provided a newborn service level higher than general level prior to July 1, 1992, or that the provision of a newborn service level higher than general level was found to be exempt from Certificate of Public Need review pursuant to § 32.1-102.11 of the Code of Virginia.

2. Service levels.

a. A hospital's newborn service shall be designated as a general level, intermediate level, specialty level, or subspecialty level newborn service. The newborn service levels are designated as follows:

(1) A general level newborn service shall provide care to newborns of low risk as specified within the service's medical protocol. A general level newborn nursery shall have the capability to care for newborns who weigh at least 2000 grams at birth or who have completed 34 weeks gestation. Risk assessment shall be provided to identify all high risk neonates and ensure appropriate consultation. A general level newborn nursery shall have the equipment and staff capabilities to immediately stabilize a sick newborn prior to transporting the newborn to an appropriate higher level nursery. The equipment and staff to receive convalescing neonates from higher level nurseries shall also be provided.

(2) An intermediate level newborn service shall provide care as specified within the service's medical protocol to moderately ill neonates or stable-growing low birthweight neonates who require only a weight increase to be ready for discharge. In addition to the capabilities required of the general level newborn nursery, the intermediate level nursery shall have the equipment and staff capabilities to provide controlled temperature environments for each neonate, the insertion and maintenance of umbilical arterial lines, hood oxygen to 40%, continuous monitoring of blood oxygen, and assisted ventilation of a neonate in preparation for transport utilizing a mechanical ventilator or an ambu bag.

(3) A specialty level newborn service shall provide intensive care to high-risk neonates with neonatal illnesses as specified in the service's medical protocol. In addition to the capabilities required of the lower level nurseries, the specialty level nursery shall have the equipment and staff capabilities to provide the following: maintenance of central arterial umbilical catheters or peripheral arterial lines with constant pressure monitoring, insertion and maintenance of chest tubes for drainage, administration of total parenteral nutrition (TPN),

the maintenance of pressor medications, the administration of surfactant and respiratory support to include the maintenance of hood oxygen, continuous positive airway pressure (CPAP), and neonatal mechanical ventilation beyond the immediate stabilization period.

*(4) A subspecialty level newborn service shall provide intensive care for high risk, critically ill neonates with complex neonatal illnesses. The subspecialty level newborn service shall provide, in-house, a full range of pediatric medical and surgical subspecialists to care for critically ill neonates. The pediatric subspecialists required as members of the hospital's staff are those subspecialists required of a Subspecialty Perinatal Center as referenced within the 1993 edition of *Toward Improving the Outcome of Pregnancy*, March of Dimes Birth Defects Foundation, Appendix 6, Pages 114 and 115. Rarely, the availability of highly technical expertise and specialized physicians at another subspecialty center will indicate consultation and possibly transfer. The subspecialty level nursery shall have the capability to care for neonates born in its facility as well as those referred from lower level nurseries. The subspecialty level nursery shall have all of the technical capabilities required of the lower level nurseries as well the equipment and staff capabilities to maintain a neonate on prostaglandin E1 (PgE1) and the ability to perform echocardiography evaluations.*

b. The hospital shall establish a written medical protocol, approved by the governing body, that specifies all neonatal conditions routinely managed by the newborn service as well as protocols for those medical conditions which require consultation and may necessitate transfer to a higher level of newborn service.

c. Physician consultation shall occur between physicians at the birth hospital and a referral hospital with which the birth hospital has a newborn service level collaboration agreement.

d. The physician at the birth hospital shall document in the newborn's medical record the physicians' mutual agreement to manage the newborn at the birth hospital or to stabilize and then transfer the newborn according to the hospitals' collaboration agreement.

4. 3. Medical direction.

a. The governing body shall appoint a physician as medical director of the organized newborn service who meets the qualifications specified in the medical staff bylaws. In addition, the medical director must meet the qualifications specified in these regulations for the medical direction of the highest level of newborn service provided by th

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hospital.

b. If the medical director is not a board-certified pediatrician or board eligible in pediatrics, the hospital shall have a written agreement with one or more board-certified or board-eligible pediatricians to be available to provide consultation on a 24-hour basis. Consultation may be by telephone.

b. If a hospital offers only general level newborn services, the medical director shall be a physician qualified to provide normal newborn care, including the ability to immediately resuscitate and stabilize a sick newborn for transfer to a higher level of service.

c. If a hospital offers intermediate level newborn services, the medical director shall be a board-certified or board-eligible pediatrician with training and experience in the care of preterm neonates, including stabilization and ventilation management.

d. If a hospital offers specialty level newborn services, the medical director shall be a board-certified or board-eligible neonatologist.

e. If a hospital offers subspecialty level newborn services, the medical director shall be a board-certified or board-eligible neonatologist.

f. The duties and responsibilities of the medical director/directors of the all levels of newborn service shall include but not be limited to the :

(1) The General supervision of the quality of care provided patients admitted to the service;

(2) The Establishment of criteria for admission to the service;

(3) The Adherence of the service to standards of professional practices and policies and procedures, the medical protocol, and the hospital's collaboration agreements adopted by the medical staff and governing body applicable to the service ;

(4) The Development of recommendations to the medical staff on standards of professional practice and staff privileges applicable to the service ;

(5) The Identification of clinical conditions and medical or surgical procedures that require physician consultation;

(6) Arranging Conducting conferences, at least quarterly, to review routine and emergency surgical procedures, complications and infant and maternal mortality and morbidity. Infant mortality and morbidity shall be discussed with the obstetric service staff : :

(7) Active participation in the service's quality assurance program.

2. 4. Physician consultation and coverage.

a. The hospital shall have a written agreement with one or more board-certified or board-eligible neonatologists to be available to provide consultation, at least by telephone, on a 24-hour basis. The consultant shall be available to advise on the development of a protocol for the care and transport of sick newborns.

a. The hospital shall provide the following physician consultation and coverage in the general level newborn nursery service and all higher level nursery services unless unique requirements are specifically imposed within these regulations for the higher level nursery services.

b. (1) A physician with pediatric privileges capable of arriving on-site within 30 minutes of notification shall be on the 24-hour on-call duty roster : :

e. (2) A physician or a nurse skilled in neonatal cardiopulmonary resuscitation (CPR) shall be available in the hospital at all times : :

d. (3) A current roster of physicians, with a delineation of their obstetrical, newborn, pediatric, medical and surgical staff privileges shall be posted at each nurses' station in the newborn service units; and

e. (4) A copy of the 24-hour on-call duty schedule, including a list of on-call consulting physicians, shall be posted at each nurses' station in the newborn service units unit .

(5) If the medical director is not a board-certified or board-eligible pediatrician, the hospital shall have a written agreement with one or more board-certified or board-eligible pediatricians to be available to provide consultation on a 24-hour basis. Consultation may be by telephone.

(6) If a hospital does not have a neonatologist on staff who is available on a 24-hour basis, it shall have a written agreement with another hospital to provide consultation, at least by telephone, on a 24-hour basis, by a board certified or board eligible neonatologist. The consultant shall be available to advise on the development of a protocol for the care and transport of sick newborns.

b. The physician consultation and coverage for the intermediate level newborn nursery service shall be the same as the general level newborn service with the following exception:

(1) Subdivision 4 a (1) of this subsection shall not

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apply.

(2) Physician coverage shall be provided on a 24-hour on-call basis by a board-certified or board-eligible pediatrician(s) capable of arriving on-site within 30 minutes of notification.

c. The physician consultation and coverage for the specialty level and the subspecialty level newborn services shall be the same as for the lower level newborn services with the following exceptions:

(1) Subdivision 4 a (1) of this subsection shall not apply.

(2) In-house physician consultation and coverage shall be provided 24 hours a day by (i) a board-certified or board-eligible neonatologist; or (ii) a board-certified or board-eligible pediatrician; or (iii) a second year or higher level pediatric resident; or (iv) a neonatal nurse practitioner.

(3) Whenever in-house coverage is provided in clause ii, iii, or iv of subdivision (2) above, a board-certified or board-eligible neonatologist shall be on call and available to be on-site within 20 minutes of request.

3. 5. Nursing direction, staff and coverage.

a. The nursing direction, staff and coverage required for the general level newborn service shall be as follows:

(1) The neonatal nursing program shall be under the direction of a registered nurse.

(2) The nursing director's responsibilities shall include, but not be limited to:

(a) Directing neonatal nursing services;

(b) Guiding the development and implementation of neonatal nursing policies and procedures;

(c) Collaborating with the medical staff; and

(d) Consulting with referral hospitals with which a hospital has transfer agreements applicable to the service(s).

a. (3) Each occupied unit of the newborn service shall be under the direct supervision of a registered nurse 24 hours a day. The registered nurse shall have documented competence in neonatal nursing appropriate to the level of service provided.

b. (4) If the general care a general level newborn unit nursery is organized as a separate nursing unit, staffing shall be based on a formula of a minimum of one nursing personnel for every six to eight

newborns. Staffing shall include at least one registered nurse for the unit for each duty shift to provide direct supervision for nursing care.

e. (5) If the postpartum and general care level newborn units are organized as combined rooming-in or modified rooming-in units, staffing shall be based on a formula of one nursing personnel for every four mother-baby units. The rooming-in units shall always be staffed with no less than two nursing personnel assigned to each shift. One of the two nursing personnel shall be a registered nurse to provide direct supervision of nursing care.

f. (6) When infants are present in the nursery, at least one nursing staff person personnel trained in the care of newborn infants, with duties restricted to the care of the infants, shall be assigned to the nursery at all times. This nursing personnel is in addition to the registered nurse who is required to provide supervision.

e. (7) To ensure adequate nursing staff for the nursery during busy or crisis periods for normal newborns, duty schedules shall be developed in accordance with and actual shift staffing shall occur according to the following minimum nurse to patient ratios:

(1) (a) 1:4 Recently born infants and those needing close observation

(2) 1:6 to (b) 1:8 Newborns needing only routine care

(3) (c) 1:4 Mother-newborn routine care

(4) 1:1 Newborns requiring multisystem support

(5) 1:3 to 4 Newborns requiring intermediate care

(6) 1:1 to 2 Newborns needing intensive care

f. (8) Student nurses, licensed practical nurses and nursing aides who assist in the nursing care of newborn infants shall be under the direct supervision of a registered nurse.

g. (9) At least one member of the nursing staff nurse on each shift who is skilled in neonatal cardiopulmonary resuscitation of the newborn must be immediately available to the newborn nursery area.

h. (10) All nursing personnel assigned to the newborn service shall have orientation to the neonatal unit nursery which includes orientation to patient care appropriate for the service level provided.

b. The nursing direction, staff, and coverage

required of the intermediate level newborn service shall be the same as required of the general level newborn service with the following exceptions:

(1) To ensure adequate nursing staff for the nursery, duty schedules shall be developed and actual shift staffing shall occur according to a ratio of at least one nurse to four neonates.

(2) All registered nurses assigned to the newborn service shall be trained in neonatal cardiopulmonary resuscitation (CPR).

c. The nursing direction, staff and coverage for the specialty level newborn service shall be the same as the lower level newborn service levels with the following exceptions:

(1) The newborn nursery service shall have a nurse manager. The nurse manager shall be a registered nurse with advanced training and experience in the nursing management of high-risk neonates and their families. The responsibilities of the nurse manager shall include, but not be limited to:

(a) Daily management of the nursery;

(b) Supervision and evaluation of nursing personnel assigned to the nursery;

(c) Assuring nursing coverage 24 hours a day; and

(d) Implementing nursing policies and procedures at the service level.

(2) All registered nurses shall have advanced training and experience in the management of neonatal patients, including specialized care technology and ventilator care for neonates. Only registered nurses with this advanced training and experience shall be assigned to care for neonates on ventilators.

(3) To ensure adequate nursing staff for the nursery, duty schedules shall be developed and actual shift staffing shall occur according to a ratio of at least one nurse to three patients for neonates requiring specialty level care. For those neonates who have been assessed as no longer needing specialty level care, nurse to patient ratios shall be according to the neonate's appropriate level of service.

d. The nursing direction, staff and coverage for the subspecialty level newborn service shall be the same as all lower levels of newborn services with the following exceptions:

(1) A neonatal clinical nurse specialist shall be assigned to the nursery; duties and responsibilities shall include staff consultation, collaboration, and teaching.

(2) All registered nurses shall have advanced training and experience, beyond what is required of nurses in the lower level nurseries, in the management of high-risk neonates, including the care of unstable neonates with multisystem problems.

(3) To ensure adequate nursing staff for the nursery, duty schedules shall be developed and actual shift staffing shall occur according to the following minimum nurse to patient ratios for neonates requiring subspecialty level care:

(a) 1:2 Neonates requiring subspecialty level care; and

(b) 1:1 Neonates requiring multisystem support.

For those neonates who have been assessed as no longer needing subspecialty level care, nurse to patient ratios shall be according to the neonate's appropriate level of service.

(4) All nursing patient care shall be provided by registered nurses assigned to the subspecialty level nursery.

4. 6. Policies and procedures.

a. The governing body shall adopt written policies and procedures for the medical care of newborns, approved by the medical and nursing staff of the service, for the medical care of newborns.

b. The policies and procedures for the general level nursery and all higher levels of newborn services shall include, but not be limited to, the following:

a. (1) Medical criteria for the identification of high-risk neonatal patients;

b. The development of a system of communication, consultation, and written agreements for secondary and tertiary newborn services;

c. The hospital's provisions for the care of newborns transferred back from secondary and tertiary care services;

(2) Protocols for the management of all neonatal medical conditions that are routinely managed by the service as well as protocols for the stabilization and transfer of neonates that require a higher level of newborn service. These protocols shall be maintained in the nursery in addition to the telephone numbers of each nursery and the names of each referral newborn service medical director.

(3) Hospital written collaboration agreements with other hospital(s) that provide higher levels of newborn services not available in the referring

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hospital. A hospital may enter into more than one collaboration agreement. The collaboration agreements shall specifically identify those medical conditions which require consultation and may necessitate a neonatal transfer as well as the interim treatment required prior to transfer. All neonatal transfers shall conform with Section 1867 of the Social Security Act, its amendments in force to date and implementing regulations. At the time of any transfer, the medical treatment at the referral hospital shall outweigh the risks to the neonate from effecting the transfer. The collaboration agreements shall include, but not be limited to:

(a) Criteria for neonatal transfer to the referral nursery;

(b) Procedures for neonatal transport;

(c) Back transfer criteria which provides for the return of the neonate to the referring hospital when medically appropriate;

(d) Annual review by both parties of all cases of neonatal transfer;

(e) Annual review by both parties of the collaboration agreements; and

(f) Annual evaluation by both parties of the collaboration agreement and modification of the agreement, as necessary, as indicated by the evaluation results.

(4) Establishment and maintenance of an ongoing, documented quality assurance program by the service which utilizes a multidisciplinary team of health practitioners and administrators for review and is integrated with the hospital's overall quality assurance program.

(a) The quality assurance program shall include:

(1) Problem identification;

(2) Action plans;

(3) Evaluation; and

(4) Follow-up.

(b) The quality assurance program shall include an annual review of the following:

(1) Neonatal transfer cases;

(2) Management of in-house neonatal cases;

(3) Staff in-house inservice programs.

(c) Outcome statistics, including morbidity, mortality, and the appropriateness of neonatal transfers, shall be compiled in a standardized manner and reviewed quarterly by a multidisciplinary committee.

(5) Immediate resuscitation and stabilization of the sick neonate in accordance with current cardiopulmonary resuscitation (CPR) standards of the American Heart Association and the American Academy of Pediatrics.

d. ~~The~~ (6) Care of newborns after delivery to include the following:

~~(1)~~ (a) Care of eyes, skin and umbilical cord and the provision of a single parenteral dose of Vitamin K-1, water soluble 0.5 mgm, as a prophylaxis against hemorrhagic disorder;

~~(2)~~ (b) Maintenance of the newborn's airway, respiration, and body temperature; and

~~(3)~~ (c) Assessment of the newborn and recording of the one-minute and five-minute Apgar scores ; .

e. (7) Performance of prophylaxis against ophthalmia neonatorum by the administration of a 1.0% solution of silver nitrate aqueous solution, erythromycin, or tetracycline ointment or solution. This process is to be performed within one hour of delivery with documentation entered in the newborn's medical record. The process may be performed in the nursery ; .

f. (8) Clamping or tying of the umbilical cord, and collecting a sample of cord blood ; .

g. (9) Performance of Rh type and Coombs' tests for every newborn born to a Rh negative mother and performing major blood grouping and Coombs tests when indicated for every newborn born to an O blood group mother or a mother with a family history of blood incompatibility. If such qualitative tests are performed, the results shall be documented in the newborn's medical record ; .

~~h.~~ (10) Identification and treatment of hyperbilirubinemia and hypoglycemia ; .

i. (11) Identification of each newborn, prior to leaving the delivery room, with two identification bands fastened on the newborn and one identification band fastened on the mother. The newborn's medical record shall accompany the infant from the delivery room.

j. (12) Newborn transport to include but not limited to, the transport of the newborn, within the hospital, of all newborns who are either premature or compromised by using a heated bassinet equipp.

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with oxygen, a transport incubator or *other* similar device. The newborn's medical record shall accompany the infant from the delivery room equipment.

k. (13) Registered nurse or physician assessment of a newborn within one hour after delivery and documentation of the assessment in the newborn's medical record. Assessment in the delivery area is permitted if the hospital permits a newborn and its mother to remain together during the immediate post delivery period ; .

l. (14) Delineation of how infants are to be monitored during stays with their mothers and under what circumstances infants must be taken to the nursery immediately after delivery and not allowed to remain with their mothers ; .

m. (15) Physician examination of the newborn consistent with guidelines of the American Academy of Pediatrics. A high-risk newborn shall be examined upon admission to the nursery ; .

n. (16) Ensuring that every bassinet and incubator in the nursery bears the identification of the newborn's last name, sex, date and time of birth, the mother's last name, and the attending physician's name ; .

(17) *The management of mothers who utilize breast milk with their newborns. Breast milk shall be collected in sterile containers, dated, stored under refrigeration and consumed or disposed of within 24 hours of collection if the breast milk has not been frozen. This policy pertains to breast milk collected while in the hospital or at home for hospital use.*

o. The (18) Preparation and use of formula, including, but not limited to the following :

(1) (a) The distribution of feeding units immediately after assembly;

(2) (b) The use of prepared formula only within the time period designated on the package; and

(3) (c) The use of presterilized formula only, except in the case of facility-defined emergencies.

p. (19) Screening newborns for risk factors associated with hearing impairment as required in §§ 32.1-64.1 and 32.1-64.2 of the Code of Virginia and in accordance with the regulations of the Board of Health governing the Virginia Hearing Impairment Identification and Monitoring System ; (VR 355-12-01).

q. (20) Screening and treatment of genetic, metabolic, and other diseases identifiable in the newborn period as specified in the § 32.1-65 of the Code of Virginia and in accordance with the Rules

and Regulations of the Board of Health Governing the Newborn Screening and Treatment Program ; (VR 355-11-200).

r. (21) Reporting to the Department of Health all required reportable congenital defects ; .

s. (22) Visitor contact with the newborn, including newborns delivered by cesarean section, and premature, sick, congenitally malformed, and dying newborns ; .

t. (23) Completion of birth certificates ; .

(24) *Discharge planning appropriate for the needs of the patient for at-risk infants. The Virginia High Priority Infant Tracking Program Enrollment Form should be used as part of the discharge planning.*

u. **Protocols for the management of certain infant disease states. Consultation and referral shall be developed by the newborn service medical director in conjunction with the director of the intensive care unit to which referrals are sent. The protocols shall spell out the details for the local management of disease states, and specific transfer criteria. These protocols shall be maintained in the nursery.**

v. **The designation of an intensive care nursery to which a general newborn nursery refers patients and from which it seeks consultation and advice. The telephone number of the intensive care nursery and the name of the newborn service medical director shall be maintained by the head nurse of the general care nursery.**

c. *The additional policies and procedures required for the Immediate Level newborn service shall include, but not be limited to:*

(1) *Insertion and maintenance of peripheral intravenous lines and use of pediatric infusion pumps that are accurate to plus or minus one milliliter an hour;*

(2) *Insertion and maintenance of umbilical arterial lines and the use of pediatric infusion pumps accurate to plus or minus one milliliter an hour;*

(3) *Use of heated, humidified, and blended supplemental oxygen by hood with a recording of oxygen levels every hour using a calibrated constant oxygen analyzer. The policy shall address consultation with a higher level nursery identified in the collaboration agreement when oxygen levels exceed 40% and remain at 40% or greater for a period of four hours or more;*

(4) *Administration of nasogastric or orogastric feedings;*

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(5) Use of saturation monitor (pulse oximeter or equivalent) for any newborn requiring supplemental oxygen;

(6) Use of assisted ventilation in preparation for transport;

(7) Initiation of PgE1 prior to transport; and

(8) Administration of blood components and a policy for provision of partial and total exchange transfusions.

d. The additional policies and procedures required for the specialty level newborn service shall include, but not be limited to:

(1) Provision of ongoing assisted ventilation;

(2) Administration of surfactant;

(3) Preparation and administration of total parenteral nutrition (TPN);

(4) Initiation and maintenance of pressor medications;

(5) Provision for developmental follow-up;

(6) Insertion and maintenance of central umbilical arterial catheters or peripheral arterial lines with constant pressure monitoring;

(7) Placement of chest tubes with water seal on an emergency basis;

(8) Use of heated, humidified, and blended supplemental oxygen by hood with a recording of oxygen levels every hour using a calibrated constant oxygen analyzer;

(9) Administration and maintenance of CPAP including the requirement for in-house physician coverage;

(10) Daily availability of appropriate drug peak and trough assays on one milliliter or less of blood;

(11) Cardioversion capability specific for newborns; and

(12) Provision for ophthalmology consult and requirements regarding the examination of high risk newborns.

e. The additional policies and procedures required for the subspecialty level newborn service shall include, but not be limited to:

(1) Provision for returning patients to the operating room within 30 minutes, if indicated;

(2) Provision for echocardiography evaluation;

(3) Provision for patient treatment on an extracorporeal membrane oxygenator (ECMO) or a written collaboration agreement with a hospital with this capability;

(4) Provision for maintenance of central venous pressure monitoring; and

(5) Provision for the maintenance of neonates on prostaglandin E1 (PgE1).

5. 7. Newborn service design criteria. In addition to complying with §§ 2.27 and 3.15 of these regulations, a hospital shall comply with the following requirements for the physical design of the newborn nursery physical design criteria for its newborn services :

a. The design criteria required for the general level nursery are:

a. (1) The newborn nursery shall be located adjacent to the obstetric nursing unit. The nursery must have adequate lighting and ventilation and be equipped to prevent direct drafts on infants . The temperature and humidity in the nursery shall be maintained at a level best suited for the protection of newborns as determined by the medical and nursing staff of the newborn service and as recommended by the American Academy of Pediatrics (AAP) and American College of Obstetricians and Gynecologists (ACOG) in the most current editions of Guidelines for Perinatal Care.

b. (2) The nursery shall be designed to preclude unrelated traffic. Connecting nurseries shall have the capability to close the doors for infection control purposes.

e. (3) Each nursery shall contain the following:

(1) (a) One handwashing lavatory for eight bassinets. Lavatories shall be equipped with wrist, knee or foot controls, soap dispenser and paper towel dispenser;

(2) (b) A nurses' emergency calling system that meets the requirements of § 3.49 D of these regulations; and

(3) (c) Glazed observation windows to permit infants to be viewed from public areas, from workrooms, and between adjacent nurseries.

d. (4) There shall be a minimum of 24 square feet of floor area for each bassinet, exclusive of nonpatient areas, and a minimum of three feet (91 cm) between bassinets in the general newborn nursery. The nursery must be equipped to prevent direct drafts on infants;

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e. ~~The~~ (5) Each nursery shall contain no more than 16 infant stations in open bassinets, self-contained incubators, open radiant heat infant care systems, or combination thereof. *When a rooming-in program is used, the total number of bassinets provided in the general level nursery may be appropriately reduced but the nursery may not be omitted.* A hospital designed for 16 infant stations or less shall provide two rooms with eight infant stations so that a room is available to permit cohorting in the case of infection.

f. (6) A special care area for infants requiring close observation or stabilization, such as those with low birthweight, is required in hospitals having 25 or more postpartum beds *that do not have higher level nurseries*. The minimum floor area for each infant station shall be 40 square feet (3.72 sq. m).

g. (7) Each nursery shall be served by a connecting workroom. The workroom shall contain gowning facilities at the entrance for staff and personnel, work space with counter, refrigerator, storage space and handwashing lavatory which meets the requirements of § 3.45 of these regulations. One workroom may serve more than one nursery.

h. (8) The examination and treatment room shall contain a work counter, storage, handwashing lavatory and charting facilities. This may be part of the workroom.

i. (9) A closet for the use of the housekeeping staff in maintaining the nurseries shall be provided. It shall contain a floor receptor or service sink and storage space for housekeeping equipment and supplies.

j. (10) Lighting and wall finishes shall be sufficient to permit easy detection of jaundice and cyanosis. Shadow-free illumination with at least 100 foot candle intensity at the infant's level using fluorescent lamps with proper diffusers to prevent glare is required.

k. (11) All incubators and electrical appliances used in nurseries shall be free from electrical hazards and approved by Underwriters Laboratories.

l. (12) One grounded duplex electrical outlet shall be provided for every bassinet.

m. (13) Task illumination and selected electrical outlets shall be on the hospital's emergency electrical system. In new construction, one outlet per bassinet shall be on the hospital's emergency electrical system. Emergency electrical outlets shall be clearly marked. Outlets shall be checked at least monthly for safety and grounding.

n. (14) An incubator shall be available and

maintained for every 10, or fraction thereof, bassinets.

o. (15) Bassinets shall be equipped to allow for medical examinations of newborn infants and for storing necessary supplies and equipment. Bassinets shall be provided in a number to exceed obstetric beds by ~~20%~~ 25%, at the minimum, to accommodate multiple births, extended stays, and fluctuating patient loads. Bassinets are to be separated by a minimum of three feet measuring from the edge of one bassinet to the edge of the adjacent bassinet ; ; and

p. (16) The hospital shall provide isolation facilities which follow universal precautions in accordance with its approved policies and procedures and the *most recent editions of the Guidelines for Perinatal Care (AAP/ACOG) and the Control of Communicable Diseases in Man (American Public Health Association).*

b. *The design criteria required for the intermediate level nursery are:*

(1) *There shall be efficient and controlled access to the nursery from the labor and delivery area, the emergency room or other referral entry areas. The nursery shall be designed to preclude unrelated traffic.*

(2) *Lighting and wall finishes shall be sufficient to permit easy detection of jaundice and cyanosis. Shadow-free illumination with at least 100 foot candle intensity at the infant's level using fluorescent lamps with proper diffusers to prevent glare is required. The level of general lighting shall be adjustable to simulate day-night patterns and to satisfy diagnostic and procedural requirements.*

(3) *The temperature, humidity, and ventilation in the nursery shall be maintained at levels best suited for the protection of newborns as determined by the medical and nursing staff of the newborn service and as recommended by the American Academy of Pediatrics (AAP) and American College of Obstetricians and Gynecologists (ACOG) in the most current edition of Guidelines for Perinatal Care. The nursery must be equipped to prevent direct drafts on neonates.*

(4) *Each nursery shall contain the following:*

(a) *One handwashing lavatory for at least every four patient stations. Lavatories shall be equipped with wrist, knee or foot controls, soap dispenser and paper towel dispenser:*

(b) *A nurses' emergency calling system that meets the requirements of § 3.49 D of these regulations.*

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(5) Each nursery shall be served by a connecting workroom. The workroom shall contain gowning facilities at the entrance for staff and personnel, work space with counter, refrigerator, storage space and handwashing lavatory which meets the requirements of § 3.45 B of these regulations. One workroom may serve more than one nursery;

(6) A closet for the use of the housekeeping staff in maintaining the nursery shall be provided. It shall contain a floor receptor or service sink and storage space for housekeeping equipment and supplies;

(7) All incubators and electrical appliances used in nurseries shall be free from electrical hazards and approved by Underwriters Laboratories;

(8) Outlets shall be checked at least monthly for safety and grounding;

(9) The hospital shall provide isolation facilities which follow universal precautions in accordance with its approved policies and procedures and the most recent editions of the Guidelines for Perinatal Care (AAP/ACOG) and the Control of Communicable Diseases in Man (American Public Health Association). Connecting nurseries shall have the capability to close the doors for infection control purposes;

(10) All electrical outlets shall be connected to both regular and auxiliary power;

(11) An additional outlet wired to accommodate a portable x-ray machine shall be available in each nursery;

(12) The minimum floor area for each infant station in a nursery constructed or renovated after the effective date of these regulations shall be 50 square feet (3.72 sq. m) with a minimum of four feet between infant stations and aisles at least five feet wide; and

(13) At least eight electrical outlets, two oxygen outlets, two compressed air outlets and two suction outlets shall be provided for each infant station.

c. The design criteria required for both specialty level and subspecialty level nurseries are:

(1) The requirements of § 301 C 7 a 2 (a-k) shall apply;

(2) Nurseries constructed or renovated after the effective date of these regulations shall have a minimum floor area for each infant station of 80 square feet with at least six feet between incubators or overhead warmers, and aisles at least eight feet wide; and

(3) Each infant station shall have at least twelve electrical outlets, two oxygen outlets, two compressed air outlets and two suction outlets.

6. 8. Equipment requirements.

a. The hospital shall provide the following equipment in the general level nursery and all higher level nurseries, unless additional equipment requirements are imposed for the higher level nurseries :

a. (1) Resuscitation equipment as specified for the delivery room in these regulations shall be available in the nursery at all times;

b. (2) Equipment for the delivery of 100% oxygen concentration, properly heated, blended, and humidified, with the ability to measure delivery oxygen in fractional inspired concentrations (FIO₂). The oxygen analyzer shall be calibrated every eight hours and serviced at least monthly according to the manufacturer's recommendations by a member of the hospital's respiratory therapy department or other responsible personnel trained to perform the task;

c. Equipment for monitoring blood oxygen concentration levels i.e. a pulse oximeter;

(3) Saturation monitor (pulse oximeter or equivalent);

d. (4) Equipment for monitoring blood sugar glucose ;

e. (5) Infant scales;

f. (6) Intravenous therapy equipment;

(7) Equipment and supplies for the insertion of umbilical arterial and venous catheters.

g. (8) Open bassinets, self-contained incubators, open radiant heat infant care system or any combination thereof appropriate to the service level ;

h. (9) Equipment for stabilization of a sick infant prior to transfer that includes a radiant heat source capable of maintaining an infant's body temperature at 99 degrees °F .

(10) Equipment for insertion of a thoracotomy tube; and

(11) Equipment for proper administration and maintenance of phototherapy.

b. The additional equipment required for the intermediate level newborn service and for any higher service level is:

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(1) Pediatric infusion pumps accurate to plus or minus one milliliter (ml) per hour;

(2) On-site supply of PgE1;

(3) Equipment for 24-hour cardiorespiratory monitoring for neonatal use available for every incubator or radiant warmer;

(4) Saturation monitor (pulse oximeter or equivalent) available for every infant given supplemental oxygen;

(5) Portable x-ray machine; and

(6) If a mechanical ventilator is selected to provide assisted ventilation prior to transport, it shall be approved for the use of neonates.

c. The additional equipment required for the specialty level newborn service and a higher newborn service is as follows:

(1) Equipment for 24-hour cardiorespiratory monitoring with central blood pressure capability for each neonate with an arterial line;

(2) Equipment necessary for ongoing assisted ventilation approved for neonatal use with on-line capabilities for monitoring airway pressure and ventilation performance;

(3) Equipment and supplies necessary for insertion and maintenance of chest tube for drainage;

(4) On-site supply of surfactant;

(5) Computed axial tomography equipment (CAT) or magnetic resonance imaging equipment (MRI);

(6) Equipment necessary for initiation and maintenance of continuous positive airway pressure (CPAP) with ability to constantly measure delineated pressures and including alarm for abnormal pressure (e.g., vent with PAP mode); and

(7) Cardioversion unit with appropriate neonatal paddles and ability to deliver appropriate small watt discharges.

d. The hospital shall document that it has the appropriate equipment necessary for any of the neonatal surgical and special procedures it provides that are specified in its medical protocol and that are required for the specialty level newborn service.

e. The additional equipment requirements for the subspecialty level newborn service are:

(1) Equipment for emergency gastrointestinal, genitourinary, central nervous system, and

sonographic studies available 24 hours a day;

(2) Pediatric cardiac catheterization equipment;

(3) Portable echocardiography equipment; and

(4) Computed axial tomography equipment (CAT) and magnetic resonance imaging equipment (MRI).

f. The hospital shall document that it has the appropriate equipment necessary for any of the neonatal surgical and special procedures it provides that are specified in the medical protocol and are required for the subspecialty level newborn service.

9. Support services and other resources.

a. The support services and other resources required for the general level newborn service and all higher levels of newborn services shall be as follows:

(1) Clinical laboratory services and blood bank services available in the hospital on a 24-hour basis. Laboratory and blood bank personnel available on-site or on-call on a 24-hour basis;

(2) Group O Rh negative blood available from the blood bank at all times and the blood bank's ability to provide correctly matched blood within 45 minutes of request;

(3) Hospital laboratory and bloodbank personnel capability to perform the following tests with less than 1.0 ml of blood within one hour or less of request if specified: (i) blood group and Rh type determination/cross-matching, (ii) arterial blood gases within 20 minutes, (iii) blood glucose within 20 minutes, (iv) complete blood count, (v) total protein and albumin, (vi) total and direct bilirubin, (vii) direct Coombs' test, (viii) electrolytes, (ix) blood urea nitrogen, (x) clotting profile (may require more than 1.0 ml. of blood); and

(4) Portable radiological services for basic radiologic studies in the nursery available on-call, within 30 minutes of request, on a 24-hour basis.

b. The additional support services and resources required of the intermediate level newborn service shall be as follows:

(1) A respiratory therapist in-house 24 hours a day. The therapist shall have orientation to the neonatal nursery which includes orientation to the appropriate level of care. The therapist shall have documented competence in neonatal respiratory care;

(2) A radiology technician in-house 24 hours a day;

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(3) An ultrasound technician available on-call 24 hours a day;

(4) A laboratory technician in-house 24 hours a day;

(5) A blood bank technician available on call within 30 minutes of request;

(6) A licensed physical therapist or certified occupational therapist available for consultation;

(7) A registered dietitian with documented competence in neonatal nutrition available for consultation;

(8) A biomedical technician, available to the nursery, responsible for the maintenance and safe functioning of specialized medical equipment;

(9) Microvolume assays for xanthines and aminoglycosides available within 12 hours of request;

(10) Blood gases to be performed on 0.25 ml or less heparinized blood within 20 minutes of request;

(11) Blood components available within two hours of request; and

(12) Portable chest x-ray within 20 minutes of request.

c. The specialty level support services and resources that are required in addition to the requirements for the lower level nurseries are as follows:

(1) A blood bank technician in-house 24 hours a day;

(2) A pharmacist with documented competence in neonatal pharmacology on staff;

(3) A licensed physical therapist or certified occupational therapist with documented competence in neonatal care;

(4) A medical social worker as a participating member of the service;

(5) An ultrasound technician on-call 24 hours a day; and

(6) A registered dietitian with documented competence in neonatal nutrition as a participating member of the service.

d. The subspecialty level support services and resources that are required in addition to the requirements of the lower level nurseries are as follows:

(1) A radiologist with documented competence in the interpretation of pediatric and neonatal films readily available for providing pediatric and neonatal x-ray procedures and ultrasound interpretation;

(2) A developmental pediatrician on staff;

(3) A cardiothoracic surgeon with documented competence in pediatric surgical procedures on staff and on-call 24 hours a day;

(4) A pediatric surgeon on staff and on-call 24 hours a day;

(5) An anesthesiologist with documented competence in neonatal anesthesiology on-call 24 hours a day;

(6) The following pediatric subspecialists on staff available to be on-site within 30 minutes of request 24 hours a day:

(a) Cardiology

(b) Endocrinology

(c) Gastroenterology

(d) Genetics

(e) Hematology

(f) Immunology

(g) Infectious Diseases

(h) Metabolism

(i) Nephrology

(j) Neurology

(k) Nutrition

(l) Pharmacology

(m) Pulmonology

(7) The following pediatric surgical subspecialists on staff available to be on-site within 30 minutes of request 24 hours a day:

(a) Neurosurgeon.

(b) Ophthalmologist.

(c) Orthopedic surgeon.

(d) Otolaryngologic surgeon.

(e) Urologic surgeon.

- (8) *An echocardiography technician on staff;*
- (9) *An American College of Medical Genetics certified or eligible genetics counselor on staff;*
- (10) *In-house 24-hour capability for microchemistries;*
- (11) *Hospital resources to provide for the medical follow-up of discharged, high-risk neonates that incorporate a parent education program that includes, but is not limited to, the following:*
- (a) *Pediatric cardiopulmonary resuscitation training;*
- (b) *Home cardiopulmonary monitoring;*
- (c) *Home oxygen monitoring; and*
- (d) *Lactation instruction;*
- (12) *Hospital resources to provide comprehensive, neonatal continuing education to health professionals external to the hospital;*
- (13) *A referral network for cardiovascular surgical consultation; and*
- (14) *The operation of a neonatal transport system on a 24-hour basis. Transports shall be initiated within 30 minutes of request. The neonatal transport system shall operate in accordance with the most current editions of the Guidelines for Air and Ground Transport of Neonatal and Pediatric Patients published by the American Academy of Pediatrics and the Neonatal Transport Standards and Guidelines published by the National Association of Neonatal Nurses.*

D. E. Combined obstetric and clean gynecological service. A hospital may combine obstetric and clean gynecological services. The hospital shall define clean gynecological cases in written hospital policy. A combined obstetric and clean gynecologic service shall be organized under written policies and procedures. The policies and procedures shall be approved by the medical and nursing staff of these services and adopted by the governing body and shall include, but not limited to the following requirements:

1. Cesarean section and obstetrically-related surgery, other than vaginal delivery, shall be carried out in designated operating or delivery rooms. Vaginal deliveries may be performed in designated delivery or operating rooms that are used solely for obstetric or clean gynecologic procedures.
2. Clean gynecological cases may be admitted to the postpartum nursing unit of the obstetric service according to procedures determined by the obstetrics and gynecologic staff and the hospital's infection control committee.

3. Only members of the medical staff with approved privileges shall admit and care for patients in the combined service area. These admissions shall be subject to the medical staff bylaws.

4. Hospitals with a combined service shall limit admission to the service to those patients allowed by policies adopted by the obstetric and gynecological medical staff and the hospital's infection control committee.

5. Unoccupied beds shall be reserved daily in a combined service ready for use by obstetric patients.

6. Patients admitted to the combined service may be taken to radiology or other hospital departments for diagnostic procedures, before or after surgery, if it is not evident that these procedures may be hazardous to the patients or to other patients on the combined service.

7. Patients may receive postpartum or immediate postoperative care in the general recovery room prior to being returned to the combined service area if the following conditions prevail:

a. The recovery room or intensive care unit is a separate unit adjacent to or part of the general surgical operating suite or delivery suite;

b. The recovery room is under the direct supervision of the chairman of the anesthesiology department of the hospital. In separate obstetric recovery rooms, supervision shall be provided by the obstetrician in charge or by physicians approved by the medical staff of the combined service.

8. Nursing care of all patients shall be supervised by a registered nurse.

9. Nursing care of both obstetrical and gynecological patients may be given by the same nursing personnel.

10. Visitor regulations applicable to visitors of obstetric patients shall also apply to visitors of other patients admitted to the combined service.

E. Infection Control

F. In addition to the infection control requirements specified in § 2.27 of these regulations, the hospital's infection control committee, in cooperation with the obstetric and newborn medical and nursing staff, shall establish written policies and procedures for infection control within the obstetric and newborn services. The policies and procedures shall be adopted by the governing body and shall include, but not be limited, to the following:

1. The establishment of criteria for determining infection-related maternal and newborn morbidity;

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2. Written criteria for the isolation or segregation of mothers and newborns, in accordance with Guidelines for Perinatal Care (American Academy of Pediatrics/American College of Obstetricians and Gynecologists) and Control of Communicable Diseases in Man (American Public Health Association) to include at least the following categories:

- a. Birth prior to admission to the facility;
- b. Birth within the facility but prior to admission to the labor and delivery area;
- c. Readmission to the service after transfer or discharge;
- d. Presence of infection;
- e. Elevated temperature; and
- f. Presence of rash, diarrhea, or discharging skin lesions;

3. Written policies and procedures for the isolation of patients in accordance with Guidelines for Perinatal Care (AAP/ACOG) and Control of Communicable Diseases in Man (American Public Health Association) including, but not limited to the following:

- a. Ensuring that a physician orders and documents in the patient's medical record the placement of a mother or newborn in isolation;
- b. Ensuring that at least one labor room is available for use by a patient requiring isolation;
- c. Provisions for the isolation of a mother and newborn together (rooming-in) or separately; and
- d. Policies and procedures for assigning nursing personnel to care for patients in isolation;

4. Control of traffic, including personnel and visitors. Policies and procedures shall be established in the event that personnel from other services must work in the obstetric and newborn services or personnel from the obstetric and newborn services must work on other services. Appropriate clothing changes and handwashing shall be required of any individual prior to assuming temporary assignments or substitution from any other area or service in the hospital.

5. Determination of the health status of personnel, and control of personnel with symptoms of communicable infectious disease;

6. Review of cleaning procedures, agents, and schedules in use in the obstetric and newborn services. Incubators or bassinets shall be cleaned with detergent and disinfectant registered by the U.S. Environmental Protection Agency each time a

newborn occupying it is discharged or at least every seven days;

7. Techniques of patient care, including handwashing and the use of protective clothing such as gowns, masks, and gloves;

8. Infection control in the nursery including, but not limited to, the following:

- a. Closing of the nursery immediately in the event of an epidemic, as determined by the infection control director in consultation with the medical director and the Department of Health;
- b. Assigning a newborn to a clean incubator or bassinet at least every seven days;
- c. Using an impervious cover that completely covers the surface of the scale pan if newborns are weighed on a common scale, and changing the cover after each newborn is weighed;
- d. Gowning in isolation cases;
- e. Requiring that nursery personnel wear clean scrub attire in the nursery when they are handling infants. Appropriate cover garments shall be worn over scrub attire when personnel are holding infants. Personnel shall wash their hands after contact with each patient and upon entering or leaving the nursery.

V.A.R. Doc. No. R95-181; Filed December 7, 1995, 12:36 p.m.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

Title of Regulations: VR 460-01-11. Application, Determination of Eligibility and Furnishing Medicaid (§ 2.1 (b)).

VR 460-02-2.1100. Definition of Medicaid State Plan Health Maintenance Organizations (HMOs) (Attachment 2.1 A).

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

Public Hearing Date: N/A – Written comments may be submitted through February 24, 1995.

(See Calendar of Events section for additional information)

Basis and Authority: Section 32.1-325 of the Code of Virginia grants to the Board of Medical Assistance Services (BMAS) the authority to administer and amend the Plan for Medical Assistance. The Code of Virginia also provides, in §§ 9-6.14:7.1 and 9-6.14:9.1 of the Administrative Process Act (APA), for this agency's promulgation of proposed regulations subject to the Governor's review.

The Appropriations Act, passed by the 1994 General Assembly, required the Department of Medical Assistance Services (DMAS) to implement a health maintenance organization contracting program effective May 1, 1994. Subsequent to an emergency adoption action, the agency is initiating the public notice and comment process as contained in Article 2 of the APA. The emergency regulation became effective on July 1, 1994. Section 9-6.14:4.1 C of the Code of Virginia requires the agency to publish the Notice of Intended Regulatory Action within 60 days of the effective date of the emergency regulation if it intends to promulgate a permanent replacement regulation. The Notice of Intended Regulatory Action for this regulation was published in the Virginia Register on August 22, 1994.

Purpose: The purpose of this proposal is to promulgate permanent regulations to supersede the current emergency regulation containing substantially the same policies. These regulations will allow the agency to continue providing health care services in a more economical and efficient manner via capitation contracts.

Summary and Analysis: The sections of the State Plan affected by this action are § 2.1(b) (VR 460-01-11) and Attachment 2.1 A, Definition of Medicaid State Plan Health Maintenance Organizations (VR 460-02-2.1100).

The Appropriations Act, passed by the 1994 General Assembly, required DMAS to implement a health maintenance organization contracting program effective May 1, 1994. Federal regulations at 42 CFR 434.20(c) require that the Commonwealth define health maintenance organizations in the State Plan prior to entering into risk contracts with entities that are not federally qualified health maintenance organizations and that are providing comprehensive services. The federal regulations define extensive requirements for health maintenance organizations, which the State Corporation Commission's Bureau of Insurance has promulgated as Regulation 28. Rather than promulgate a separate set of regulations, DMAS is incorporating by reference Regulation 28. A new Attachment (2.1 A) is being added to the State Plan to define a Medicaid health maintenance organization as required.

The Medicaid services covered by the health maintenance organizations will be specifically defined in provider contracts. Applicable State Plan services not provided in these contracts will be covered through fee-for-service Medicaid providers.

Issues: The agency projects no negative issues involved in implementing this proposed regulation. There are no disadvantages to the public, the agency, or the Commonwealth. The primary advantage to all parties is the inclusion of health maintenance organizations as Medicaid providers. The health maintenance organizations will be reimbursed as providers, the agency and Commonwealth will arrange for services more economically and more efficiently, and the recipients will

receive more consistent services from centralized providers.

Fiscal/Budget Impact: This regulation will allow DMAS to contract with health maintenance organizations. The rate of payment to health maintenance organizations will be 5.0% below the cost to the department of providing those services outside the health maintenance organization. The 1994 Appropriations Act reflects a savings from health maintenance organization contracting of \$1 million (\$500,000 general funds, \$500,000 nongeneral funds) in fiscal year 1995 and \$5 million (\$2.5 million GF, \$2.5 million NGF) in fiscal year 1996.

The introduction of voluntary health maintenance organizations presents no additional costs to eligible clients. Clients will have additional health care alternatives from which to choose. The agency cannot determine the number of persons affected because the regulation is an optional method of service for recipients.

Providers that are outside the network of health maintenance organizations may lose some clients. Providers inside the network of health maintenance organizations may gain some clients. Most of Virginia's health maintenance organizations are the Individual Practice Association (IPA) model type, in which the health maintenance organization uses the same physicians as are otherwise available to the community.

Compliance and medical costs have already been adjusted for levels prior to the emergency regulation process. Costs to the Commonwealth of contracting and ensuring proper contract performance are offset by savings primarily in the area of claims processing.

Each health maintenance organization is licensed to operate in specific service areas. Health maintenance organizations will be covered by these regulations statewide.

Summary:

The Appropriations Act, passed by the 1994 General Assembly, required the Department of Medical Assistance Services (DMAS) to implement a health maintenance organization contracting program effective May 1, 1994. Federal regulations at 42 CFR 434.20 (c) require that the state define health maintenance organizations in the State Plan prior to entering into risk contracts with entities that are not federally qualified health maintenance organizations and that are providing comprehensive services. The regulations define extensive requirements for health maintenance organizations, which the State Corporation Commission's Bureau of Insurance has promulgated as Regulation 28. Rather than promulgate a separate set of regulations, DMAS is incorporating by reference Regulation 28. A new Attachment (2.1 A) is being added to the State Plan to define a Medicaid health maintenance organization

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as required.

VR 460-01-11. Application, Determination of Eligibility and Furnishing Medicaid (§ 2.1 (b)).

Citation: 42 CFR 435.914, 1902(a)(34) of the Act

§ 2.1(b) (1) Except as provided in § 2.1(b)(2) and (3) below, individuals are entitled to Medicaid services under the plan during the three months preceding the month of application, if they were, or on application would have been, eligible. The effective date of prospective and retroactive eligibility is specified in Attachment 2.6-A.

Citation: 1902(e)(8) and 1905(a) of the Act

(2) For individuals who are eligible for Medicaid cost-sharing expenses as qualified Medicare beneficiaries under § 1902(a)(10)(E)(i) of the Act, coverage is available for services furnished after the end of the month in which the individual is first determined to be a qualified Medicare beneficiary. Attachment 2.6-A specifies the requirements for determination of eligibility for this group.

Citation: 1902(a)(47) and 1920 of the Act

(3) Pregnant women are entitled to ambulatory prenatal care under the plan during a presumptive eligibility period in accordance with § 1920 of the Act. Attachment 2.6-A specifies the requirements for determination of eligibility for this group.

Citation: 42 CFR 434.20

§ 2.1(c) The Medicaid agency elects to enter into a risk contract with ~~an HMO~~ a health maintenance organization that is:

Qualified under Title XIII of the Public Health Service Act or is provisionally qualified as ~~an HMO~~ a health maintenance organization pursuant to § 1903(m)(3) of the Social Security Act.

Not federally qualified, but meets the requirements of 42 CFR 434.20(c) and is defined in Attachment 2.1-A.

Not applicable.

VR 460-02-2.1100. Definition of Medicaid State Plan Health Maintenance Organizations (HMOs) (Attachment 2.1 A).

§ 1. Definitions.

A Virginia Medicaid qualifying health maintenance organization (HMO) is defined as an entity which has a license to operate as a health maintenance organization issued by the Bureau of Insurance of the State Corporation Commission.

§ 2. Incorporation by reference.

The Bureau of Insurance of the State Corporation Commission, through Insurance Regulation No. 28, Rules Governing Health Maintenance Organizations, effective September 1, 1987, provides licensing only to health maintenance organizations meeting the requirements of 42 CFR 434.20 (c). The Department of Medical Assistance Services hereby incorporates by reference Insurance Regulation No. 28.

§ 3. Organization and description.

Virginia Medicaid qualifying health maintenance organizations shall be primarily organized for the purpose of providing health care services. As provided for in Regulation 28, a health maintenance organization is an organization which undertakes to provide or arrange for one or more health care plans. A health care plan is any arrangement in which any health maintenance organization undertakes to provide, arrange for, pay for, or reimburse any part of the cost of any health care services.

§ 4. Accessibility of services.

Virginia Medicaid qualifying health maintenance organizations shall make the services they provide as accessible to Medicaid enrollees as those services are available to nonenrolled Medicaid recipients within the area served by the Virginia Medicaid qualifying health maintenance organization. As provided for in Regulation 28, all Virginia Medicaid qualifying health maintenance organizations must establish and maintain arrangements satisfactory to the Medicaid agency to assure both availability and accessibility of personnel and facilities providing health care services including:

1. Reasonable hours of operation and after-hours emergency health care;

2. Reasonable proximity to enrollees within the service area, so as not to result in unreasonable barriers to accessibility;

3. Sufficient personnel, including health professionals, administrators, and support staff, to reasonably assure that all services contracted for will be accessible to enrollees on an appropriate basis without delays detrimental to the health of the enrollee; and

4. Adequate arrangements to provide inpatient hospital services for basic health care.

§ 5. Financial requirements.

Regulation 28 provides controls limiting the risk of insolvency of Virginia Medicaid qualifying health maintenance organizations, and assuring that Medicaid enrollees will not be liable for any Virginia Medicaid qualifying health maintenance organization's debts should

it become insolvent. Specifically, Regulation 28 sets forth the requirements for a Virginia Medicaid qualifying health maintenance organization's minimum net worth, deposits with the State Treasurer, mandated liability insurance, enrollee hold harmless provisions in subcontracts, and accounting and reporting responsibilities.

§ 6. Terms and conditions.

The Medicaid agency shall, through the terms and conditions of risk contracts with Virginia Medicaid qualifying health maintenance organizations, make provisions for meeting the additional requirements provided for in 42 CFR 434.

V.A.R. Doc. No. R95-176; Filed December 7, 1994, 11:42 a.m.

THE COLLEGE OF WILLIAM AND MARY

REGISTRAR'S NOTICE: The College of William and Mary is exempt from the Administrative Process Act in accordance with § 9-6.14:4.1 A 6 of the Code of Virginia, which exempts educational institutions operated by the Commonwealth.

Title of Regulation: VR 187-01-02. Motor Vehicle Parking and Traffic Rules and Regulations.

Statutory Authority: § 23-9.2:3 of the Code of Virginia.

Public Hearing Date: N/A - Written comments may be submitted until February 26, 1994.

(See Calendar of Events section for additional information)

Summary:

The amendments increase several decal fees by \$1.00 or \$2.00 on an annual basis. The college has changed the enforcement of the parking meters at Hunt Circle, and the faculty/staff designation of the PBK and Morton Hall lots.

VR 187-01-02. Motor Vehicle Parking and Traffic Rules and Regulations.

PART I. GENERAL PROVISIONS.

§ 1.1. Decals.

§ 1-1. A. 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. B. 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. C. 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 \$52	\$30.00 \$31	\$20.00 \$21
Non-College Affiliated	\$50.00 \$52	\$30.00 \$31	\$20.00 \$21
Hourly Part-Time Employee	\$25.00 \$26	\$25.00 \$26	\$20.00 \$21
Evening Student	\$25.00 \$26	\$25.00 \$26	\$20.00 \$21
William & Mary Hall Lot Only	\$20.00 \$21	\$20.00 \$21	\$20.00 \$21
Motorcycle	\$25.00 \$26	\$25.00 \$26	\$20.00 \$21
Additional Decal	\$ 5.00	\$ 5.00	\$ 5.00

§ 1.2. Temporary permits.

§ 1-4. A. 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. B. Temporary permits, at no charge and with a two-hour limit, are available for loading and unloading (two-hour limit), temporary handicaps, temporary plates and car repairs.

§ 1-6. § 1.3. Enforcement of parking meters.

In general, campus parking meters are enforced 7 a.m. to 5 p.m., Monday through Saturday. However, meters at Hunt Hall are enforced from 7:30 a.m. to 5 p.m., Monday through Saturday, and those at Swem Library are enforced seven days a week, 24 hours a day. Multiple citations may be issued at meters.

§ 1.4. Payment of fines.

§ 1-7. A. Tickets paid within 10 working days of the date of the ticket will be reduced by \$5.00.

§ 1-8. B. Payment for fines for wheellocked vehicles may be paid by check or credit card.

§ 1-9. C. 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.

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~~§ 1-10.~~ § 1.5. Faculty/staff lots.

A. 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.~~ B. Jones Lot is reserved 24 hours a day, seven days a week for faculty/staff only.

§ 1.6. Miscellaneous provisions.

A. 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.

~~§ 1-13.~~ B. Parking in the Common Glory lot (Lot D) is prohibited unless there is a curb blocker at the space.

~~§ 1-14.~~ C. Individuals who are associated with the college and have handicapped tags shall also display a William and Mary parking decal.

~~§ 1-15.~~ D. Fees for parking decals are not refundable.

~~§ 1-16.~~ E. The use of hazard lights does not preclude the issuance of a citation if the vehicle is in violation of parking rules.

~~§ 1-17.~~ F. Temporary/Visitor Permits are available from Campus Police when the Parking Services office is not open.

~~§ 1-18.~~ G. When vehicle or license plate information changes, please notify the Office of Parking Services, x14764.

II. Enforcement of the faculty/staff designation at the PBK and Morton Hall lots runs from 7:30 a.m. to 5 p.m.

PART II. REGISTRATION OF MOTOR VEHICLES.

§ 2.1. Registration of motor vehicles.

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. Classification of registrant.

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. Categories of decals.

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.

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 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. Enforcement.

§ 4.1. A. The Campus Police are authorized to enforce moving violations which will be returnable in the respective district courts.

§ 4.2. B. 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. C. In all cases, the directions of a police officer supersede the regulations posted by sign or signal.

§ 4.4. § 4.2. Vehicles on sidewalks.

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. § 4.3. Applicability of Part IV.

Sections 4.1 through 4.5 and 4.2 apply equally to any person parking or operating a motor vehicle on college property.

PART V. PARKING REGULATIONS.

Article 1. General Provisions.

§ 5.1. Decal or permit required: exceptions.

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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. *Parking/no parking designations.*

A. 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. B. 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. C. "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. D. 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. E. 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. *§ 5.2. Vacating certain lots.*

A. 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. B. 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. C. 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. *§ 5.3. Parking on grass.*

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. *§ 5.4. Special events.*

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. *§ 5.5. Motorcycles.*

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. *§ 5.6. Double parking.*

Double parking is never permitted.

§ 5.14. *§ 5.7. Bumper blocks.*

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:~~ § 5.8. *Disabled vehicles.*

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:~~ § 5.9. *Handicapped parking.*

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:~~ § 5.10. *Parking by permit only.*

Parking at the York River Campus is by permit only. All employees are entitled to park in any nonreserved space. Provisions for handicapped parking are set out in ~~§ 5-21:~~ § 5.14, and visitor parking is set out in ~~§ 5-22:~~ § 5.15.

Article 3.
Williamsburg Campus Parking.

~~§ 5-18:~~ § 5.11. *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:~~ § 5.12. *Day student parking.*

Students having Day decals may park only in areas designated as day parking.

~~§ 5-20:~~ § 5.13. *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:~~ § 5.14. *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:~~ § 5.15. *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:~~ § 5.16. *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. *Enforcement authority.*

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. *Additional citations for same violation.*

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. *Consistency of enforcement.*

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

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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. Responsibility for violation.

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. Removal of vehicle.

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. Payment of fines.

A. Citation fines must be paid or appealed within 10 working days from the date the ticket is issued.

§ 6.7. B. The owner or operator of a wheellocked vehicle must pay any outstanding fines and the additional wheellock fee (\$20) 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. § 6.7. 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	\$30
Handicapped Space	\$25	\$30
Towed - Special Event	\$25	\$30
Illegal Parking:		
Firelane	\$10	\$15
Reserved Space	\$10	\$15
Expired Meter	\$10	\$15
No Parking Zone	\$10	\$15
Vendor's Space	\$10	\$15
Improper Display	\$10	\$15
Overtime	\$10	\$15
Visitor's Space	\$10	\$15
Sidewalk/Crosswalk /Grass	\$10	\$15
Improper Parking/Other	\$10	\$15

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. § 6.8. 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:

No decal/failure to buy additional decal

No spaces available

Bad weather/didn't want to walk

Usually park off campus

Didn't have time to get a decal

Someone else driving my vehicle

Residents parked in day spaces

Day students parked in resident spaces

Students in faculty/staff spaces

Nonpayment of past due fines may not entitle students to register for and attend classes.

~~§ 6.10.~~ § 6.9. 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. R95-151; Filed November 23, 1994, 11:49 a.m.

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For information concerning Final Regulations, see information page.

Symbol Key

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

DEPARTMENT OF CORRECTIONS (STATE BOARD OF)

Title of Regulation: VR 230-01-005. Regulations for Public/Private Joint Venture Work Programs Operated in a State Correctional Facility.

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

Effective Date: January 26, 1995.

Summary:

These regulations govern the form and review process for proposed agreements between the Director of the Department of Corrections and a public or private entity to operate a work program in a state correctional facility for inmates confined therein. The regulations establish both the review process and criteria for evaluating proposed agreements.

Changes made to the regulation since the proposed version include only those prompted by public comment. The changes include a definition of prevailing wage, an explanation of the department's internal review process, and the addition of a sample application form to be used when submitting proposals.

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

Agency Contact: Copies of the regulation may be obtained from Amy Miller, Agency Regulatory Coordinator, Department of Corrections, 6900 Atmore Drive, Richmond, VA 23225, telephone (804) 674-3119. There may be a charge for copies.

VR 230-01-005. Regulations for Public/Private Joint Venture Work Programs Operated in a State Correctional Facility.

PART I. GENERAL PROVISIONS.

§ 1.1. Definitions.

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

"Agreement" means a legal arrangement between the

Director of the Department of Corrections and a public or private entity to operate a work program in a state correctional facility for prisoners confined therein.

"Board" means the Board of Corrections.

"Committee" means the group appointed by the Governor which reviews any proposed agreement between the Director of the Department of Corrections and a public or private entity to operate a work program in a state correctional facility for prisoners confined therein. The committee consists of representatives from an employee association or organization, the business community, a chamber of commerce, an industry association, the Office of the Secretary of Commerce and Trade, and the Office of the Secretary of Public Safety.

"Department" means the Department of Corrections.

"Director" means the Director of the Department of Corrections.

["Prevailing wage" means a rate which is not less than that paid for work of a similar nature in the locality in which the work is to be performed.]

§ 1.2. Purpose.

These regulations govern the form and review process for proposed agreements between the Director of the Department of Corrections and a public or private entity to operate a work program in a state correctional facility for inmates confined therein.

PART II. REVIEW PROCESS.

§ 2.1. Review process.

A. [~~The department shall receive any proposed agreement directly from the public or private entity, and shall conduct initial research and evaluation of the proposed agreement.~~ Any proposed agreement between the department and the public or private entity shall consist of a Proposed Joint Venture Application Form which shall be completed by the public or private entity. The completed application form shall be submitted directly to the department, which shall then forward the application to the appropriate organizational unit for initial research and evaluation of the proposed agreement. This initial research and evaluation shall be completed in a timely manner, not to exceed 30 calendar days from the receipt of the completed application from the public or private entity.]

B. The department shall submit the proposed agreement with a submission package to the board. The submission package shall include, at a minimum:

1. A prospectus of the public or private entity.
2. A description of the size and scope of the proposed operation.
3. An assessment of the project's financial viability.
4. A recommendation for entering or not entering into the proposed agreement.
5. Draft formal agreement papers, if the department recommends entering into the agreement.

C. The board shall review the proposed agreement and submission package and submit the package to the committee with a recommendation for entering or not entering into the agreement.

D. The committee shall evaluate the proposed agreement according to the criteria listed under § 3.1.

E. Upon approval by the committee, any contractual documents implementing the agreement shall be forwarded to the Office of the Attorney General to ensure compliance with state statutes.

F. Upon the assurance of the Office of the Attorney General that the agreement is in compliance with state statutes, the Governor shall review the agreement.

G. Upon the Governor's authorization, the director and the public or private entity may sign the agreement.

PART III. CRITERIA.

§ 3.1. Criteria.

A. The committee shall review the provisions of any proposed agreement according to the following criteria:

1. The proposed agreement shall provide adequate job skills to inmate participants. Any proposed agreement which requires relatively unskilled labor may be acceptable providing the work project establishes good work habits.
2. The public or private entity shall be environmentally sound, with appropriate certification, as required by applicable state and federal regulations.
3. The public or private entity shall provide prevailing or minimum wage, whichever is applicable.
4. The public or private entity shall provide Equal Employment Opportunity for all inmates involved in

the proposed agreement.

5. The proposed agreement shall demonstrate financial viability.

a. If the department acts as a subcontractor in the proposed agreement, the proposed agreement shall be evaluated by its capability both to meet the required goods or services as well as to provide an acceptable rate of return to the department.

b. If the department acts as a supplier of labor in the proposed agreement, the proposed agreement shall be evaluated upon its capability to provide a gross margin both to cover the expenses of the department as well as to generate a sufficient return on investment to the department.

6. The proposed agreement shall not displace civilian workers.

7. Any rent paid to the department for space occupied by the participating public or private entity shall be at a reasonable rate.

8. The product produced by the proposed agreement may be sold on the open market.

9. The proposed agreement shall meet any provisions listed in §§ 53.1-41 through 53.1-62 of the Code of Virginia pertaining to "Employment and Training of Prisoners."

B. All criteria listed in § 3.1 A shall be met before the committee approves a proposed agreement.

VA.R. Doc. No. R95-169; Filed December 5, 1994, 1:01 p.m.

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PROPOSED JOINT VENTURE APPLICATION FORM

Please submit this form, when completed, to:

Chief Deputy Director, Department of Corrections
6900 Atmore Drive
Richmond, VA 23225

Name of Company/Agency: _____

Address: _____

Telephone #: (____) _____ Fax # (____) _____

Type(s) of Industry(ies): _____

Please provide a brief description of proposed joint venture. Include such aspects as the role of your company/agency (primary customer base or market, distribution methods, and other information relevant to this proposed agreement.

I certify that I am authorized to submit this application on behalf of the company/agency listed above.

Signature _____ Date _____

Title _____

DEPARTMENT OF HEALTH (STATE BOARD OF)

REGISTRAR'S NOTICE: The following regulation is exempt from the normal procedures of the Administrative Process Act pursuant to § 32.1-164.5 D of the Code of Virginia, which requires the State Board of Health to adopt, as final, proposed regulations that were the subject of public notice and for which one or more public hearings or informational meetings were held in accordance with the Administrative Process Act after July 1, 1993, and prior to September 30, 1994.

Title of Regulation: VR 355-17-200. Biosolids Use Regulations.

Statutory Authority: §§ 32.1-164, 32.1-164.5 and 62.1-44.19 of the Code of Virginia.

Effective Date: January 25, 1995.

Summary:

The Biosolids Use Regulations provide the means to protect public health from improper and unregulated disposal of sewage and sewage sludge. Discharge of improperly treated and unacceptable quality sewage sludge could result in pollution of surface and groundwater, contamination of soil and exposure of the public to infectious agents. The regulations ensure that public health is not endangered and that environmental resources are properly managed. The regulations define current standards of practice and the technical design standards and operational requirements to ensure that new or upgraded biosolids use facilities provide the capacity and/or performance reliability necessary to comply with permit requirements.

The Biosolids Use Regulations were developed in response to HB1067 (1994), which added §§ 32.1-164.5 and 62.1-44.19:3 of the Code of Virginia pertaining to standards and permits required for land application, marketing, or distribution of sewage sludge. The new regulations will replace applicable sections of the existing Sewerage Regulations (VR 355-17-01) jointly adopted by the State Water Control Board and the State Board of Health in 1977 and currently utilized within the procedures for issuance of Virginia Pollution Abatement (VPA) Permits by the Department of Environmental Quality (DEQ). The new regulations update and revise the technical standards contained in the previous regulations and provide for issuance of Virginia Department of Health (VDH) construction and operation permits by the State Health Commissioner. The Biosolids Use Regulations will provide for the replacement of VPA permits with VDH permits issued to sludge management contractors who land apply, distribute, or market treated sewage sludge of acceptable quality (biosolids). The VDH permits will regulate such operations with site specific management practice standards.

The Biosolids Use Regulations are a compilation of sections from the proposed Sewage Collection and Treatment (SCAT) Regulations. The SCAT Regulations have a lengthy history of development beginning with the proposed 1986 revisions to the existing Sewerage Regulations, up to the 1990 Project Streamline study of state permitting requirements. During that period, public meetings were held across the state to receive comments on the proposed regulations. Four public meetings were noticed and held at different locations in the state during July 1993. The proposed SCAT regulations were revised in accordance with the comments received but have not been adopted.

In 1994, the General Assembly passed HB1067 requiring the issuance of permits for land application, marketing or distribution of sewage sludge (biosolids use). The approved HB1067 (1994) directs the State Board of Health to provide for such permit issuance in accordance with § 32.1-164.5 of the Code of Virginia. The Biosolids Use Regulations were subsequently developed from the proposed SCAT regulations to comply with the legislative mandate to adopt regulations by October 1, 1994. Implementation of the Biosolids Use Regulations prior to any revisions to DEQ permit regulations should prevent disenfranchisement of sludge management contractors as permitted entities.

The existing joint 1977 Sewerage Regulations promulgated by the State Water Control Board and the State Board of Health will remain in effect until superseded by new regulations adopted by either board as appropriate (Chapter 194 of the 1991 Acts of the General Assembly). The Biosolids Use Regulations have been developed to update the existing regulations and clarify the current process utilized to evaluate technology and issue permits. The updated standards will provide assurance to local governments that land application, marketing or distribution of biosolids is properly regulated. Implementation of the Biosolids Use Regulations will provide owners, operators, contractors and local government with uniform standards for site specific management practices.

To ensure an expeditious adoption and implementation of VDH regulations for biosolids use, HB1067 provided for an exemption to the public participation requirements of the Administrative Process Act (APA). The APA exemption stated that the Board of Health could adopt, as final, proposed regulations that were the subject of public notice and for which one or more public informational meetings were held in accordance with the APA, after July 1, 1993, and prior to September 30, 1994. The Attorney General's staff concluded that the Biosolids Use Regulations, developed from the public participation input received on the proposed SCAT regulations, could be brought to the State Board of Health for final adoption in accordance with HB1067. While the Board of Health was authorized to adopt the Biosolids Use Regulations,

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an abbreviated and final opportunity for public comment was noticed in The Virginia Register on August 22, 1994. Comments were subsequently forwarded to VDH and accepted through September 2, 1994. All relevant concerns were evaluated before the final regulations were presented for adoption by the State Board of Health. The State Board of Health adopted the regulations at its meeting on September 9, 1994. Although the final adoption process was accelerated, the regulated community has been directly involved since 1990 in establishing the provisions included in the Biosolids Use Regulations.

Although several commentaries expressed concerns, the Biosolids Use Regulations are not arbitrarily more stringent than the federal standards recently adopted by the USEPA as the CFR 40, Part 503 regulations. Site specific requirements have been incorporated in the state regulations to ensure the level of environmental and public health protection that has been requested by the citizens of the Commonwealth. Similar site specific and operational provisions are currently incorporated in existing Virginia Pollution Abatement permits that will be converted to Virginia Department of Health permits issued under the Biosolids Use Regulations. Many of the requirements contained in these regulations have been included at the request of local governments and are supported by sludge management operators throughout the state. The new regulations provide a uniform set of statewide requirements for permit issuance.

In order to comply with the statutory requirements imposed by HB1067 and in the interest of protecting the public health of all Virginians, it is appropriate to proceed with the final adoption of these regulations as recommended by the Office of the Attorney General. Because VDH is committed to ongoing assessment of all regulatory requirements, the department plans to convene the Biosolids Use Regulations Advisory Committee to analyze the implementation plan for these regulations. Through participation in the regulatory evaluation and review process, remaining concerns will be fully addressed.

VR 355-17-200. Biosolids Use Regulations.

PART I. PROCEDURAL REGULATIONS.

Article 1. Definitions and Terms.

§ 1.1. Definitions.

A. Unless otherwise specified, for the purpose of these Biosolids Use Regulations, the following words and terms shall have the following meaning unless the context clearly indicates otherwise:

"Biosolids" means a sewage sludge that has received an

established treatment for required pathogen control and is treated or managed to reduce vector attraction to a satisfactory level and contains acceptable levels of pollutants, such that it is acceptable for use [~~by~~ for] land application, marketing or distribution in accordance with these regulations.

"Board" means the State Board of Health.

"Certificate" means a permit issued by the State Water Control Board in accordance with VR 680-14-01.

"Commissioner" means the State Health Commissioner.

"Critical areas/waters" means areas/waters in proximity to shellfish waters, a public water supply, recreation or other waters where health or water quality concerns are identified by the Department or the State Water Control Board.

"Conventional design" means the designs for unit operations (treatment system component) or specific equipment that has been in satisfactory operation for a period of one year or more, for which adequate operational information has been submitted to the division to verify that the unit operation or equipment is designed in substantial compliance with these regulations.

"Department" means the State Department of Health.

"Discharge" means (when used without qualification) discharge of pollutant or any addition of any pollutant or combination of pollutants to State waters or waters of the contiguous zone or ocean other than discharge from a vessel or other floating craft when being used as a means of transportation.

"Division" means the Division of Wastewater Engineering of the Office of Water Programs, the administrative unit responsible for implementing these regulations.

"Effluent limitations" means [~~any restrictions, or~~] schedules of compliance, prohibitions [~~or~~ ,] permit requirements [,] established under state or federal law for control of sewage discharges.

"Exceptional quality biosolids" means biosolids that have received an established level of treatment for pathogen control and vector attraction reduction and contain known levels of pollutants, such that they may be marketed or distributed for public use in accordance with these regulations.

"Facilities" means processes, equipment, storage devices and [~~land~~ dedicated sites, located or operated separately from a treatment works, utilized for sewage sludge management,] including but not limited to, [~~land~~ application handling, treatment, transport and storage] of biosolids.

"Field office" means the Environmental Engineering Field Office of the Office of Water Programs through which the division implements its field operations.

"Industrial wastes" means liquid or other wastes resulting from any process of industry, manufacture, trade or business, or from the development of any natural resources.

"Land application" means the distribution of treated wastewater of acceptable quality, referred to as effluent, or stabilized sewage sludge of acceptable quality, referred to as biosolids, upon, or insertion into, the land with a uniform application rate for the purpose of [~~assimilation, utilization and~~ utilization, assimilation or] pollutant removal. [~~Distribution of effluent, or biosolids, on bare ground that is not uniformly covered to a level of 60% or more with sufficient vegetation or crop residue (stalks, vines, stubble, etc.) is not land application unless the effluent, or biosolids is incorporated into the layer of soil that will support vegetative growth within the required time period.~~] Bulk disposal of stabilized sludge in a confined area, such as in landfills, is not land application. [Sites approved for land application of biosolids are not to be considered to be treatment works.]

"Manual" and "manual of practice" means Part III of the Biosolids Use Regulations.

"Operate" means the act of making a decision on one's own volition (i) to place into or take out of service a unit process or unit processes or (ii) to make or cause adjustments in the operation of a unit process or unit processes at a treatment works.

"Owner" means the Commonwealth or any of its political subdivision including sanitary districts, sanitation district commissions and authorities, federal agencies, any individual, any group of individuals acting individually or as a group, or any public or private institution, corporation, company, partnership, firm or association which owns or proposes to own a sewerage system or treatment works.

"Permit" means an authorization granted by the commissioner to construct, or operate, facilities and specific sites utilized for biosolids management, including land application, marketing and distribution of biosolids.

"Pollutant" means any substance, radioactive material, or waste heat which causes or contributes to, or may cause or contribute to, pollution.

"Pollution" means such alteration of the physical, chemical or biological properties of any state waters as will, or is likely to, create a nuisance or render such waters (i) harmful or detrimental or injurious to the public health, safety or welfare, or to the health of animals, fish or aquatic life; (ii) unsuitable with reasonable treatment for use as present or possible future sources of public water supply; or (iii) unsuitable for

recreational, commercial, industrial, agricultural or for other reasonable uses; provided that [:] (a) an alteration of the physical, chemical or biological property of state waters, or a discharge or a deposit of sewage, industrial wastes or other wastes to state waters by any owner which by itself is not sufficient to cause pollution, but which, in combination with such alteration of, or discharge or deposit to state waters by other owners, is sufficient to cause pollution; (b) the discharge of untreated sewage by any owner into state waters; and (c) contributing to the contravention of standards of water quality duly established by the State Water Control Board are "pollution" for the terms and purposes of this regulation.

"Primary sludge" means sewage sludge removed from primary settling tanks [~~designed in accordance with § 3-33~~] that is readily thickened by gravity thickeners [~~designed in accordance with § 3-36~~] .

"Process" means a system, or an arrangement of equipment [~~of or~~] other devices such that a waste material can be subsequently treated to remove pollutants, including, but not limited to, a treatment works or portions thereof.

"Settled sewage" is effluent from a basin in which sewage is held or remains in quiescent conditions for 12 hours or more and the residual sewage sludge is not reintroduced to the effluent following the holding period. Sewage flows not in conformance with these conditions providing settled sewage shall be defined as nonsettled sewage.

"Sewage" means the water-carried and nonwater-carried human excrement, kitchen, laundry, shower, bath or lavatory wastes, separately or together with such underground, surface, storm and other water and liquid industrial wastes as may be present from residences, buildings, vehicles, industrial establishments or other places.

"Sewage sludge" or "sludge" means any solid, semisolid, or liquid residues which contain materials removed from municipal or domestic wastewater during treatment including primary and secondary residues. Other residuals or solid wastes consisting of materials collected and removed by sewage treatment, septage and portable toilet wastes are also included in this definition. Liquid sludge contains less than 15% dry residue by weight. Dewatered sludge contains 15% or more dry residue by weight.

"Shall" means a mandatory requirement.

"Should" means a recommendation.

"Sludge management" means the treatment, handling, transportation, use, distribution or disposal of sewage sludge.

"State waters" means all water, on the surface and under the ground, wholly or partially within, or bordering

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the state or within its jurisdiction.

"Substantial compliance" means designs that do not exactly conform to the guidelines set forth in Part III as contained in documents submitted pursuant to [§ 1-6C § 1.13 of these regulations] but whose construction will not substantially affect health considerations or performance of the sewerage system or treatment works.

"Surface waters" means (i) all waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide; (ii) all interstate waters, including interstate "wetlands"; (iii) all other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, "wetland," sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including any such waters: (a) which are or could be used by interstate or travelers for recreational or other purposes, (b) from which fish or shellfish are or could be taken and sold in interstate or foreign commerce, or (c) which are used or could be used for industrial purposes by industries in interstate commerce; (iv) all impoundments of waters otherwise defined as waters of the United States under this definition; (v) tributaries of waters identified in clauses (i) through (iv) of this definition; (vi) the territorial sea; and (vii) "wetlands" adjacent to waters (other than waters that are themselves wetlands) identified in clauses (i) through (vi) of this definition.

"Toxic pollutant" means any agent or material including, but not limited to, those listed under Section 307(a) of the Clean Water Act which after discharge will, on the basis of available information, cause toxicity.

"Toxicity" means the inherent potential or capacity of a material to cause adverse effects in a living organism, including acute or chronic effects to aquatic life, detrimental effects on human health or other adverse environmental effects.

"Treatment works" means any device or system used in the storage, treatment, disposal or reclamation of sewage or combinations of sewage and industrial wastes, including but not limited to pumping, power and other equipment and their appurtenances, septic tanks and any works, including land, that are or will be (i) an integral part of the treatment process or (ii) used for ultimate disposal of residues or effluents resulting from such treatment.

"Use" means to manage or recycle a processed waste product in a manner so as to derive a measurable benefit as a result of such management.

"Variance" means any mechanism or provision which allows a conditional approval based on a waiver of specific regulations to a specific owner relative to a specific situation under documented conditions for a

specified time period.

"Water quality standards" means the narrative statements for general requirements and numeric limits for specific requirements that describe the water quality necessary to meet and maintain reasonable and beneficial uses. Such standards are established by the State Water Control Board under § 62.1-44.15(3a) of the Code of Virginia.

B. Generally used technical terms not defined in subsection A of this section shall be defined in accordance with "Glossary - Water and Wastewater Control Engineering" published by American Public Health Association (APHA), American Society of Civil Engineers (ASCE), American Water Works Association (AWWA), and Water Pollution Control Federation (WPCF).

Article 2. Procedures.

§ 1.2. Compliance with the Administrative Process Act.

The provisions of the Virginia Administrative Process Act, Chapter 1.1:1 (§ 9-6.14:1 et seq.) of Title 9 of the Code of Virginia, and Title 32.1 of the Code of Virginia govern the adoption and enforcement of these regulations. All procedures outlined below are in addition to, or in compliance with, the requirements of that Act.

§ 1.3. Powers and procedures of regulations not exclusive.

The board reserves the right to utilize any lawful procedure for the enforcement of these regulations.

§ 1.4. Reserved.

§ 1.5. Reserved.

§ 1.6. Exception: Emergency regulations.

If the establishment of a regulation is necessary for the preservation of public health, safety, or welfare, the board or commissioner may immediately promulgate and adopt the necessary regulation by complying with the procedures set forth in § 32.1-13 of the Code of Virginia, or the Administrative Process Act.

§ 1.7. Enforcement of regulations.

A. All biosolids use facilities shall be constructed and operated in compliance with the requirements as set forth in these regulations.

B. Notice. Whenever the commissioner has reason to believe that a violation of Title 32.1 of the Code of Virginia or of any of these regulations has occurred or is occurring, the division shall so notify the alleged violator. Such notice shall be: (i) in writing, with a request to the owner to respond by providing any pertinent information on this issue they may wish; (ii) cite the statute

regulation or regulations that are allegedly being violated; and (iii) state the facts which form the basis for believing that the violation has occurred or is occurring. Such notification is not an official finding or case decision nor an adjudication, but may be accompanied by a request that certain corrective action be taken.

C. Orders. Pursuant to § 32.1-26 of the Code of Virginia, the commissioner may issue orders to require any owner to comply with the provisions of Title 32.1 of the Code of Virginia or these regulations. The order may require:

1. The immediate cessation or correction of the violation;
2. The acquisition or use of additional equipment, supplies or personnel to ensure that the violation does not recur;
3. The submission of a plan to prevent future violations;
4. The submission of an application for a variance;
5. Any other corrective action deemed necessary for proper compliance with the regulations; or
6. Evaluation and approval, if appropriate, of the required submissions.

D. Compliance. The commissioner may act as the agent of the board to enforce all effective orders and these regulations. Should any owner fail to comply with any effective order or these regulations, the commissioner may:

1. Institute a proceeding to revoke the owner's permit in accordance with § 1.22;
2. Request the attorney for the Commonwealth to bring a criminal action;
3. Request the Attorney General to bring an action for civil penalty, injunction, or other appropriate remedy; or
4. Do any combination of the above.

E. Nothing in this section shall prevent the commissioner or the division from taking [~~action~~ actions to obtain compliance with permit requirements] prior to issuing an order [; or] from making efforts to obtain voluntary compliance through conference, warning, or other appropriate means.

§ 1.8. Emergency orders.

The commissioner may, pursuant to § 32.1-13 of the Code of Virginia, issue emergency orders in any case where there is an imminent danger to the public health resulting from the unauthorized construction or operation

of any biosolids use facility. An emergency order may be communicated by the best practical notice under all the circumstances, and is effective immediately upon receipt. The order may state any requirements necessary to remove the danger to the public health, including the immediate cessation of the construction or operation of the biosolids use. Violation of an emergency order is subject to civil enforcement and is punishable as a criminal misdemeanor. Emergency orders shall be effective for a period determined by the commissioner. Emergency orders may be appealed in accordance with the provisions of the Administrative Process Act.

§ 1.9. Variances.

A. The commissioner may grant a variance to a procedural, design, or operational regulation by following the appropriate procedures set forth in this section.

B. Requirements for a variance. The commissioner may grant a variance if he finds that the hardship imposed (may be economic) outweighs the benefits that may be received by the public and that the granting of such variance does not subject the public to unreasonable health risks or environmental pollution.

C. Application for a variance. Any owner may apply in writing for a variance. The application should be sent to the appropriate environmental engineering field office for evaluation. The application shall include:

1. A citation of the regulation from which a variance is requested.
2. The nature and duration of variance requested.
3. A statement of the hardship to the owner and the anticipated impacts to the public health and welfare if a variance were granted.
4. Suggested conditions that might be imposed on the granting of a variance that would limit its detrimental impact on public health and welfare.
5. Other information, if any, believed to be pertinent by the applicant.
6. Such other information as may be required to make the determination in accordance with § 1.9 B of the regulation.

D. Consideration of a variance.

1. The commissioner shall act on any variance request submitted pursuant to this subsection within 90 days of receipt of request.
2. In the commissioner's consideration of whether a biosolids use variance should be granted, the commissioner shall consider such factors as the following:

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a. The effect that such a variance would have on the adequate operation of the biosolids use facility, including public nuisance concerns;

b. The cost and other economic considerations imposed by this requirement; and

c. The effect that such a variance would have on the protection of the public health, or the environment.

E. Disposition of a variance request.

1. The commissioner may grant the variance request and if the commissioner proposes to deny the variance he shall provide the owner an opportunity to an informal hearing as provided in § 9-6.14:11 of the Code of Virginia. Following this opportunity for an informal hearing the commissioner may reject any application for a variance by sending a rejection notice to the applicant. The rejection notice shall be in writing and shall state the reasons for the rejection. A rejection notice constitutes a case decision.

2. If the commissioner proposes to grant a variance request submitted pursuant to this regulation, the applicant shall be notified in writing of this decision. Such notice shall identify the variance, the biosolids use facility involved, and shall specify the period of time for which the variance will be effective. Such notice shall provide that the variance will be terminated when the biosolids use facility comes into compliance with the applicable regulation and may be terminated upon a finding by the commissioner that the biosolids use facility has failed to comply with any requirements or schedules issued in conjunction with the variance. The effective date of the variance shall be 15 days following its issuance.

F. Posting of variances. All variances granted for the design or operation of biosolids use facility are nontransferable. Any requirements of the variance shall become part of the permit for biosolids use subsequently granted by the commissioner.

§ 1.10. Types of hearings.

Hearings before the board, the commissioner, or their designees shall include any of the following forms depending upon the nature of the controversy and the interests of the parties involved. All concerned parties will be provided with a reasonable notice of any intent to consider any public data, documents or information in making case decisions.

1. Informal conference. An informal conference is a conference with the commissioner or his designee with concerned parties, in person, with counsel or other representatives held in accordance with § 9-6.14:11 of the Code of Virginia.

2. Hearing. A hearing is a formal, public proceeding before the commissioner or a designated hearing officer and held in conformance with § 9-6.14:12 of the Code of Virginia.

§ 1.11. Informal conference of right.

The named party that is the subject of a case decision is entitled to an informal conference prior to the final decision. The conference is mandatory, and will be held without demand, unless the party waives its right to the conference, the party agrees to a proposed decision, or the party and the commissioner agree to proceed directly to a hearing. The commissioner's decision following the informal conference shall be the final agency action, and subject to appeal under the Administrative Process Act, as of the date of notification of the affected party, except where a hearing is required by law, or where the commissioner decides that a hearing is appropriate to resolve factual issues, or where the party files a timely petition for a hearing, as set out in § 1.12.

§ 1.12. [~~Hearing.~~ Hearings and petitions.]

A. The named party that is the subject of an order under § 32.1:26 of the Code of Virginia is entitled to a hearing under § 9-6.14:12 of the Code of Virginia prior to the final decision. For case decisions where no hearing is required by law, the commissioner may hold a hearing in any case in his discretion. In cases where no hearing is required and the commissioner does not elect to hold a hearing, any party to a case decision made pursuant to an informal conference may petition the commissioner for a hearing.

B. [~~A hearing may include the following features:~~ Hearing elements include:]

1. Notice. A notice states the time, place, and issues involved in the prospective hearing and is sent to parties requesting the hearing by certified mail at least 15 calendar days before the hearing is to take place.

2. Record. A record of the hearing made by a court reporter or other approved means. A copy of the transcript of the hearing, if transcribed, is provided within a reasonable time to any person upon written request and payment of the cost. If the record is not transcribed, then the cost of preparation of the transcript is borne by the party requesting the transcript.

3. Evidence. All interested parties attending the hearing may present evidence, expert or otherwise, that is material and relevant to the issues in controversy. The admissibility of evidence shall be in accordance with the Administrative Process Act. All parties may be represented by counsel.

4. Subpoena. The commissioner or hearing officer,

pursuant to § 9-6.14:13 of the Code of Virginia, may issue subpoenas for the attendance of witnesses and the production of books, papers, maps, and records. The failure of a witness without legal excuse to appear or to testify or to produce documents may be reported by the commissioner to the appropriate circuit court.

5. Judgment and final order. The commissioner may utilize a hearing officer to conduct the hearing as provided in § 9-6.14:4.1 of the Code of Virginia and to make written recommended findings of fact and conclusions of law to be submitted for review and final decision by the commissioner. The final decision of the commissioner, reduced to writing, contains the explicit findings of fact upon which his decision is based. Copies of the decision shall be delivered to the owner affected by it. Notice of a [final] decision will be served upon the parties and become a part of the record. [~~The~~ A final] decision shall be effective within 15 days of mailing a copy by certified mail, return receipt requested, to the last known address of the affected parties [as required by] § 32.1-26 of the Code of Virginia.

C. [~~Any such petition~~ A petition for a hearing] shall be filed with the commissioner within 30 days of the date the commissioner notifies the party of his decision. If no petition is received within this 30-day period, the commissioner's decision shall be final on the date of the notice of the decision [as provided in § 1.7 of these regulations. Petitions for hearings shall state:]

[~~D. The petition shall state:]~~

1. The identity of the petitioner requesting the hearing, and its counsel, if any;
2. The immediate, pecuniary and substantial interest of the petitioner that is directly affected by the commissioner's decision and how that interest is affected; and,
3. The issues of fact that the petitioner alleges both (i) have been decided erroneously, and (ii) if decided differently would directly affect the petitioner's interest.

[~~E. D.] The commissioner shall notify the petitioner by certified mail, return receipt requested, of his decision to grant or deny the requested hearing. The commissioner may grant the hearing in his discretion if he finds all of the following:~~

1. The petitioner is a party to the decision;
2. The petition is timely and it raises a substantial issue of fact that, if decided differently, would have an immediate, pecuniary, and substantial effect upon an interest of the petitioner; and

3. The factual issue would appropriately be determined under the trial-like procedures of § 9-6.14:12 of the Code of Virginia.

[F.] If the commissioner denies a timely petition for hearing, that denial shall be the final agency action on the underlying decision. If the commissioner grants the petition, the decision following the hearing shall be the final agency action. Where there is no timely petition for a hearing, the commissioner's decision following the informal conference shall be the final agency action.

§ 1.13. Permits.

No owner shall cause or allow the construction, expansion, or modification of facilities necessary for biosolids use except in compliance with a written construction permit from the commissioner unless as otherwise provided for by these regulations. Furthermore, no owner shall cause or allow any facilities [; including ~~specific sites~~, or land application sites] employed for biosolids use to be operated except in compliance with a written operation permit issued by the commissioner which authorizes the operation of the [~~biosolids use~~] facilities [or land application sites] unless otherwise provided for by these regulations. Conditions may be imposed on the issuance of any permit, and [~~no biosolids use facilities may be constructed, modified, or operated in violation of~~ construction, modification, or operation shall be in compliance with] these conditions.

As described in this section, the requirement to formally obtain a construction permit [~~and~~ or] an operation permit [, or both,] through the provisions of this regulation is waived for land application sites meeting the operational restrictions specified in subdivision 1 or 2 of § 2.5, or those sites utilized entirely for research projects with approved monitoring programs.

In order to qualify for a permit waiver for biosolids use, the permittee or owner must file with the division an application or a letter of intent to construct or operate such a system as described above. The letter shall be filed at least 30 days prior to the time that granting of such a waiver would be required to initiate construction [~~and~~ or] operation. The letter shall contain a brief description of: [(i)] the proposed use of biosolids, including land application, marketing or distribution; [(ii)] applicable management practices; [~~the area to be served and~~ (iii)] methods for transporting and handling; and (iv)] the location of the proposed biosolids use. If after review of the application or letter, a determination is made by the commissioner that it is not in the best interest of public health to waive the permit requirements of these regulations, the owner will be so notified and will be required to obtain the applicable construction or operation permits. [The procedure for issuance of a land application operation permit is described in § 1.20.]

§ 1.14. Procedure for obtaining a construction [or operation] permit.

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A. Construction [or operation] permits are issued by the commissioner, but all requests for a construction [or operation] permit shall be directed initially to the field office which serves the area where the facility or land application sites are located. The procedure for obtaining the permit includes one or more of the following steps: (i) the submission of a permit application, [including the applicable information in Appendix A and B and subsection H of this section;] (ii) a preliminary engineering conference; (iii) the establishment of site specific management practices and operation restrictions; (iv) notification of local government and public participation; (v) receipt of comments from all involved agencies as requested by the division; (vi) the submission of [final documents including] an operation plan, or [~~(vii)~~] a sludge management plan. A formal technical evaluation involving a detailed engineering analysis of plans, reports and other design documents submitted in support of a permit application for biosolids use may be required [for issuance of a construction permit] . A formal technical evaluation may be waived following a review of the permit application or the preliminary engineering proposal, provided that the owner's consultant submits a statement that the design and system operation will meet the requirements established herein.

B. All applications shall be submitted on a form provided by the division and shall be submitted by the owner or authorized agent to the appropriate field office. An application for a construction [or operation] permit shall be accompanied by notification that local government will issue necessary approvals in accordance with these regulations. An application for a construction permit for [biosolids use] facilities will not be considered complete until evidence is submitted that an appropriate certificate (draft permit) has been issued or is not required, by the State Water Control Board in accordance with § 62.1-44.19 of the Code of Virginia. The owner will be notified by the division if a technical evaluation of preliminary or final design documents is required following the preliminary engineering conference, if held. [Subsections C through G of this section and §§ 1.15 through 1.19 would not apply to land application operation permit issuance.]

C. A preliminary conference with the appropriate field office engineering staff may be held to establish the requirements for submission of the information necessary for a determination by the commissioner relating to the issuance of a construction permit. The applicant or consultant shall be prepared to set forth any biosolids use problems and the proposed solution in such a manner as to support the conclusions and recommendations presented at this meeting. A preliminary engineering proposal may be submitted prior to, during, or following the preliminary conference.

D. [The objective and content of a] preliminary engineering proposal are described in this subsection.

1. The objective is to facilitate a determination by the commissioner [that whether or not] the proposed

design selected by the owner [either] requires [~~or does not require~~] submission of design documents for a formal technical evaluation to establish that the following standards will be reliably met by operation of the facility or system: (i) compliance with requirements established by the State Water Control Board, and (ii) conformance with applicable minimum requirements established by these regulations, in order that a construction permit be issued.

2. The preliminary engineering proposal when submitted for evaluation shall consist of an engineering report and preliminary plans which shall contain the necessary data to portray the biosolids use problem(s) and solution(s). The requirement for a complete preliminary engineering proposal for small flow or minor projects (generator design flow less than one mgd) can be waived by the division in lieu of a letter from the owner's engineer summarizing the agreements reached at the preliminary engineering conference. For all proposals involving [biosolids use] facilities, whether new or upgraded, the engineer shall make an evaluation of the flood potential at the proposed site(s), using available data and sound hydrologic principles. If a flood potential is indicated, the flood plain boundaries shall be delineated on a site map, showing its relation to the proposed facility(ies) and actions proposed to comply with acceptable management practices.

E. [Plans for biosolids uses Construction plans] for facilities for which a technical evaluation is required, shall provide the information necessary to determine that the final plans, specifications and other documents satisfy (i) requirements established by these regulations and the applicable [agronomic and] engineering standards of practice and (ii) the minimum requirements and limiting factors established in the owner's approved preliminary engineering proposal.

Plans submitted for technical evaluation of [biosolids use] facilities, including [new sites or] substantial modifications [adding new sources of biosolids (new location of storage on site,) or increasing design capacity by more than 20%] from that previously approved shall identify the proposed [sites locations] , management practices, [biosolids sources,] treatment and quality information as required. For new construction, the plan shall include sufficient topographic features to indicate its location relative to streams and other land use facilities, as required. The forms of land use (commercial, residential, and agricultural existing or proposed) buffer zones and access controls, for the near future, surrounding the proposed biosolids use facilities must be indicated. Existing buildings and their type of use within 200 feet of the new site shall be adequately described, e.g., by means of topographic maps, aerial photos, drawings, etc.

Facility closure plans shall address the following information as a minimum:

1. Residual wastewater and sludge treatment, removal and final disposition.
2. Removal of structures, equipment, piping and appurtenances.
3. Site grading and erosion and sediment control.
4. Restoration of site vegetation and access control.
5. Proposed land use (post-closure) of site.

F. Complete technical specifications for the construction of [~~biosolids use~~] facilities and all appurtenances are to accompany the plans submitted for technical evaluation. The specifications accompanying construction drawings shall include, but not be limited to, all construction information not shown on the drawings which is necessary to inform the contractor in detail of the design requirement as to the quality of materials and workmanship and fabrication of the [~~biosolids use~~] facilities [~~and~~ . Also,] the type, size, strength, operating characteristics and rating of equipment [~~and construction materials shall be identified as necessary,] including [(i)] machinery, pumps, valves, piping, and jointing of pipe, electrical apparatus, [~~and~~] operating tools; [~~construction materials~~ , (ii)] special additive materials such as paper, wood, stone, sand, gravel [~~or other waste materials, as well as, and combinations of additive materials; (iii)] miscellaneous appurtenances [utilized] ; (iv) [~~chemicals when used; chemicals required. Specifications shall address] instructions [of for] testing materials and equipment as necessary to meet design requirements and standards of practice; and [shall describe] operating tests for the completed facilities and component units. Specifications shall be submitted to the division in an acceptable number. The title page shall bear the original signature of the appropriately registered professional who prepared the specifications or under whose direct supervision the specifications were prepared.~~~~~~

G. Operation and maintenance manuals prepared for [~~biosolid use~~] facilities [~~are to be shall~~] be submitted for technical evaluation and approval when requested by the division [~~if requested.~~] Manuals for new construction or revised pages for existing but modified (upgrades) facilities submitted to the division for evaluation will be processed as follows:

1. Copies of the manual shall be submitted to the division in the number specified. An evaluation will not commence until the applicant has submitted all necessary information (see Appendix A).
2. The division will evaluate the technical contents of the manual and will notify the owner (and manual preparer if appropriate) of any necessary revisions to the manual. The owner is responsible for ensuring that the required revisions are made and submitted to the division.

3. The manual contents will be evaluated for compliance with these regulations and the State Water Control Board's permit regulations and the owner notified of the commissioner's approval or disapproval following receipt of a complete manual.

One copy of the approved manual will be stamped by the division and returned to the owner. If the manual is disapproved, the owner will be notified of conditions, if any, which must be satisfied for approval. The owner will be responsible for ensuring that such conditions are satisfied in accordance with the operation permit.

4. If the commissioner determines that substantial revisions to the manual are required, the division will send a letter to the owner and manual preparer, outlining the necessary revisions and requesting submission of the revised manual within 60 days. Revised manuals constitute a resubmittal.

5. Any deviations from the approved manual affecting the [~~required~~] minimum elements required by the operation permit must be approved in accordance with these regulations before any such changes are made.

H. The scope and purpose, requirements, and submission and approval of sludge management plans or operational plans are described in this subsection.

1. The general purpose of these plans is to facilitate a determination by the commissioner that the management or operational plan developed by the owner presents the necessary technical guidance and regulatory requirements to facilitate the proper management of sewage sludge including use of biosolids, for both normal conditions and generally anticipated adverse conditions. The plan should be developed as a reference document, being as brief as possible while presenting the information in a clear, concise and readily accessible manner. The plan should be directed toward the management option(s) for biosolids use selected for the treatment works. The plan shall address methods of controlling and monitoring the quality of sludge by the owner and the means of use of biosolids developed from that sludge by the owner or his agent (Appendix A).

2. Complete sludge management plans or operational plans shall be submitted for all biosolids use activities, by the owner, or owner's agent except as noted in § 1.13. The plan shall contain the elements required by applicable sections of this regulation (Appendix A).

3. Submission and approval of sludge management plans or operational plans involving the land application of biosolids shall be done in accordance with § 1.15 or § 1.24, as applicable. Submission and approval procedures for all other plans are as follows:

- a. Three copies of the final sludge management plan

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or operational plan shall be submitted to the appropriate field office. The technical evaluation of the plan will not commence until the applicant has submitted all necessary information.

b. Upon receipt of comments or no response by contacted agencies the division will complete the evaluation of the plan and the commissioner will approve or disapprove the plan as technically adequate.

c. The commissioner will approve the plan if it is determined to be in substantial compliance with Part III of the regulations and biosolids use will be in compliance with Part II of the regulations. If the commissioner determines that substantial revision to the plan is required, the division shall send a letter to the owner and plan preparer, outlining the necessary revision and requesting submission of a revised plan within 60 days. A revised plan constitutes a resubmittal.

d. One copy of the approved plan will be stamped by the division and returned to the owner. If the plan is disapproved, the owner will be notified of conditions, if any, which must be satisfied.

§ 1.15. Formal requirements for the submission of design data.

In accordance with the provisions of §§ 54.1-400 through 54.1-411 of the Code of Virginia, all design drawings, specifications, and engineer's reports, submitted for approval, shall be prepared by or under the supervision of a licensed professional engineer legally qualified to practice in Virginia. The front cover of each set of drawings, of each copy of the engineer's report, and of each copy of the specifications submitted for review and evaluation shall bear the signed imprint of the seal of the licensed professional engineer who prepared or supervised the preparation and be signed with an original signature. In addition, each drawing submitted shall bear an imprint or a legible facsimile of such seal. Submissions of technical information for evaluation by the division shall identify the appropriate qualifications of the preparer of such information (i.e., license or certification).

§ 1.16. Processing of plans, specifications and other design documents.

All reports, plans, and specifications submitted to the division must be received at least 90 days prior to the date upon which action by the division is desired. If the plans and specifications are found to be incomplete or inadequate for detailed review, the plans, specifications and other design documents will be returned to the submitting party. If revisions to the plans, specifications and other design documents are necessitated, a letter will be sent to the engineer who prepared them outlining the necessary revisions. Revised plans, specifications and other design documents constitute a resubmittal; therefore,

additional time will be necessary for the review and technical evaluation. Preliminary plans and reports should be submitted for review and evaluation prior to the preparation of final plans. One set of the approved plans, specifications and other design documents will be stamped by the division and returned to the owner.

§ 1.17. Issuance of the construction permit.

Upon approval of the proposed design, including submitted plans and specifications, the commissioner will issue a construction permit to the owner to construct or modify biosolids use facilities in accordance with the approved design and submitted plans, specifications and other design documents (Appendix B).

§ 1.18. Revisions of approved plans.

Any deviations from the approved design or the submitted plans, specifications and other design documents significantly (20% or more variation from original) affecting biosolids use [management facility operation or] practices [, including] sludge treatment or quality, must be approved by the commissioner before any such changes are made. Revised plans and specifications shall be submitted in time to allow the review, evaluation and approval of such plans, specifications and other design documents before biosolids use operations which will be affected by such changes is begun.

§ 1.19. Information required upon completion of construction.

A. Upon completion of the construction or modification of the biosolids use facilities the owner shall submit to the division a statement signed by an appropriate professional stating that the biosolids use facilities were completed in accordance with the approved plans, specifications and other design documents or revised only in accordance with the provisions of these regulations. This statement is called a Statement of Completion of Construction and shall be based upon inspections of the biosolids use facilities during and after construction or modifications [;] that are adequate to ensure the truth of the statement.

B. The owner shall contact the division and request that a final inspection of the completed construction be made so that either a conditional, or a final, [~~operating~~ operation] permit can be issued, within 30 days after placing a new or modified biosolids use facilities into operation. The division shall be provided with any required performance test results prior to issuance of the final operating permit.

C. A closure plan should be submitted with or prior to the statement of completion of construction in accordance with § 1.14 D 2.

§ 1.20. Issuance of the operation permit [; facilities; land application] .

[A.] Upon completion of the department's technical evaluation of the sludge management plan, or operation plan and receipt of a construction completion statement if appropriate, the commissioner may issue a final operation permit (Appendices A and B). However, the commissioner may delay the granting of the final permit pending inspection, or satisfactory evaluation of test results, to ensure that construction work has been satisfactorily completed or that sludge treatment is satisfactory for biosolids use. A conditional operation permit may be issued specifying final approval conditions, with specific time periods, for completion of unfinished work, submission of test results, operations and maintenance manual, sludge management plans, or other appropriate items. The commissioner may issue a conditional operation permit to owners of [biosolids use] facilities for which required information, such as the Statement of Completion of Construction, has not been received. Such permits will contain appropriate conditions requiring the completion of any unfinished or incomplete work including approval of a closure plan and subsequent submission of the Statement of Completion of Construction.

[B. Upon completion of the department's technical evaluation of the sludge management plan, or operation plan and site-specific information on the proposed land application sites, the commissioner may issue final operation permits (Appendices A and B). After a land application operation permit is issued, new land application sites, new biosolids sources and routine storage facilities can be added to the land application operation permit through a permit modification. A separate land application operation permit will be issued for each political jurisdiction (county or city) where land application is to be undertaken.]

§ 1.21. Amendment or reissuance of permits.

The commissioner may amend or reissue a permit where there is a change in the approved biosolids management practices, biosolids treatment, or the source of biosolids at the permitted location, or for any other cause incident to the protection of the public health, provided notice is given to the owner, and, if one is required, a hearing held in accordance with the provisions of [§ 1.10. § 1.12] . [Permits issued as described in these regulations will remain valid for a period of five years following issuance unless otherwise provided. Permit holders should request permit reissuance in a letter forwarded to the commissioner approximately 90 days or more prior to the expiration date of the permit.]

§ 1.22. Revocation or suspension of a permit.

A. The commissioner may suspend or revoke a permit in accordance with Administrative Process Act.

B. Reasons for [revocation of revoking] permits [include:]

1. Failure to comply with the conditions of the permit.

2. Violation of Title 32.1 of the Code of Virginia or of any of these regulations from which no variance or exemption has been granted.

3. Change in ownership.

4. Abandonment of the facilities [~~sewerage systems or treatment works~~] .

5. Any of the grounds specified in § 32.1-174 of the Code of Virginia.

C. When revoking or suspending permits the commissioner shall:

1. Send a written notice of intent to suspend or revoke by certified mail to the last known address of the [~~sewerage systems and treatment works owner permit holder~~] . The notice shall state the reasons for the proposed suspension or revocation of the permit and shall give the time and place of the hearing and the authority under which the commissioner proposes to act.

2. Give at least 30 days advance notice of the hearing.

D. Owners who are given notice of intent to revoke or suspend their permits have a right to a hearing as specified in § 1.12.

§ 1.23. Monitoring, records, reporting.

The commissioner may require the owner or operator of any [biosolids use facilities facility] to install, use, and maintain monitoring equipment for internal testing of biosolids quality, to identify and determine the causes of operational problems and to determine the necessary corrective actions to correct such problems. If required, test results shall be recorded, compiled, and reported to the division.

§ 1.24. Applications for nondischarging treatment works or sludge management facilities not governed by the sewage handling and disposal regulations.

A. [~~The owner's~~ A permit] application [submitted by an owner or owner's agent] shall contain [~~basic complete~~] information [~~required for determining it is complete~~] in accordance with these regulations. This information is to be provided by completion and submission of two copies of the appropriate application form(s) and applicable sections of Appendix A to the appropriate field office. [~~This information shall be furnished by the owner.~~] Applications can be obtained from any field office.

B. The operational plan [for the facilities] must address the special conditions for the technical [~~design,~~ the,] operational [~~requirements~~] , monitoring [~~requirements~~] , and [the] reporting requirements that the applicant must satisfy. A construction permit and an operation permit [~~must shall~~] be obtained in accordance

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with these regulations [if construction of biosolids use facilities is involved, otherwise approval for construction of the facilities. Approval] of the operational plan constitutes issuance of an operation permit. [If a public hearing is required, operation of the biosolids use facilities Operation of the facilities] may not proceed until the owner is [so] notified by the division.

§ 1.25. Compliance with Part II (Operational Regulations) of the regulations.

Certificates issued by the [Department of Environmental Quality under the authority of the] State Water Control Board (including approved sludge management plans) prior to [the effective date of these regulations January 25, 1995,] shall continue in force until [expired,] reissued [or,] amended [, or terminated] in accordance with the certificate or these regulations. All owners holding Virginia Pollution Abatement Permits as of [the effective date of these regulations January 25, 1995,] shall submit an application for an operation permit in accordance with these regulations within 180 days before the date of expiration of certificates issued prior to [the effective date of these regulations January 25, 1995,] or [at the time of any modification request submitted after [January 25, 1995,] or within 180 days of adoption of these regulations, whichever is later. All [owners of] biosolids use [facility owners facilities] shall comply with the applicable requirements set forth in the operational regulations except as provided in accordance with § 1.13. Any owner may request technical assistance from the division [as necessary] to implement corrective action.

§ 1.26. Compliance with Part III (Manual of Practice) of the regulations.

The design guidelines set forth in Part III of the regulations specify minimum standards for biosolids use for land application, marketing and distribution, including biosolids quality and site specific management practices. [Compliance with Part III of the regulations will not be required for facilities not including land application, distribution, or marketing, which have received the approval of the commissioner and the State Water Control Board and for which operation has commenced as of January 25, 1995. Such operation of facilities is deemed to be commenced upon approval of a complete application for a permit or certificate. However,] the commissioner may impose standards and requirements which are more stringent than those contained in Part III of the regulations when required [for to protect public health or prevent nuisance conditions from developing either within] critical areas [,] or [when] special conditions [develop prior to or during biosolids use operations] . [Any such special standards and requirements including those associated with local government ordinances shall take precedence over the criteria in Part III of the regulations and will be items which warrant careful consideration at the preliminary engineering conference. Conformance to local land use zoning and planning should be resolved between the local government and the facility owner or

permit holder.] Applications submitted for [biosolid use] facilities must demonstrate that the facility and biosolids use management practices will adequately safeguard public health and will comply with the certificate and permit requirements, as appropriate. Submissions which are in substantial compliance with Part III of the regulations [or and comply with, any] additional requirements [of the division] as noted above will be approved. Justification for biosolid use proposals may be required for those portions of the submitted proposal which differ from these criteria. The owner or owner's agent shall identify and justify noncompliance with specific standards or "shall" criteria which the division identifies, or the applicant, in his judgment, believes to be substantial in nature. The division may request changes in designs which are not in substantial compliance with Part III of the regulations and which are not adequately justified by the applicant. [Compliance with Part III of the Regulations will not be required for biosolids use facilities which have received the approval of the commissioner and the State Water Control Board and for which operation has commenced as of the effective date of these regulations. Operation of biosolids use facilities is deemed to be commenced for purposes of this section upon receipt of a complete application for a permit or certificate.] The fact that significant work was accomplished on a specific permit application prior to adoption of these regulations shall be a consideration when evaluating applications.

§ 1.27. Biosolids use advisory committee.

A. The commissioner shall appoint a regulations advisory committee consisting of eight appointed members and four ex-officio members as specified below. The appointed committee members may be selected from organizations such as:

1. The Virginia Water Environment Association
2. The Virginia Department of Agriculture and Consumer Services
3. Virginia Society of Professional Engineers
4. Sewerage Systems and Treatment Works Owners
5. Sludge Management Contractors
6. State Universities and College Faculty [:]

B. Consideration shall also be given to appropriate citizens who are not members of these organizations. All terms for appointed members shall be four years in duration, and members shall not be appointed for more than two consecutive terms. Four of the eight appointed members shall serve an initial term of two years with subsequent terms of four years. The committee ex-officio members are:

1. The Director of the Office of Water Programs

2. The Director of the Division of Wastewater Engineering

3. The Office of Water Resources Management, Water Division, Virginia Department of Environmental Quality

4. The Division of Soil and Water Conservation, Virginia Department of Conservation and Recreation

Each committee member may designate an alternate to serve when necessary. The secretary to the committee will be a staff member of the division. The function of the committee will be to make recommendations directly to the commissioner concerning the biosolids use regulations and other similar policies, procedures and programs. The committee will meet semi-annually or more frequently at the call of the chairman. The committee's meetings will be advertised and open to the public, and comments and recommendations from the public will be received.

PART II. OPERATIONAL [(MONITORING)] REGULATIONS.

Article I. Sampling, testing, recording, and reporting.

§ 2.1. Minimum biosolids sampling and testing program.

A. Sampling and testing methods shall conform to current United States Environmental Protection Agency (EPA) guidelines establishing test procedures for analysis of pollutants or other EPA approved methods.

B. Either the operation and maintenance manual, sludge management plan, or operational plan shall contain a specific testing schedule. The testing schedule [of the shall include] minimum tests and their frequencies [to be conducted by the biosolids use facility as required to monitor the facility] in accordance with the appropriate certificate and the operating permit issued under these regulations.

C. The following sampling instructions shall be followed when collecting samples as required by these regulations:

1. Raw sewage or sludge samples are to be collected prior to the treatment process unit operations.
2. Final treated samples are to be taken at a point following appropriate unit operations in the treatment process. An evaluation of biosolids treatment may require monitoring of fecal coliform levels in the treated sludge.
3. Compositing of samples shall be in accordance with the treatment works operation and maintenance manual. Composite samples of sludge shall consist of grab samples taken at the specified minimum frequency and should be combined in proportion to flow. Greater frequency of grab sampling may be

desirable where abnormal variation in waste strength occurs. Automatic flow proportional samplers are considered a valid sampling method.

§ 2.2. Minimum operational testing and control program.

A. Sampling and testing methods shall conform to current United States Environmental Protection Agency (EPA) guidelines establishing test procedures for analysis of pollutants or other EPA approved methods.

B. [Either The information furnished with either] the operation and maintenance manual, sludge management plan, or operational plan, should [indicate the type of control the tests and their frequency conducted by the treatment works, with sampling methods identified, recommend and describe the control tests and their frequency that should be routinely conducted by the holder of the permit in order to monitor operations. All special sampling methods should be identified.] Biosolids use site sampling and [test testing] frequencies should be in accordance with the requirements established by the instructions contained in the biosolids use operation and maintenance manual if provided.

C. Additional operational control information may be required on an individual basis by the division.

§ 2.3. Records.

The owner shall maintain records on the biosolids use operation and laboratory testing. The records shall be available for review by division and field office staff during inspections at reasonable times. Any records of monitoring activities and results shall include at least the following for all samples:

1. The date, place and time of sampling or measurements;
2. Individual who performed the [process] sampling or measurements;
3. The [dates analyses were date analysis was] performed;
4. Individual that performed [laboratory] analysis;
5. The analytical techniques/methods used;
6. The results of such [analyses; analysis] .

The owner shall normally maintain [monitoring records] for a minimum of three years [any records of monitoring activities and results, including all printed charts and graphic recordings for continuous monitoring and appropriate instrumentation, calibration and maintenance records] . This period of retention [shall may] be extended during the course of any unresolved litigation regarding the discharge of pollutants [by the owner or upon at] the request of the commissioner.

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[Monitoring records may include: (i) process control adjustments and results; (ii) all printed charts and graphic recordings for continuous monitoring; (iii) appropriate instrumentation, calibration and maintenance records.]

§ 2.4. Additional monitoring, reporting and recording requirements for land application.

Either the Operation and Maintenance Manual, sludge management plan, or operating plan, shall contain a schedule of the required minimum tests [~~and their frequency to be conducted for biosolids use, including land application, marketing and distribution and shall also contain instructions for recording and reporting.~~ Monitoring, reporting and recording for land treatment systems necessary to monitor land application operation. Such testing schedule information for land application of biosolids shall contain instructions for recording and reporting. Monitoring of any associated land treatment systems] shall be in accordance with the biosolids use Operation and Maintenance Manual if provided.

§ 2.5. Additional monitoring, reporting and recording requirements for sewage sludge and residual solids management.

Either the Operation and Maintenance Manual, sludge management plan, or operational plan shall contain a schedule of required minimum tests and their frequency [to be conducted for the sewage sludge and biosolids management system and shall also contain necessary to document sewage sludge and biosolids quality. Such test schedule information should include] instructions for recording and reporting. Monitoring, reporting and recording requirements for sewage sludge and biosolids [management quality control] shall be in accordance with the sludge management plan, or operation plan in accordance with [§ 15 G § 1.14 H]. The record keeping and reporting requirements for sewage sludge and biosolids management contained in the treatment works Operation and Maintenance Manual shall apply to all application sites, regardless of size or frequency of application. However, the requirements relative to monitoring, reporting and recording of site specific soils and [the] monitoring, reporting and recording of ground water and surface water are not applicable for any site which meets either of the following criteria:

[1. Whenever exceptional quality biosolids are marketed and distributed with a label or identification information which specifies proper quality information and describes how agronomic rates are to be determined. Also, whenever Class I treated biosolids are land applied so that: (i) the annual loading rate will not result in annual maximum loading rates in excess of those specified in Table 9; (ii) applied biosolids will meet vector attraction requirements; (iii) the amount of nutrients applied does not exceed the total crop needs or agronomic loading rate; (iv) no additional biosolids are applied for at least five years, or the biosolids are applied to land maintained only as

pasture or hay land for five years following the last application of biosolids and the nutrient loading rate does not exceed 70% of the annual total crop needs of the grass or hay cover (Tables A-2 and 11).]

2. Whenever the application site area for biosolids processed by Class I or II treatment is no larger than 10 acres and is isolated (2,000 feet or more separation distance) from other sites receiving applications of biosolids within three years of the time biosolids are applied to the identified site and the necessary vector attraction requirements are met.

The division may recommend that specified site specific monitoring be performed by the holder of the permit for any biosolids land application practice, regardless of frequency of application or size of the application area. Such recommendations will occur in situations in which groundwater contamination, surface runoff, soil toxicity, health hazards or nuisance conditions are identified as an existing problem or documented as a potential problem as a result of biosolids use operations. Article 2 of Part III of these regulations shall apply in full whether or not a monitoring waiver provision is applicable.

A. Exceptional quality biosolids (satisfies applicable requirements described in Article 3 of the manual of practice) are to be land applied so that: (1) the annual loading rate does not exceed the recommended annual maximum loading rates specified in table 9; (2) vector attraction requirements are met; (3) the nutrients applied do not exceed the total crop needs or agronomic loading rate and (4) no additional sludge is applied for at least three (3) years or, the biosolids are applied to land maintained only as pasture or hay land for three (3) years following the last application of biosolids and the nutrient loading rate does not exceed seventy 70% of the annual total crop needs of the grass or hay cover (Tables A-2 and 11).

B. The application area for a class A or B biosolids is no larger than 10 acres and is isolated (2000 feet or more separation distance) from other sites receiving applications of biosolids within three years of the time biosolids are applied to the identified site and the necessary vector attraction requirements are met. This waiver in no way limits the power of the division in the control of any biosolids application practice, regardless of frequency of application or size of the application area, for which groundwater contamination, surface runoff, soil toxicity, health hazards or nuisance conditions are considered to be a problem or a potential problem. Article 2 of Part III of these regulations shall apply in full whether or not a monitoring waiver provision is applicable.]

Article 2.

Operation and Maintenance Manuals.

§ 2.6. General.

[The general purpose of the manual is to present bot

technical guidance and regulatory requirements to facilitate operation and maintenance of the biosolids use facilities for both normal conditions and generally anticipated adverse conditions. The general purpose of an operation and maintenance manual is to facilitate operation and maintenance of the biosolids use facilities within permit requirements for both normal conditions and generally anticipated adverse conditions.] The manual shall be tailored to the size and type of system being employed. The manual shall be directed toward the operating staff required for the facility. The manual shall be updated as necessary and be made available to the operating staff. The manual should be designed as a reference document, being as brief as possible while presenting the information in a readily accessible manner.

§ 2.7. Contents.

The manual shall contain the testing and reporting elements required by these regulations. In addition, [the manual should contain,] for information and guidance purposes, [the manual should contain] additional schedules which supplement these required schedules [to assist operations by providing monitoring, recording and reporting information] .

Article 3. Requirements for Biosolids Management.

§ 2.8. Operability.

Independently operated essential equipment, or components, of biosolids use facilities, including treatment works, shall be provided with sufficient [duplication or alternative operation, capacity and routine maintenance resources] so that the average quantity of biosolids used may be [reliably] transported, stored, treated or otherwise managed in accordance with [reliability requirements with the largest component out of service permit requirements] . [Sufficient spare parts to ensure continuous operability of essential unit operations and equipment should be available, either located at the treatment works or at other readily accessible locations, and the minimum quantities shall be in accordance with the operation and maintenance manual. Permit noncompliance shall be prevented in those situations in which the largest component is out of service.]

The need for spare parts should be determined from operational experience, evaluation of past maintenance requirements, etc. A spare parts inventory may be included in the operation and maintenance manual. The inventory should list the minimum and maximum quantities of the spare parts to be kept on hand, the equipment in which they are used, their storage location, replacement procedures and other pertinent information.

[Sufficient spare parts determined as necessary to ensure continuous operability of essential unit operations and equipment should be either located at the treatment works or at readily accessible locations. The minimum

quantities of spare parts actually provided shall be in accordance with the operation and maintenance manual.]

§ 2.9. Maintenance.

A regular [or routine] program of preventive maintenance shall be adhered to. The Operations and Maintenance Manual shall contain a system of maintenance requirements to be accomplished. The [routine,] minimum preventive maintenance system shall be in accordance with the Operations and Maintenance Manual. Such a system should provide for advanced scheduling of preventive maintenance and should be continually assessed in order to reflect increased service requirements as equipment ages or flow rates increase. Adequate records, files and inventories to assist the operator in his task should also be [maintained described in the operation and maintenance manual] . [A schedule for testing the process required to maintain biosolids treatment quality and management in compliance with permits should be developed and adhered to on a regular basis. In cases where certain components of the treatment process may be damaged by flooding from natural events, in such a manner as to cause excessive delays in restoring the treatment process to the design operating level, information systems provided for maintenance should describe the documentation required to verify biosolids treatment quality necessary for compliance with permits. Where certain components of the treatment process may be damaged by flooding so as to cause excessive delays in restoring the treatment process to a normal operating level,] the means of protecting or removal of such components prior to flooding should be described in the Operational and Maintenance Manual.

§ 2.10. Biosolids monitoring/reporting.

A. Monitoring and reporting procedures shall be specified in each sludge management plan or operation plan. For land application or biosolids use on agricultural or nonagricultural sites, sludge composition [in accordance with the following table should be performed analysis to document biosolids quality should be performed as required for permit compliance] under the following guidelines:

Table 1

Estimated Size of Facility	Maximum Dry Tons/Year	Frequency
less than .5 MGD	200	once per year
greater than .5 to less than 3.0 MGD	1400	four per year
greater than 3.0 to less than 10.0 MGD	7000	six per year
greater than 10.0 MGD	greater than 700	12 per year

Note: [*The period of time between sampling/testing events should be at Sampling/testing events should be conducted at] approximately equal intervals. After two years of testing at the listed frequencies, the testing frequency may be reduced annually by one-half to a minimum of once annually.

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B. [Biosolids application rates should be based on annual average sludge analyses obtained from the results of approved analytical testing of composite samples for the most recent year. Biosolids application rates should be based on the annual average sludge quality. The average sludge quality should be established from the results of approved analytical testing of composite samples obtained during the most recent 12 months of monitoring.] For proposed treatment works rates may be initially based on the biosolids characteristic produced by similar generating facilities.

C. [The sludge management plan or operation plan shall not be considered complete until the generator or owner documents in the plan the required sludge treatment and quality characteristics and the maximum allowable land application loading rates for biosolids use. In addition, the owner shall document in the plan compliance with the required sludge treatment methods to achieve the specified levels of pathogen control and vector attraction reductions (Table 3). The required treatment and quality characteristics and the maximum allowable land application loading rates shall be established for biosolids use. In addition, monitoring results shall verify that required sludge treatment has achieved the specified levels of pathogen control and vector attraction reductions (Table 3).] Adequate records on sludge composition, treatment classification, sludge application rates and methods of application for each site shall be maintained by the generator and owner. [An example of an operating report for documenting minimum information is presented in Table 4. Table 4 shows a sample operating report for documenting the minimum required information.] Unless otherwise provided, such reports shall be submitted monthly to the division and shall be postmarked by the 15th day of the month or earlier. The generator and owner shall maintain [that the] records [as necessary] for a minimum period of five years, until further notification by the department. Sites receiving frequent applications of sludge which meet or exceed maximum cumulative constituent loadings and dedicated disposal sites should be properly referenced for future land transactions (see the [sample] Sludge Disposal Site Dedication Form - Table A-3).

§ 2.11. Sampling

A. General. [Approved The] sampling procedures and protocols [are those] used for the national sewage sludge survey (EPA Office of Water Regulations and Standards, March, 1988) or [validated] equivalent methods [will be] approved by the commissioner [through issuance of a permit for biosolids use]. Composite samples are [preferred so that a better than single grab samples because they define] representative "average" levels of sludge characteristics [can be obtained from analytical testing]. A large open container such as a one- to two-gallon capacity bucket will normally be necessary to obtain complete grab samples of sludge flows. The volume or weight of grab samples should be adjusted so as to represent approximately equal volumes or weights of the

sludge volume or mass being sampled. These adjusted grab samples can then be added to form a composite [sample] . [Composite mixtures formed from several grab samples should be thoroughly mixed and stirred prior to the withdrawal of a final composite sample of approximately one liter for analytical testing.]

B. Liquid sludge. In the case of digesters and liquid storage holding tanks, a representative sample shall be composed of at least four grab samples, [composited over daily operating period. To collect samples when a liquid sludge stream is under pressure or vacuum, sample volume of approximately equal size should be obtained from a line tap, shortly after the beginning, during and at the end of the time period that the sludge stream flows past the tap. The grab samples should be thoroughly mixed and a portion withdrawn to add to additional sampling for compositing or a portion withdrawn sufficient in volume for laboratory testing. obtained during daily operations at the facility or land application site. Samples of liquid biosolids obtained under pressure or vacuum, should be obtained shortly after the beginning, during and at the end of the time period that the biosolids are produced at the sampling point.]

C. Biosolids storage facilities. Equal volumes of biosolids should be withdrawn from random locations across the width and throughout the length of the storage facility at the surface, mid-depth and near the bottom of the lagoon at each grab sample location. These grab samples should be added to form a composite mix. A range of the recommended minimum number of grab samples which should be obtained from various sizes of sludge lagoons, in order to obtain a representative composite sample, is:

Lagoon Surface Area (Acres)	Minimum Number of Grab Samples	
	Depth less than 4 feet	Depth greater than 4 feet
1 to 9.99	4 to 5	6 to 8
10 or more	6 to 8	9 to 11

D. Dewatered sludge. Small equally sized grab samples of the dewatered sludge stream may be taken at equally spaced intervals over the period of operation of the dewatering unit. Centrifuged sludge samples may be taken from a belt conveyor or receiving hopper. Filter cake sludge samples may be taken from a belt conveyor or a portion of the cake may be removed as it leaves the unit. The smaller grab samples should be combined to form a representative composite sample. [A composite sample can be obtained over the daily operational period at the land application site.]

E. Compost sampling. Composite samples are preferred so that a representative average level of compost characteristics can be obtained from analytical testing. Although the compost material has been subjected to pre-mixing, some variation in quality may exist and at least three grab samples of one kilogram, or more, should be taken of each mixture and combined to form c

composite sample of that mixture. This mixture should be used for analytical testing or for combination with other composites to obtain a total composite sample representing a fixed period of operation. Compost samples may be taken with a scoop or shovel and placed in flexible bags, which can be thoroughly shaken to mix grab samples.

F. Analysis and preservation of samples. In general, sludge samples should be refrigerated at approximately 4°C immediately after collection, which provides adequate preservation for most types of sludge physical and chemical analysis for a period up to seven days. Exact sample analysis and preservation techniques should be submitted in the sludge management plan. Analytical procedures should be updated as needed.

§ 2.12. Soils monitoring and reporting. Soil should be sampled and analyzed prior to sludge application to determine site suitability and to provide background data. After the land application program is underway, it may be necessary to continue monitoring possible changes in the soil characteristics of the application site. Reduced monitoring will usually apply for typical agricultural utilization projects where biosolids are applied to farmland at or below agronomic rates or on an infrequent basis (see Table 5). Reduced monitoring may also apply to one time sludge applications to forest or reclaimed lands. For background analysis, random composite soil samples from the zone of incorporation is required for infrequent applications and frequent applications at less than agronomic rates (total less than 15 dry tons per acre).

Generally, one subsample per acre should be taken [at the two depths] for application sites of 10 acres or more receiving frequent applications. For [an application site frequent land application sites] greater than 50 acres, a controlled area of approximately 10 acres in size may be provided that is representative of site loading and soil characteristics. The control area should be sampled through random collection of approximately 20 subsamples taken [at the two recommended depths.] according to standard agricultural practices. Records of soil analysis must be maintained by the owner and submitted as required.

§ 2.13. Crop monitoring and reporting.

Vegetation monitoring may be required [by the commissioner upon recommendation of the division] once every three years on sites with frequent applications of biosolids applied at or greater than agronomic rates and when 400 pounds per acre or more of available phosphorus [(PSP)] has been applied to the soil. Analyses of plant tissue should be conducted at the proper growth stage as recommended by either the Virginia Department of Agriculture and Consumer Services [, the Virginia Department of Conservation and Recreation] or [Virginia] Cooperative Extension Service. Routine analyses include nitrate-nitrogen, phosphorus, potassium, calcium, manganese, magnesium, iron, copper and zinc. Analysis

for additional parameters may be necessary as determined on a case-by-case basis. Results shall be reported annually to the division.

§ 2.14. Groundwater monitoring and reporting.

A. Monitoring wells may be required [by the commissioner as recommended by the division] for land treatment sites, sludge lagoons, or sludge holding facilities to monitor groundwater quality. [The number and location of wells should be established by the Department of Environmental Quality staff, upon review of the owner's proposal.] The wells should be designed and located to meet specific geologic and hydrologic conditions at each site. Existing wells or springs may be approved for use as monitoring wells if they can be shown to provide a representative sample of groundwater conditions. The monitoring well should be constructed so as to sample the most shallow occurrence of groundwater that can [be] reliably [be] obtained. The wells must be deep enough to penetrate the water table, and the screened interval must be in the saturated zone. The well construction should include PVC casing and screen with a bottom end plug or cap. The casing joints should be of the threaded, splitting or some other type which does not require adhesive. The screened interval should be backfilled with washed porous media (sand/gravel) and a bentonite or other impermeable seal placed at least two feet above the screen. The remainder of the well may be backfilled with clean native materials. A concrete surface seal should slope away from the well. Locking caps are recommended. Upon well completion, a driller's log shall be submitted to the department.

B. Sampling procedures must assure maintenance of sample integrity. Samples should be collected in clean sample containers and with an uncontaminated sampling device. In order to obtain a representative sample, standing water in the well must be evacuated prior to sampling. At a minimum, at least three times the volume of water standing in the borehole should be removed prior to taking a sample for analysis to assure movement of formation water into the well and eliminate false readings that would be obtained from water that has stratified in the well. Samples may be obtained by pumping, bailing or pressure methods (e.g., Bar Cad samplers). The state does not endorse any one particular method or manufacturer, but each method has advantages and disadvantages which must be considered prior to final selection. Sampling methodology should be submitted for initial review.

To obtain sufficient background groundwater quality data [, three to six] monthly samples [3 to 6] should be collected from each observation well prior to placing the land application site or other facility into operation. Sampling should account for seasonal groundwater table fluctuations. Groundwater samples shall be collected and analyzed on a quarterly basis during operation of the site or facility. Table 6 lists typical parameters for groundwater monitoring. Additional test parameters may be required on a case-by-case basis.

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C. Sample analysis and preservation techniques should be in accordance with the latest edition of Standard Methods for the Examination of Water and Wastewater.

TABLE 2

PARAMETERS FOR BIOSOLIDS ANALYSIS¹

A. Suggested Minimum

- Source of Sludge
- Type of Sludge (Lime Stabilized, Aerobically Digested, etc.)
- Percent Solids (%)
- Volatile Solids (%)
- pH (Standard Units)
- Total Kjeldahl Nitrogen (%)
- Ammonia Nitrogen (%)
- Nitrates (mg/kg)
- Total Phosphorus (%)
- Total Potassium (%)
- Alkalinity as CaCO₃ (mg/kg)²
- Arsenic (mg/kg)
- Cadmium (mg/kg)
- Chromium (mg/kg)
- Copper (mg/kg)
- Lead (mg/kg)
- Mercury (mg/kg)
- Molybdenum (mg/kg)
- Nickel (mg/kg)
- Selenium (mg/kg)
- Zinc (mg/kg)

B. Additional parameters such as the organic chemicals listed in Table 13 may be required for screening purposes as well as: Aluminum (mg/kg), Water Soluble Boron (mg/kg), Calcium (mg/kg), Chlorides (mg/l), Manganese (mg/kg), Sulfates (mg/kg), and those pollutants for which removal credits are granted.

C. Microbiological testing may be necessary to document the sludge treatment classification [(Table 2) (Table 3)]. Microbiological standards shall be verified by the log mean of the analytical results from testing of nine or more samples of the sludge source. Sampling events shall be separated by an appropriate period of time so as to be representative of the random and cyclic variations in sewage characteristics.

Note: ¹ Values reported on a dry weight basis unless indicated.

² Lime treated sludges (10% or more lime by dry wt.) should be analyzed for percent CaCO₃.

TABLE 3

STANDARDS FOR DOCUMENTATION OF PATHOGEN CONTROL AND VECTOR ATTRACTION REDUCTION LEVELS FOR BIOSOLIDS

A. Pathogen Control Standards (Dry Weight of Sludge

Solids Basis)

1. Class I Treatment for Class A Pathogen Control [Biosolids]

- a. Composting or other acceptable time-temperature treatment* - Equal to or less than 1000 fecal coliform per gram of total solids in treated sludge prior to removal for use or preparation for distribution.
- b. [~~Stabilization~~ Stabilization**] less than either: [1,000 MPN fecal coliform per gram of total solids, or] three salmonella, or one virus (PFU), or one helminth egg, per four grams of total sludge solids.

2. Class II Treatment for Class B Pathogen Control.

- a. When the influent sludge stream to the stabilization unit operation contains 6 log₁₀ or more of fecal coliform per gram of total solids, a reduction of 2 log₁₀ of fecal coliform or more may be required for stabilization or the treated sludge shall not contain more than 6.0 log₁₀ of fecal coliform per gram of total solids.
- b. [~~Stabilization~~ Stabilization*] 6.0 log₁₀ of fecal coliform per gram of total solids in sludges subjected to adequate treatment.

3. Class III Treatment for Class B Pathogen Control.

- a. When the influent sludge stream to the stabilization unit operation contains 6 log₁₀ or more of fecal coliform per gram of total solids, a reduction of 1.5 log₁₀ fecal coliform or more may be required for stabilization.
- b. [~~Stabilization~~ Stabilization*] 6.3 log₁₀ of fecal coliform per gram total solids in sludges subjected to adequate treatment.

B. Vector Attraction Reduction Requirements (must satisfy one of the following for approval of land application of Biosolids).

1. Thirty-eight percent volatile solids (VS) reduction by digestion processes, or:

- a. Less than 38% reduction by anaerobic digestion if additional treatment (additional 40 days or more at 32°C or more) results in less than 17% additional VS reduction:

$$\text{Additional VS Reduction} = [\text{VSD1} - \text{VSD2}] / [\text{VSD1} - (\text{VSD1} \times \text{VSD2})]$$

D1 = Initial Conventional Digestion Period

D2 = Additional 40 day digestion period

b. Less than 38% reduction by aerobic digestion if the specific oxygen uptake rate (SOUR) of sludge is 1.5 or less milligrams of oxygen per hour per gram of total sludge solids (dry weight basis) at a temperature of [20°C 21°C] .

c. Less than 38% reduction by aerobic digestion if additional treatment (additional 30 days or more at [20°C 22°C] or more) results in less than 15% additional VS reduction.

d. Less than 38% reduction if treated in an adequately aerated unit operation for 14 days or more at a temperature exceeding 40°C and the average sludge temperature exceeds 45°C.

2. Sludge pH is 12 or more (alkaline addition) for [two two and one-half] consecutive hours and remains at 11.5 or higher for 22 additional hours (no further alkaline additions) or,

3. Seventy-five percent or more total solids in treated sludge if no untreated primary sludge is included, or 90% total solids if unstabilized primary sludge is included, prior to any mixing with other materials, or

4. [~~Either incorporation of treated sludge below ground within six (6) hours of surface application, or direct injection, so that no evidence of any significant amounts of sludge surface within 1.0 hour of injection. Either incorporation of treated sludge into the soil within six hours of surface application, or direct injection below the surface of the land so that no evidence of any significant amounts of sludge is present on the land surface within one hour of injection.]~~

5. For land application of biosolids receiving Class I treatment:

a. For surface application: apply to land within eight hours of final treatment and incorporate below the surface within six hours of application, or achieve one of the appropriate vector attraction reduction requirements by treatment.

b. For subsurface application: inject within eight hours of final treatment or achieve one of the appropriate vector attraction reduction requirements by treatment.

[e. C.] Documentation statement for submission of treatment, or quality, verification reports:

I have submitted the proper documentation to verify that the necessary levels of pathogen reduction and vector attraction reduction have been achieved for all sludge to be land applied in accordance with the permit requirements. These determinations have been made under my direction and supervision in accordance with approved procedures developed to ensure that qualified personnel

obtain and evaluate the information necessary to ensure permit compliance. Also, the sludge quality characteristics are suitable for Land Application in accordance with permit requirements (if appropriate).

Signed by Responsible Person Date
(Title if appropriate) in charge

Note: * refers to an acceptable method of treatment with established operational controls capable of treating sludge to produce the required microbiological standards (see Article 3, Agricultural Use of Biosolids).

** - Refers to testing standards

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TABLE 4

Example of Report for Submission to Field Offices
FIELD REPORT

PROJECT/PERMITTEE: _____ PERMIT NO./FIELD NO: _____
 [LAND OWNER/FARMER:] _____ FIELD ACRES: _____
 APPLICATION MODE: _____ DATE AS OF: _____
 GALLONS, WET TONS OR CUBIC YARDS
 APPLIED: Month to Date _____ Year to Date _____
 DRY TONS/ACRE APPLIED: Month to Date _____ Year to Date _____
 Lifetime to Date _____
 CROP/YIELD _____ SOIL pH _____

LBS. APPLIED/ACRE

SLUDGE PARAMETER	MONTH TO DATE	YEAR TO DATE	LIFETIME TO DATE
P.A.N.			N/A
CaCO3			N/A
P.			N/A
K			N/A
As			
Cd			
Cr			
Cu			
Mo			
Ni			
Pb			
Se			
Zn			
Other:			

DAILY LOADING FIELD SHEET

DATE	SOLIDS	GALLONS, WET TONS OR CUBIC YARDS	DRY TONS
TOTALS			

[If nuisance problems of odors or problems with uniform application develop, the appropriate regional offices of the State Water Control Board and the Engineering Field Offices of the Virginia Department of Health shall be notified.] Upon such notification, were any operational changes made? Yes* No

*Specify the methods utilized to comply with treatment/application requirements a separate attachment.

TABLE 5

SOIL TEST PARAMETERS FOR LAND APPLICATION SITE (1)

	SLUDGE			Wastewater [(5)]
	Infrequent (2)	Frequent Below Agronomic Rates (3)	Frequent at Agronomic Rates (4)	
Soil Organic Matter (%)			*	*
Soil pH (Std. Units)	*	*	*	*
Cation Exchange Capacity (me/100g)	*	*	*	
Total Nitrogen (ppm)			*	*
Organic Nitrogen (ppm)			*	*
Ammonia Nitrogen (ppm)			*	
Available Phosphorous (ppm)	*	*	*	*
Exchangeable Potassium (ppm)	*	*	*	
Exchangeable Sodium (mg/100g)			*	*
Exchangeable Calcium (mg/100g)			*	*
Exchangeable Magnesium - (mg/100g)	*		*	*
Copper (ppm)			*	*
Nickel (ppm)			*	*
Zinc (ppm)			*	*
Cadmium (ppm)			*	*
Lead (ppm)			*	*
Chromium (ppm)			*	*
Manganese (ppm)			*	
Molybdenum			*	
Selenium			*	
Particle Size Analysis or USDA Textural Estimate (%)			*	*
Hydraulic Conductivity (in/hr)				*

- Note - (1) Unless otherwise stated, analyses shall be reported on a dry weight basis(*).
 (2) Initial testing before application and repeated before Biosolids are again applied at the agronomic rate, after three (3) or more years.
 (3) Total sludge application (loading) rate contains less than 70% of the annual agronomic plant available nitrogen (PAN) requirements and testing initially and repeated before Biosolids are applied to support the next cropping cycle.
 (4) Annual agronomic loading rate testing initially and annually with general testing requirements to be adjusted in accordance with prior analytical test results. Heavy metal analyses are not required but once every three (3) years before application.
 [(5) Supernatant from storage and handling facilities.]

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TABLE 6

SUGGESTED GROUNDWATER MONITORING
PARAMETERS AND MONITORING FREQUENCY

Annual Monitoring [Parameters]	Quarterly Monitoring [Parameters]
Total Kjeldahl Nitrogen	Nitrate Nitrogen
Ammonia Nitrogen	pH
Phosphorus	Conductivity
Sodium	Chlorides
Boron	Static Water Level
Copper	
Lead	
Nickel	
Cadmium	
Chromium	
Zinc	
Hardness	
Alkalinity	
COD (TOC)	
Pathogen Indicator Organism	

PART III.
PRACTICE FOR BIOSOLIDS USE.

Article 1.
Sludge Processing and Management.

§ 3.1. Sludge stabilization.

A. The selection and operation of the stabilization process shall be based on the ultimate utilization of the final sludge product. The design information concerning sludge stabilization processes included in this section is provided to update similar requirements contained in the Sewerage Regulations (VR 355-17-02) [. and] Such design information is based on the assumption that each unit operation is the sole stabilization process employed at the treatment works. [These design standards can be utilized to determine the conventional level of treatment necessary for biosolids use. This design information is presented to define the conventional design standards for the level of sludge treatment necessary for biosolids use.] Consideration will be given to nonconventional designs, on a case-by-case basis, for treatment works employing new technology or series operation of two or more stabilization processes or methods.

B. Anaerobic digestion.

1. General. [A minimum Conventional sludge treatment consists] of two anaerobic digesters, or enclosed reactors, [are] typically provided, so that each digester may be used as a first stage or primary reactor [for treating primary and secondary sludge flows generated at a treatment works with a design flow exceeding 0.5 MGD. Additional digesters are provided to treat the total flow of primary and secondary sludge generated at treatment works with sewage design flows exceeding one MGD.] Where

multiple digesters are not provided, [it is prudent to provide] a lagoon or storage basin [may be provided] for emergency use [so that to allow] the digester [may be to be] taken out of service without unduly interrupting treatment works operation. Each digester should have the means for transferring a portion of its contents to other digesters. Multiple digester facilities should have means of returning supernatant from the settling digester unit to appropriate points for treatment. Provisions for side-stream treatment of supernatant should be addressed when the supernatant load is not included in the treatment works design.

2. Sludge inlets and outlets. Multiple sludge inlets and draw-offs and multiple recirculation section and discharge points (minimum of three) to facilitate flexible operation and effective mixing of the digester contents provide optimum treatment for pathogen control and vector attraction reduction. One inlet usually discharges above the liquid level and is approximately at the center of the digester to assist in scum breakup. Raw sludge inlet discharge points should be so located as to minimize short circuiting to the supernatant draw-off.

3. Digester capacity. Where the composition of the sewage has been established, digester capacity is conventionally computed from the volume and character of the sludge mixture to be digested. The total digestion volume can be determined by rational calculations based upon such factors as volume of sludge added, its percentage of solids and character, the temperature to be maintained in the digesters, the degree or extent of mixing to be obtained and the size of the installation with appropriate allowance for sludge and supernatant storage. Such detailed calculations justify the basis of design. The digester should be capable of maintaining a minimum average sludge digestion temperature of 35°C (95°F) with the capability of maintaining temperature control within a 4°C (+/-) range. The design average detention time for sludge undergoing digestion for stabilization is conventionally a minimum of 15 days within the primary digester, but longer periods may be required to achieve the necessary level of pathogen control and vector attraction reduction necessary for the method used for sludge management. If unheated digesters are utilized, the conventional capacity would provide a minimum detention time of 60 days within the digestion volume in which sludge is maintained at a temperature of at least 20°C (68°F).

a. Completely mixed systems. For digesters providing for intimate and effective mixing of the digestion volume contents, the systems is typically designed for an average feed loading rate of less than 200 pounds of volatile solids per 1,000 cubic feet of volume per day in the active digestion volume.

Confined mixing systems, where gas or sludge flows are directed through vertical channels, mechanical stirring or pumping systems and unconfined continuously discharging gas mixing systems are conventionally designed to ensure complete tank turnover every 30 minutes. For tanks over 60 feet in diameter, multiple mixing devices shall be used.

Unconfined, sequentially discharging gas mixing systems are typically designed using the number of discharge points and gas flow rates shown for the various tank diameters listed in Table 7, unless sufficient operating data has been developed to verify the performance reliability of alternative designs. Gas discharge lines (lances) mounted on a floating cover or top designed to accumulate gas emissions usually extend to the base of the vertical side wall while the cover is resting on its landing brackets. For floor mounted diffuser boxes or lances mounted to a fixed cover, gas discharge are located at the base of the vertical side wall.

The minimum gas flow supplied for complete mixing shall be 15 cubic feet/min./1,000 cubic feet of digestion volume. Flow measuring devices and throttling valves are used to provide the minimum gas flow.

The design power supplied for mechanical stirring or pumping type complete mixing systems typically exceeds 0.5 horsepower per 1000 cubic feet of digestion volume.

TABLE 7: DESIGN CRITERIA FOR MULTIPLE DISCHARGE MIXING SYSTEMS,
SEQUENTIAL DISCHARGE

Tank Diameter	20-30	31-40	41-50	51-60	61-70	71-80	81-90	91-100	101-110
Maximum Diameter (Ft.)									
Discharge Points (Minimum Number of Points)	4	5	6	7	8	9	10	11	12
Gas Flow (CFM) (Minimum Gas Flow)	95	95	95	150	150	150	200	250	300

b. Moderately mixed systems. For digestion systems where mixing is accomplished only by circulating sludge through an external heat exchanger, the system is normally loaded at less than 40 pounds of volatile solids per 1,000 cubic feet of volume per day in the active digestion volume. The design

volatile solids loading should be established in accordance with the degree of mixing provided. Where mixing is accomplished by other methods, loading rates are determined on the basis of information furnished by the design engineer. Where low speed mechanical mixing devices are specified, more than one device is used unless other mixing devices are also provided.

C. Aerobic sludge digestion.

1. Mixing. Aerobic sludge digestion reactors are conventionally designed for effective mixing and aeration. When aeration diffusers are used, they are normally of the type which minimizes clogging [.] and they should be designed to permit removal for inspection, maintenance and replacement without dewatering the tanks.

2. Multiple design. Multiple aerobic digesters are conventionally provided at treatment works having a design flow capacity of more than 0.5 MGD. The size and number of aerobic sludge digesters can be determined by rational calculations based upon such factors as of volume of sludge added, its percent solids and character, the required volatile solids reduction for stabilization, allowance for sludge and supernatant storage, and the minimum temperature of the digester contents. The capacity calculations usually include design digester temperature based on the type of mixing equipment and other factors. The following conventional design information will establish the minimum design capacities for provision of pathogen control and vector attraction [~~reduction~~ reduction] treatment by aerobic digestion facilities:

a. Hydraulic detention time. Digester volume may exceed 20% of the average design flow of the treatment works. The design digester volume can be increased up to 25% of the average design flow if the wastewater temperature will remain below 10°C (50°F) for an extensive period of time (60 days/year). The volatile solids loadings are typically in the range of one to two tenths (0.1 to 0.2) pounds of volatile solids per cubic foot per day. A reduction in conventional aerobic digester hydraulic detention time may be provided for treatment works designed to be operated in the extended aeration mode or coupled with additional stabilization processes.

b. Mixing energy. Energy input requirements for mixing should be in the range of 0.5 to 1.5 horsepower per 1,000 cubic feet, where mechanical aerators are utilized, and 20 to 30 standard cubic feet per minute per 1,000 cubic feet of aeration tank, where air mixing is utilized.

C. Sludge composting.

1. General design. [At compost facilities handling

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~~liquid, or dewatered, sludge which is mixed with a bulking agent prior to composting.~~ Conventionally designed compost facilities receive treated dewatered sludge to be mixed with a bulking agent prior to composting.] The conventional mixing operation [~~has~~ should have] sufficient capacity to properly process the peak daily waste input with the largest mixer out of operation. Volumetric throughput values used to establish necessary mixing capacity are typically based on the material volume resulting from the sludge to bulking agent ratio, or are estimated from previous experience [;] or pilot scale tests.

The ability of all selected equipment to produce a compostible mix from sludge of an established moisture content, residual material and the selected bulking agent can be established from previous experience or pilot tests.

Except for windrow composting wherein mobile mixers are used, an area with sufficient space to mix the bulking agent and sludge or residuals and store half of the daily peak input should be provided. The mixing area [~~shall is~~] usually [~~ever covered~~] to prevent ambient precipitation from directly contacting the mix materials.

Where conveyors are used to move the compost mix to the composting area and or help provide mixing, sufficient capacity for handling of the mix with one conveyor out of operation is normally provided, or a backup method of handling or storing is available. Site runoff is typically directed to a storage or treatment facility. Capacity of the drainage system may provide for the 24-hour rainfall [~~producing~~] a peak rate expected once in 10 years.

2. Windrow method. The windrow composting site area requirements are conventionally based on the average daily compost mix inputs, a minimum detention time of 30 days on the compost pad, and the area required for operation of the mixing equipment. Sufficient compost mix handling equipment is usually provided to turn the windrows daily.

3. Aerated-static pile. [~~The static pile compost area requirement are conventionally based on the average daily compost mix inputs, along with storing base and cover material, with a composting time of 21 days.~~ The size of a conventional static pile compost area is based on the average daily compost mix inputs, along with storing base and cover material. The area size should provide for a composting time of 21 days,] unless the applicant, through previous experience or pilot scale studies establishes that less time is necessary to achieve the pathogen control and vector attraction requirements. [~~Agricultural Use of A biosolids compost mix~~] should be configured to provide adequate aeration of the mix using either positive or negative pressure for air flow through the piles. In addition, site area space is provided to allow

loader movement between daily pile sections and for access roads.

Sufficient aeration blower capacity is typically provided to deliver the necessary air flow through the static pile compost mix, but the delivered air flow usually exceeds an aeration rate of 500 cubic feet per hour per dry ton (CFH/DT). Where centralized aeration is utilized, multiple blower units are provided and arranged so that the design air requirement can be met with the largest single unit out of service. Where individual blowers are used, sufficient numbers of extra blowers are provided so that the design air requirement can be met if 10% or more of the blower capacity is unavailable. For facilities which are not continuously manned, the blower units may be equipped with automatic reset and restart mechanisms or alarmed to a continuously manned station, so that they [~~will be~~ can quickly be] placed back into operation after periods of power outage.

4. Confined composting methods (in-vessel or totally enclosed). Due to the large variation in composting processes, equipment types, and process configuration characteristic of currently available confined systems, it is not feasible to establish conventional design information. However, a conventionally designed confined composting system can be established from previous operating experience or pilot scale studies. Biosolids removed from a conventionally designed reactor or compost process, following the manufacturer's suggested residence time, would have an equivalent or higher degree of pathogen control and vector attraction reduction than would be achieved after 21 consecutive days of conventional design aerated static pile composting operation.

5. Storage. Storage for curing or drying biosolids compost is usually provided if compost is to be recycled for public use [~~or used as a bulking agent and screening is required~~]. When dry compost is used as a bulking agent screening is not typically provided. Consideration should be given to covering the drying area. If a cover is provided, it can be designed so that sunlight is transmitted to the composting materials while preventing direct contact with ambient precipitation. Efficient drying may be accomplished by drawing or blowing air through the compost mixture or by mechanical mixing of shallow layers with stationary bucket systems, mobile earth moving equipment, or rotating discs.

Storage areas [~~may should~~] provide for up to six months storage of biosolids compost with a similar [~~requirement~~ storage period] for bulking materials.

E. Heat stabilization. The design of heat treatment systems is conventionally based on the anticipated sludge flow rate (gpm) with the required heat input dependent on sludge characteristics and concentration. The system may be designed for continuous 24-hour operation to minimi

additional heat input to start up the system. Measures for the adequate control of odors should be provided.

Multiple units [~~are typically~~ should be] provided unless nuisance-free storage or alternate stabilization methods are available [~~to avoid disruption to treatment works operation when units are not in service~~]. Multiple units are preferred to avoid disruption to treatment works operation when units are not in service. If a single system is provided, use of standby grinders, fuel pumps, air compressor (if applicable) and dual sludge pumps is normally provided. A reasonable downtime for maintenance and repair based on data from comparable facilities is typically included in the design. Adequate storage for process feed and downtime shall be included.

The conventional heat treatment process provides sludge stabilization in a reaction vessel within a range of 175°C or 350°F for 40 minutes to 205°C or 400°F for 20 minutes at pressure ranges of 250 to 400 psig, or provide for pasteurization at temperatures of 30°C or 85°F or more and gage pressures of more than one standard atmosphere (14.7 psia) for periods exceeding 25 days.

[The conventional heat drying system involves either direct or indirect contact between a dewatered sludge cake and hot gases in order to reduce the moisture content of the cake to 10% or less. The sludge cake temperature is typically 800 or more during this process.]

F. Incineration. Sludge incinerator ash may be used as [either] a material additive [,] or [an] ingredient for the manufacture of construction materials and other products. Due to the large variation in incineration processes, equipment types, and configurations characteristic of currently available incineration systems, it is not feasible to describe a conventional design. Design of these systems should be based on pilot plant studies or data from comparable facilities.

G. Alkaline stabilization. [~~Three fundamental design parameters are typically considered for conventional design of the chemical feeding, mixing and storage capacity of a~~ The three design parameters typically considered fundamental for design of an] alkaline stabilization system include: pH, contact time, and mixture temperature.

The alkaline additive dosage required to produce biosolids [~~may be~~ is] determined by the type of sludge, its chemical composition, and the solids concentration. Performance data taken from pilot plant test programs or from comparable facilities should be used in determining the proper dosage.

The conventional design objective is to furnish uniform mixing in order to maintain a pH of 12 or above for two hours or more in the alkaline additive-sludge mixture. The conventional design for accomplishing Class II treatment biosolids (Article 3 of this part) would include adequate means to:

1. Add a controlled dosage of alkaline to sludge and provide uniform mixing.

2. Bring the alkaline additive-sludge mixture pH to the design objective or provide a mixture pH of 12.5 or more and maintain the mixture pH above 12.5 for 30 minutes.

3. The sludge shall not be altered or further distributed for two hours after alkaline treatment.

[The design objective to achieve] Class I treatment [biosolids is to achieve is achieved] when the pH and contact time objectives described in § 3.11 are accomplished with a temperature of the alkaline-sludge mixture of more than 52°C and [~~to maintain~~ the mixture is maintained at] a sufficient temperature over a measured contact period to ensure pasteurization [of the mixture] .

Pasteurization vessels are conventionally designed to provide for a minimum retention period of 30 minutes. The means for provision of external heat should be specified.

H. Chlorine stabilization. The production of biosolids through high doses of chlorine would be considered on a case-by-case basis.

I. Other stabilization processes. Other processes for conventional production of biosolids can be considered in accordance with available performance data.

§ 3.2. Sludge thickening.

[Sludge thickening should be considered for volume reduction and conditioning of sludges prior to conventional treatment and management for pathogen control and vector attraction reduction. Prior to conventional treatment of biosolids thickening should be provided to reduce volume and to condition the raw sludge flow.]

§ 3.3. Sludge dewatering.

A. General. Where mechanical dewatering equipment is employed, at least two units are conventionally provided unless adequate storage (separate or in-line) or an alternative means of sludge handling is provided. Whenever performance reliability and sludge management options are dependent on production of dewatered sludge, each of the mechanical dewatering equipment provided should be designed to operate for less than 60 hours during any six-day period. The facility shall be able to dewater in excess of 50% of the average design sludge flow with the largest unit out of service. The requirements for excess capacity will depend upon the type of equipment provided, peak sludge factor, and storage capability not otherwise considered.

Where mechanical dewatering equipment will not be

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operated on a continuous basis and the treatment works is without digesters with built-in short-term storage, separate storage can be provided.

In-line storage of stabilized or unstabilized sludge should not interfere with the design function of any of the treatment unit operations.

B. Rotary vacuum filtration. The conventional rates of vacuum filtration, in pounds of dry solids per square foot of filter area per hour, for various types of properly conditioned sludges are as follows:

Type of Treatment	Pounds of Dry Solids Per Square Foot Per Hour	
	Minimum	Maximum
Primary	4	6
Primary & Trickling Filter	3	5
Primary & Activated	3	4

C. Centrifugal dewatering. Successful application of centrifugation of municipal type sludges requires consideration of numerous factors. Conventional design can be based on scale-up data pertaining to the particular sludge to be dewatered. The abrasiveness of each sludge supply may be considered in scroll selection. Adequate sludge storage is typically provided for proper operation.

D. Plate and frame presses. Actual performance data developed from similar operational characteristics is typically utilized for design. The impact that anticipated sludge variability will have on the conventional design variables for the press as well as chemical conditioning may be addressed. Appropriate scale-up factors should be established for full size designs if pilot scale testing is done in lieu of full-scale testing.

E. Belt presses. Actual performance data developed from similar operational characteristics would be utilized for conventional design. The impact that anticipated sludge variability will have on the conventional design variables for the press as well as chemical conditioning should be addressed. A second belt filter press or an approved backup method of dewatering is normally provided whenever a single belt press is operated sixty 60 hours or more within any consecutive five-day period or the average daily flow received at the treatment works equals or exceeds four MGD.

Appropriate scale-up factors [shall may] be established for full size designs if pilot plant testing is performed in lieu of full-scale testing.

§ 3.4. Sludge management.

Sludge management activities not specifically provided for through approval of design plans and specifications shall be described in a sludge management plan or an operation plan submitted by the owner or the owner's

agent to the division for review and approval [(See § 1.15 G) (see § 1.14 H)]. [Before sludge is utilized or disposed of, its potential effects on the land and state waters should be evaluated. Land application and facilities for biosolids use shall not result in flooding or pose a hazard to public health, wildlife, water quality or other environmental resources as a result of biosolids transport due to flooding and subsequent runoff. Treatment works owners involved in biosolids use management practices may need to require pretreatment of industrial waste for control of contaminants of concern in order to comply with these regulations.]

Article 2. Biosolids Use Standards.

§ 3.5. General.

[This section provides Sections 3.5 through 3.9 provide] minimum criteria which will be used for [approval of a sludge management plan or an operating plan submitted by an owner or agent. This plan shall address sludge management involving use of biosolids, reviewing sludge management plans and operating plans. Each plan shall address site specific management practices involving use of biosolids.] Final disposition of sludge may involve use or disposal. For the purpose of [this Section §§ 3.5 through 3.9 "use"] , shall include resource recovery, recycling or deriving beneficial use from the material. "Disposal" shall involve the final disposition of a waste material without resource recovery, recycling or deriving beneficial use from the material.

All practical use options should be evaluated before disposal options are evaluated or selected. Biosolids use practices include land application for agricultural, nonagricultural and silvicultural use and the distribution and marketing of exceptional quality biosolids. Sludge disposal methods include incineration, landfill codisposal, surface disposal, and other dedicated disposal practices, such as burial on dedicated disposal sites.

Water quality protection and monitoring [requirements provisions] shall be included in all sludge management plans and operating plans, except for those land application practices designed for limited loadings (amounts per area per time period) within defined field areas in agricultural use. Groundwater monitoring requirements shall be evaluated [by the commissioner, with the assistance of the Department of Environmental Quality.] for annual application of biosolids to specific sites, reclamation of disturbed and marginal lands and application to forest land (silviculture). Submittal of site specific (soils and other) information for each identified separate field area shall be required for issuance of permits (§ 1.13). For information regarding handling and disposal of septage, refer to the Sewage Handling and Disposal Regulations.

[Before sludge is utilized or disposed of, its potential effects on the land and State waters should be evaluated.

Land application and facilities for biosolids use shall not result in flooding or pose a hazard to public health, wildlife, water quality or other environmental resources as a result of biosolids transport due to flooding and subsequent runoff. Treatment works owners involved in biosolids use management practices may need to require pretreatment of industrial waste for control of contaminants of concern in order to comply with these regulations. Conformance to local land use zoning and planning should be resolved between the local government and the owner. The permit applicant shall attempt to notify land owners of property within 200 feet and 1,000 feet of the boundaries of sites proposed for frequent use furnish the division acceptable documentation of such notifications (i.e., intent to land-apply biosolids on the proposed location(s)). Relevant concerns of adjacent landowners will be considered in the evaluation of site suitability. The procedural regulations provide the requirements for processing approvals of sludge management plans and operational plans (§ 1-15 G). Requirements for all notification of applications, hearings and meetings are governed by these procedural regulations. Minimum information required for completion of a sludge management plan for utilization by land application is listed in Appendix A. Conformance of biosolids use to local land use zoning and planning should be resolved between the local government and the permit applicant. The permit applicant shall attempt to notify land owners of property within 200 feet and 1,000 feet of the boundaries of sites proposed for frequent use and dedicated sites, respectively, and furnish the division with acceptable documentation of such notifications (i.e., intent to land-apply biosolids on the proposed location(s)). Relevant concerns of adjacent landowners will be considered in the evaluation of site suitability. The requirements for processing approvals of sludge management plans and operational plans are included in § 1.14 H as well as: (i) requirements for notification of applications, hearings and meetings, (ii) minimum information required for completion of a sludge management plan for land application (Appendix A).]

§ 3.6. Sludge quality and composition.

A. Sampling and testing sludge. Samples shall be collected so as to provide a representative composition of the sludge. Analytical testing shall be performed by a laboratory capable of testing in accordance with current EPA approved methods or other accepted methods. The operational section of these regulations establishes the minimum constituents which shall be analyzed and the sampling and preservation procedures which should be utilized. The sludge management plan or operational plan shall detail both the sampling and testing methods used to characterize the sludge.

B. Nonhazardous declaration. Regulations under the Resource Conservation and Recovery Act (RCRA) and the Virginia Hazardous Waste Management Regulations (VR 672-10-1) identify listed hazardous wastes and hazardous waste characteristics. Municipal wastewater or sewage

sludge is neither excluded nor specifically listed as hazardous waste. [Only sludge duly declared as a nonhazardous waste as provided for through RCRA and appropriate state regulations shall be managed under these regulations.] Hazardous wastes as established through RCRA and appropriate state regulations are not managed under these regulations.] The owner shall monitor sludge characteristics as required to determine if it is hazardous or nonhazardous and declare to the department [whether that] the sludge generated at his facility is [hazardous or] nonhazardous. [If identified as nonhazardous, a sludge must be processed as a hazardous waste according to the requirements of RCRA and state regulations through the Department of Waste Management.]

C. Sludge treatment. Sludges shall be subjected to a treatment process sequence designed to reduce both the pathogen content and the [volatile] solids content to the appropriate level for the selected [management option. For use options, method of management, such as land application. For such use options,] the sludge treatment provided shall minimize the potential for vector attraction and prevent objectionable odor problems from developing during management. Acceptable levels of pathogen reduction may be achieved by various established conventional treatment methods including Class I treatment to accomplish Class A pathogen control and Class II or III treatment to accomplish Class B pathogen control [(§ 3-10) (§ 3.15)]. The level of pathogen control achieved by nonconventional treatment must be verified by microbiological monitoring (Table 3).

For land application, [either Class A, or] Class B pathogen [reduction, control], or better, shall be achieved. Such Class I, II, or III treatment may involve either: anaerobic or aerobic digestion, high or low temperature composting, heat treatment, air drying, or chemical treatment processes utilizing alkaline additives or chlorine. For use of treated sludge or sludge products involving a high potential for public contact, it may be necessary to achieve further pathogen reduction (Class A) beyond that attained by the above processes. Such Class I treatment may be accomplished [by either by (i)] heat treatment and drying, [(ii)] thermophilic composting, [or (iii)] alkaline treatment [; that may achieve greater than] . A three-log reduction or more (a thousand-fold reduction) in [pathogenic bacteria and viral microorganisms to meet conventional treatment standards. raw sludge levels of pathogenic bacteria and viral microorganisms is accomplished by conventional Class I treatment methods.]

Properly treated sludges can be safely utilized and should not create any nuisance problems when managed in accordance with approved sludge management or operating plans. A sludge that receives Class I, II or III treatment for [adequate] pathogen control and is treated [;] or managed [;] to [properly] reduce vector attraction [and to an approved level and contains acceptable levels of pollutants in accordance with these

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regulations (Table 8) is referred to as "Biosolids." A Class I treated sludge with approved control of vector attraction and acceptable levels of pollutants (Table 9) is referred to as "Exceptional Quality Biosolids" and pollutants within acceptable levels (Table 8-A) is referred to as "Biosolids." A Class I treated sludge with approved control of vector attraction and acceptable levels of pollutants (Table [8 8-B]) is referred to as "exceptional quality biosolids."

D. Sludge composition. The characterization of sludge properties is a necessary first step in the design of a use/disposal system. Monitoring and testing for certain pollutants shall be achieved prior to specific use or disposal practices. For the purposes of these regulations [: sludge management and testing methods shall account for moisture content including: (i) liquid sludge [is] defined as sludges with less than 15% total solids. [(ii)] dewatered sludge [is] normally defined as sludges with 15% to 30% total solids [and ; (iii)] dried sludge [is] normally defined as sludges with more than 30% total solids.

§ 3.7. Land acquisition and management control.

When land application of sludge is proposed, the continued availability of the land and protection from improper concurrent use during the utilization period shall be assured. A written agreement [shall be established] between the landowner and owner. [is required with the] information specified in [Table A Table A-1]. The responsibility for obtaining and maintaining the agreement(s) lies with the [permittee party who is the holder of the permit.] Site management controls shall include [for access] limitations [access] relative to the level of pathogen control [and vector attraction and reduction] achieved during treatment. In addition, agricultural use of sludge in accordance with these regulations will not result in harm to threatened or endangered species of plant, fish, or wildlife, nor result in the destruction or adverse modification of the critical habitat of a threatened or endangered species. Site specific information shall be provided as part of the management or operating plan.

§ 3.8. Transport.

Transport routes should follow primary highways, should avoid residential areas when possible [.] and [should] comply with all Virginia Department of Transportation requirements and standards. Transport vehicles shall be sufficiently sealed to prevent leakage and spillage of sludge. For sludges with a solids content of less than 15%, totally closed watertight transport vehicles with rigid tops shall be provided to prevent spillage unless adequate justification is provided to demonstrate that such controls are unnecessary [to prevent spillage]. The commissioner may also require certain dewatered sludges exceeding 15% solids content to be handled as liquid sludges. The minimum information for sludge transport which shall be supplied in the sludge

management plan is listed in Appendix A.

§ 3.9. Storage facilities.

A. [There are] Three types of storage [which] may be integrated into a complete sludge management plan [: Emergency storage refers to] including: (i) "emergency storage" involving immediate implementation of storage for any sludge which becomes necessary due to unforeseen circumstances [: Temporary storage refers to . (ii) "temporary storage involving] the provision of storage of stabilized sludges at the land application site which becomes necessary due to unforeseen climatic events which preclude land application of biosolids in the day that it is transported from the generator [: Routine storage means , (iii) "routine storage" involving the] storage of biosolids as necessary for all nonapplication periods of the year. Only routine storage facilities shall be considered a [treatment works facility] under these regulations.

B. Emergency storage. The owner shall notify the division upon implementation of any emergency storage. Approval of such storage and subsequent processing of the sludge and supernatant will be considered as a contingency plan integrated into the sludge management plan. Only emergency storage shall be used for storage of unstabilized sludges. Further processing utilization and disposal shall be conducted in accordance with the approved sludge management plan. Design and implementation of facilities used for emergency storage shall not result in water quality, public health or nuisance problems.

C. Temporary storage. The owner shall notify the division whenever it is necessary to implement temporary storage [of stabilized sludge]. [Temporary storage may be utilized] at the land application site due to unforeseen climatic factors which [precludes preclude] application of sludge (either off-loaded at the site or in transport to the site) to permitted sites within the same working day. Temporary storage is not to be used as a substitute for [the use of] routine storage [: Sludge which has been temporarily stored shall be land applied prior to further off-loading of sludge at the site and is restricted as follows:

1. Sludge stored at the site shall be land applied prior to additional off-loading of sludge at the same site;
2.] The owner shall be restricted to storing a daily maximum amount of 100 wet tons per operational site [: :
3.] The stored sludge shall be land applied within 30 days from the initiation of storage or moved to a routine sludge facility [: :
4.] Approval of plans for temporary storage will be considered as part of the overall sludge management plan [: :

5.] Temporary storage shall not occur in areas prone to flooding at a 25-year or less frequency interval [; :

6.] A synthetic liner shall be required for [placement] under and over sludge stored in this manner [except in the case where sludge is stockpiled for less than five days, in which case a liner under the stored sludge may be omitted, with one exception: where sludge is stockpiled for less than seven days, a liner placed under the stored sludge is not required] . Surface water diversions and other Best Management Provisions (BMP) should be utilized as appropriate [; :

7.] Temporary storage shall not result in water quality, public health [;] or nuisance problems.

C. Routine storage. Routine storage facilities shall be provided for all land application projects if [~~an~~ no] alternative means of management [is available] during nonapplication periods [is not provided] . Plans and specifications for any surface storage facilities (pits, ponds, lagoons) or aboveground facilities (tanks, pads) shall be submitted as part of the minimum information requirements.

1. Location. The facility shall be located at an elevation which is not subject to [~~the 100-year flood/wave action~~ ,] or is otherwise protected against [.] inundation produced by the 100-year flood/wave action [as defined by U.S. Geological Survey or Equivalent Information] . Storage facilities should be located to provide minimum visibility. All storage facilities with a capacity in excess of 100 wet tons and located off-site of property owned by the generator shall [~~provide~~ be provided with] a minimum 750-foot buffer zone. The length of the buffer zone considered will be the distance measured from the perimeter of the storage facility. Residential uses, high-density human activities [~~or~~ and] activities involving food preparation are prohibited within the buffer zone. The commissioner may consider a reduction of up to one half of the above buffer requirements based on such facts as lagoon area, topography, prevailing wind direction [~~or~~ . and] the inclusion of an effective windbreak in the overall design.

[The buffer zone shall be maintained by any legal agreements as may be appropriate throughout the life of the facility. The buffer zone as subject to appropriate legal agreements is to be maintained throughout the period time of the facility.]

2. Design capacity. [The design capacity shall be of sufficient volume to store a minimum of 60 days capacity of biosolids and incidental wastewater generated by operation of the treatment works plus sufficient capacity necessary for i.) the 25 yr-24 hr. design storm (incident rainfall and any runoff as may be present); ii.) net precipitation excess during the

storage period; and iii.) an additional one foot freeboard from the maximum water level attributed to the sum of the above factors to the top berm elevation. Storage capacity of less than that specified above will be considered on a case-by-case basis only if sufficient justification warrants such a reduction. If alternative methods of management cannot be adequately verified contractors should provide for a minimum of 30 days of in-state routine storage capacity for the average quantity of sludge transported into Virginia from out-of-state treatment works generating at least a Class II or Class III treated sludge. The design capacity shall be sufficient to store a minimum volume equivalent to 60 days or more average production of biosolids and the incidental wastewater generated by operation of the treatment works plus sufficient capacity necessary for: (i) the 25 year-24 hour design storm (incident rainfall and any runoff as may be present); (ii) net precipitation excess during the storage period; and (iii) an additional one foot freeboard from the maximum water level (attributed to the sum of the above factors) to the top berm elevation. Storage capacity of less than that specified above will be considered on a case-by-case basis only if sufficient justification warrants such a reduction. If alternative methods of management cannot be adequately verified contractors should provide for a minimum of 30 days of in-state routine storage capacity for the average quantity of sludge transported into Virginia from out-of-state treatment works generating at least a Class III level treated sludge.]

3. Construction. Storage facilities shall be of uniform shape (round, square, rectangular) with no narrow or elongated portions. The facilities shall be lined in accordance with the requirements contained in sewerage regulations or certificate. The facilities shall also be designed to permit access of equipment necessary for loading and unloading biosolids, and should be designed with receiving facilities to allow for even distribution of sludge into the facility. Design should also provide for truck cleaning facilities as may be necessary. Storage facilities with a capacity of 100 wet tons or less shall comply with the provision for temporary storage as a minimum.

4. Monitoring. All sludge storage facilities in excess of 100-wet ton capacity shall be monitored in accordance with the requirements of these regulations. Plans and specifications shall be provided for such a monitoring program in accordance with the minimum information specified in Appendix A.

5. Operation. Only biosolids suitable for land application (Class A or B Biosolids) shall be placed into permitted routine storage facilities. Storage of biosolids located offsite or remote from the Wastewater Treatment Works during the summer months shall be avoided whenever possible so that the routine storage facility remains as empty as

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possible during the summer months. Storage facilities should be operated in a manner such that sufficient freeboard is provided to ensure that the maximum anticipated high water elevation due to any and all design storm inputs is not less than one foot below the top berm elevation. Complete plans for supernatant disposal shall be provided in accordance with Appendix A. Plans for supernatant disposal may include transport to the sewage treatment works, mixing with the biosolids for land application or land application separately. However, separate land application of supernatant will be regulated as liquid sludge; additional testing, monitoring and treatment (disinfection) may be required. The facility site shall be fenced to a minimum height of five feet; gates and locks shall be provided to control access. The fence should be posted with signs identifying the facility. The fence should not be constructed closer than 10 feet to the outside edge of the facility or appurtenances, to allow adequate accessibility.

6. Closure. An appropriate plan of closure or abandonment shall be developed by the permittee when the facility ceases to be utilized and approved by the commissioner. Such plans may also be reviewed by the [SWCB and the Department of Waste Management Department of Environmental Quality] .

7. Record keeping. A manifest system shall be developed, implemented and maintained [on-site and be available for inspection during operations] as part of the overall daily record keeping for the project (see Appendix A).

§ 3.10. Biosolids utilization methods.

A. Agricultural use. Agricultural use of sewage sludge is the land application of biosolids (Table 8) to cropland or pasture land to obtain agronomic benefits as a plant nutrient source and soil conditioner. This use shall require a system design which ensures that the land application procedures are performed in accordance with sound agronomic principles.

1. Sludge treatment. As a minimum, biosolids that are applied to the land or incorporated into the soil shall be treated by a Class III [pathogen] treatment process [sequence to significantly lower pathogens] and shall be treated or managed to provide an acceptable level of vector attraction reduction [; prior to application or incorporation (See Article 3, Agricultural Use of Biosolids)] .

2. Site soils. Soils best suited for agricultural use should possess good tilth and drainage capabilities, have moderate to high surface infiltration rates and moderate to slow subsoil permeability. Depth to bedrock or restrictive layers should be a minimum of 18 inches. Depth to the seasonal water table should exceed 18 inches [; as evidenced as defined by the

Soil Conservation Service soil survey. If such information is not available the water table depth may be determined] by soil characteristics or water table observations. If [the soil survey or] such evidence indicates that the seasonal water table can be less than 18 inches below the average ground surface, soil borings shall be utilized within seven days prior to land application operations during periods of high water table for the soil series present, to verify that the 18-inch depth restriction is complied with during field operations. The use of soil borings and water table depth verification may be required for such sites from November to May (during seasonal high water table elevations) of each year depending on soil type. [Constructed channels (agricultural drainage ditch) may be utilized to remove surface water and lower the water table as necessary for crop productions and site management.]

The pH of the biosolids and soil mixture shall be 6.0 or greater at the time of each biosolids application if the [sludge biosolids] cadmium concentration is greater than or equal to 21 mg/kg. The soil pH must be properly tested and recorded prior to Land Application Operations during which a pH change of one-half unit or more may occur within the zone of incorporation (i.e., use of biosolids containing lime or other alkaline additives at 10% or more of dry solid weight).

3. Management practices.

a. Application rates and requirements. Process design considerations shall include sludge composition, soil characteristics, climate, vegetation, cropping practices and other pertinent factors in determining application rates. Site specific application rates should be proposed using pertinent sludge plant available nitrogen (PAN) and crop nutrient needs (agronomic rate listed in Table 11), the [annual pollutant loadings and] cumulative metals loading rates (Table 9) and the maximum Calcium Carbonate Equivalent (CCE) Loading rates (Table 14). Agricultural use of treated septage shall be in accordance with these requirements (Table 13). The biosolids application rate shall be restricted to the following criteria in accordance with the approved operation plan:

(1) For infrequent applications, biosolids may be applied such that the total crop needs for nitrogen (Table 11) is not exceeded (in order to minimize the amount of nitrogen that passes below the crop root zone to actually or potentially pollute ground water), up to a maximum loading of 15 dry tons per acre, during a normal crop rotation period (this includes a double crop system) unless a higher loading can be justified. No further applications of biosolids shall be allowed for a period of three years from the last application.

(2) The infrequent application rate may be restricted [: (i)] down to 10% of the maximum cumulative loading rate (Table 9) for cadmium and lead (i.e., 2.0 kilograms per hectare (kg/ha) for cadmium) [, or ; (ii)] to account for all sources of nutrients applied to the site, including existing residuals.

(3) The infrequent application rate may also be restricted by the maximum established CCE loading rate (Table 14).

(4) For systems designed for frequent application of biosolids (application of the PAN requirement for a normal crop rotation more frequently than once in every three years), the previous year's applied Biosolids nitrogen and mineralization rates (Table 12) and soil phosphorus levels, shall be considered in the design and proposed subsequent application rates. [~~At~~] Acceptable nutrient management [~~plan~~ requirements] shall be included in the operation plan for all sites proposed for frequent application.

(5) Frequent below agronomic application rate would involve frequent applications of biosolids, providing up to a maximum 70% of the annual nitrogen requirements for permanent hay or pasture fields. The annual pollutant loading rates, the previous year's applied biosolids nitrogen and mineralization rates and soil phosphorus levels shall be considered in the design of proposed subsequent application rates.

b. Standard slopes and topography. Uniform application of biosolids at approved rates to permitted sites with standard slopes of 8.0% or less will provide acceptable protection of water quality. Biosolids shall not be applied to site slopes exceeding 15%. Biosolids should be directly injected into soils on sites exhibiting slopes exceeding 12% unless best management practices are utilized to minimize soil erosion. Biosolids shall be incorporated (mixed within the normal plow layer within 48 hours) if: (i) applied on cultivated sites exhibiting slopes of 8.0% or more; or (ii) surface applied to bare ground (less than 60% uniformly covered by stalks, vines, stubble, etc.) within any portion of the permitted site; or (iii) applied to soils during periods of time soils may be subject to frequent flooding from surface water flows as defined by soil survey information. Biosolids shall not be applied to sites with average slopes exceeding 5.0% if: (i) site is cultivated and ground is frozen; or (ii) site is [fallow ground or] bare ground and application would occur between October [~~15~~ 16] and March [~~15~~ 14] time period and no [agronomically justified] crop is to be planted within a 30-day period following application. [Biosolids may be applied on sites with slopes up to 8.0% if the application complies with accepted nutrient management practices or an approved soil conservation plan, or 30% or more

crop residue remains on the ground surface following incorporation of the biosolids.]

c. Operations. An operation plan, including specific descriptions of sites receiving biosolids shall be submitted and evaluated for issuance of a operation permit in accordance with § 1.20 or § 1.24 (Appendix B). The operation plan shall specify the proposed site management practices including cropping restrictions and access controls (Table 10). The operation plan shall include nutrient management requirements for all [frequent applications of biosolids and all applications of biosolids to] sites owned or operated in conjunction with confined animal feeding operations [as defined by the State Water Control Board.] Biosolids shall not be applied to sites for which crops intended for direct human consumption (consumed without processing to eliminate pathogens) will be grown within 18 months of application, unless the biosolids have been subjected to a process sequence operated to eliminate pathogens as verified by acceptable monitoring and testing. Root crops intended for direct human consumption may be subject to additional time restrictions in accordance with the sludge treatment unit processes (Table 10). Biosolids utilization performed in accordance with these regulations will not cause health hazards, water quality degradation, or render the soil unsuitable for future land use. The prevention of public nuisance(s) such as documented interference with use of adjacent property, the tracking of [~~sludge~~ biosolids] and soil mixtures onto roadways at field entrances, etc., shall be addressed by appropriate field management practices.

(1) Field management. The application rate of all application equipment shall be routinely measured as described in an approved sludge management plan and every effort shall be made to ensure uniform application of biosolids in accordance with approved maximum design loading rates. Liquid sludges shall not be applied at rates exceeding 14,000 gallons per acre, per application. Application vehicles should be suitable for use on agricultural land. Biosolids applied to [~~cultivated or bare ground~~ either cultivated ground with slopes exceeding 8.0% on more than 10 acres, or to any bare ground shall be incorporated] within 48 hours of application of sludge, for any portion of the site, to minimize nonpoint source runoff. Pasture and hay fields should be grazed or clipped to a grass height of four and six inches or less, respectively, prior to biosolids application unless the biosolids can be uniformly applied so as not to mat down the vegetative cover so that site vegetation can be clipped to a height of approximately four inches within one week of the sludge application.

Biosolids application shall not be made during times when the seasonal high water table of the soil is

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within 18 inches of the ground surface. Surface application of biosolids shall not be made to cultivated or bare ground covered with ice. However biosolids may be applied to snow covered ground if the snow cover does not exceed an average depth of one inch and the snow and biosolids are immediately incorporated. Dry or dewatered biosolids may be applied to frozen ground only if [: (i)] site slopes are 5.0% or less, [a (ii)] 200-foot vegetative (i.e., not bare ground) buffer is maintained from surface water courses, [the (iii)] entire application site is not bare ground and the site soils are characterized as well drained.

[If Biosolids are applied between October 15 and March 15 to cultivated land, the crop should be planted no later than the spring planting season within six months of application. When biosolids are land applied between March 14 and October 15, crop planting following sludge application should take place within a 30-day period. Additionally, biosolids incorporation into cultivated land which does not support vegetation or adequate crop residue shall be limited to slopes of 5.0% or less and buffers of 100 feet for surface application and 50 feet for subsurface application shall be maintained to perennial streams and other surface water bodies. Injection or incorporation within 24 hours of application (i.e.). Standard slope and buffers apply if vegetation or adequate crop residue is present. If Biosolids are Land applied between March 15 and October 15, crop planting following sludge application should take place within a 30-day period. Standard slopes and buffers apply whenever planting is to occur within a 30-day period after application. When biosolids are land applied between March 15 and October 15, crop planting following biosolids application should take place within a 30-day period. If biosolids are applied between October 16 and March 14 to cultivated land, the average site slope shall not exceed 5.0% and the crop should be planted no later than the spring planting season within six months of application. Additionally, for biosolids incorporation into cultivated land which does not support vegetation or adequate crop residue:

(a) Application shall be limited to slopes averaging 5.0% or less. Average slopes greater than 5.0% and up to and including 8.0% may be used if the biosolids application is in compliance with nutrient management practices, an approved Soil Conservation Plan, or 30% or greater crop residue remains after biosolids incorporation.

(b) Buffers of 100 feet for surface application and 50 feet for subsurface application shall be maintained to perennial streams and other surface water bodies.

(c) Biosolids shall be injected or incorporated within

24 hours. Subsurface incorporation includes either direct injection, or incorporation within 24 hours of application. Standard slope and buffers apply if: (i) vegetation or adequate crop residue is present, (ii) planting is to occur within a 30-day period after application.]

(2) Standard buffer zones. The location of land application of biosolids shall not occur within the following minimum buffer zone requirements:

Occupied dwelling(s)	200 ft.
Water supply wells or springs	100 ft.
Property lines	100 ft.
Perennial streams and other surface waters	50 ft.
Intermittent streams/ drainage ditches	25 ft.
All improved roadways [25 10]	ft.
Rock outcrops and sinkholes	25 ft.
Agricultural drainage ditches	10 ft.
with slopes equal to or less than 2.0%	

The stated buffer zones to adjacent property boundaries, surface waters, and drainage ditches [constructed for agricultural operations] may be reduced by one-half (50%) for subsurface application (includes same day incorporation) unless state or federal regulation provide more stringent requirements. [A condition for reduction of buffer distances from property lines and dwellings is the written consent of affected landowner(s). In cases where more than one buffer distance is involved, the most restrictive distance governs. Buffer requirements may be increased or decreased based on either, site specific features, such as agricultural drainage features and site slopes or biosolids quality. Written consent of affected landowner(s) is required to reduce buffer distances from property lines and dwellings. In cases where more than one buffer distance is involved, the most restrictive distance governs. Buffer requirements may be increased or decreased based on either site specific features, such as agricultural drainage features and site slopes, or on biosolids application procedures demonstrating precise placement methods.]

(3) Monitoring. Groundwater and surface water and soils monitoring may be required for any frequent application sites [(reach agronomic rate more than once in three years)] for which a potential environmental or public health concern is [established identified] by the commissioner [in accordance with these regulations] . Groundwater monitoring should not be required for infrequent application of biosolids.

B. Forestland (Silviculture). Silvicultural use includes application of biosolids to commercial timber and fibre.

production land, as well as federal and state forests. The forestland may be recently cleared and planted, young plantations (two- to five-year-old trees) or established forest stands.

1. Sludge standards. Refer to Article 3 of this part.

2. Site suitability. [Site suitability requirements should conform to § 3-40 A 2, except that the soil pH should be managed at the natural soil pH for the types of trees proposed for growth. Site suitability requirements should conform to subdivision A 2 of this section. The soil pH should be managed at the natural soil pH for the types of trees proposed for growth.]

3. Management practices.

a. Application rates. Biosolids application rates [are to shall] be based on nitrogen uptake rates and yields as recommended [by in] information [obtained from provided by] the Virginia Department of Forestry.

b. Operations.

(1) Field management.

(a) [Public activity is to be excluded at least 1,500 feet downwind of the application site when high pressure spray is used and public access to the site shall be adequately limited or controlled following application (Article 3, Agricultural Use of Biosolids). High pressure spray shall not be utilized if public activity is occurring within 1,500 feet downwind of the application site. Public access to the site shall be adequately limited or controlled following application (Article 3 of this part.)]

(b) The operations should [be done only proceed] when the wind velocity is less than or equal to 15 miles per hour [.] When high pressure spray is used [;] windless conditions are preferred [for such operations] .

(c) Biosolids application vehicles should have adequate clearance to be suitable for silvicultural field use.

(d) Application scheduling should take into account high rainfall periods and periods of freezing conditions.

(e) [Monitoring of groundwater, surface water and soils shall be required for frequent application sites as applicable. Monitoring requirements shall be site specific and may include groundwater, surface water or soils, for frequent application sites.]

(2) Buffer zones. Buffer zones should conform to those for agricultural utilization. Refer to Table 2.

C. Reclamation of disturbed land. [Utilization of stabilized sludge to reclaim land disturbed as a result of surface or underground mining operations or the deposition of ore processing wastes is acceptable. Disturbed land may also include places where dredge spoils or fly ash has been deposited in construction areas such as roads and borrow pits. Most disturbed land is within the jurisdiction of the division of Mined Land Reclamation and that division should be contacted and may elect to issue a permit for these operations. The Land Reclamation Operation plan should be prepared with the assistance of the Soil Conservation Service and the Division of Mined Land Reclamation. Biosolids applied at rates exceeding the agronomic rate may reclaim disturbed land in one or more of the following ways: (i) surface or underground mining operations, (ii) the deposition of ore processing wastes, (iii) deposition of dredge spoils or fly ash in construction areas such as roads and borrow pits. Reclamation of disturbed land is within the jurisdiction of the Virginia Department of Mines, Minerals and Energy. That department should be contacted concerning issuance of a permit for these operations. The land reclamation operation plan should be prepared with the assistance of the Virginia Department of Conservation and Recreation, the Soil Conservation Service and the Virginia Cooperative Extension Service.]

1. Sludge standards. Refer to Article 3 of this part.

2. Site suitability. Site suitability requirements should conform to [§ 3-40 subdivision] A 2 [of this section] .

Exceptions may be considered on a case-by-case basis.

3. Management practices.

a. Application rates. The application rates shall be established based on the recommendation of appropriate agencies including [Soil Conservation Service and the Division of Mined Land Reclamation, the Virginia Department of Mines, Minerals and Energy and the appropriate faculty of the Department of Crop and Soil Environmental Sciences of the Virginia Polytechnic Institute and State University.]

b. Vegetation selection. The land should be seeded with grass and legumes even when reforested in order to help prevent erosion and utilize available plant nitrogen. The sludge management plan should include [information on] the seeding mixture and a detailed seeding schedule.

c. Operations.

(1) [The] soil pH should be maintained at 6.0 or above [if the cadmium level in the biosolids applied is at or above 21 mg/kg.] during the first year after the initial application. Soil samples should be analyzed by a qualified laboratory. The

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application rate shall be limited by the most restrictive cumulative metals loading (Table 9).

(2) Surface material should be turned or worked prior to the surface application of liquid biosolids, to minimize potential for runoff, since solids in liquid sludge can clog soil surface pores.

(3) Unless the applied biosolids are determined to be Class A or have been documented as subjected to Class I treatment, crops intended for direct human consumption shall not be grown for a period of three years following the date of the last sludge application, unless the crop is tested to verify that the crop is not contaminated. No animals whose products are intended for human consumption may graze the site or obtain feed from the site for a period of six months following the date of the last biosolids application, unless representative samples of the animal products are tested [after grazing and prior to marketing] to verify that they are not contaminated.

§ 3.11. Distribution or marketing.

A. Exceptional quality. Distribution [~~and~~ or] marketing provides for the sale or distribution of exceptional quality biosolids or mixtures of Class I treated biosolids with other materials such that the mixture achieves the Class [~~I~~ A] pathogen control standard. [~~Prior to approval for residential, agricultural or silvicultural use.~~ Distribution or marketing of Class I treated biosolids which have been mixed with inert materials may be approved on a case-by-case basis. Inert materials shall not contain pathogens or attract vectors.] Exceptional quality biosolids marketed as fertilizers or soil conditioners, must be registered with the Virginia Department of Agriculture and Consumer Services. [The permit applicant shall obtain such registration prior to issuance of a permit by the commissioner for residential, agricultural, reclamation or silvicultural use.]

1. Because of the high potential for public contact with distributed and marketed sludge or sludge products, only biosolids processed to meet criteria specified for Class I treatment process sequences designed to eliminate or further reduce pathogens (PFRP), shall be sold or given away for application to land. In addition, the biosolids must meet vector attraction reduction requirements, and other quality standards (Table 9) as required for the intended use.

2. Exceptional quality biosolids may be distributed and marketed in either bulk amounts (unpacked), or as a bagged product. For purposes of these regulations, a bulk use quantity of biosolids will be defined as a volume of that sludge product containing 15 dry tons or more of sewage sludge. Application of bulk use quantities of exceptional quality [;] biosolids [; ~~exceeding an equivalent annual loading rate of approximately one pound of biosolids per~~

~~square foot~~] to home vegetable gardens [; ~~is prohibited~~ shall not exceed an equivalent annual loading rate of approximately one pound dry weight of biosolids per square foot] (garden products may constitute a significant portion of a family diet and the amount of applied biosolids cannot be specifically controlled as in agricultural use). Exceptional quality biosolids [~~should~~ can ideally] be used as soil amendments for horticulture and landscaping purposes such as:

a. Use in potting soil mixes;

b. Use for seed beds, for establishment of grass and other vegetation and for topdressing of existing lawns and landscape vegetation.

3. Only exceptional quality biosolids produced from an approved sludge processing facility can be distributed and marketed. Biosolids sold for use as soil amendments or fertilizers must be registered with the Virginia Department of Agriculture and Consumer Services. Approved sludge processing facilities are those facilities constructed and operated in compliance with required permits. Approved methods of Class I processing for biosolids for distribution or marketing include, but may not be limited to, the methods described in Article 3 of this part.

B. Permits. Any owner who proposes to distribute or market exceptional quality biosolids or materials derived from Class I biosolids, [~~(when derived material achieves acceptable vector attraction reduction standards and contains acceptable pollutant concentrations in accordance with these regulations)~~] including soil additives or compost in bulk use quantities, shall be required to obtain a written approval issued by the State Health commissioner [; unless an operation permit has been issued for land application of the processed material as part of either an approved sludge management plan (§ 1.15.G) or an approved Operation Plan (§ 1.27). Approval of the distribution of bulk use quantities of exceptional quality biosolids is not required for a holder of a valid permit that authorizes distribution in bulk use quantities. All requests for bulk use approval shall be directed initially to the appropriate field office of the department. The State Department of Environmental Quality and the State Department of Agriculture and Consumer Services may also participate in the review of such permits involving land application. An operation permit for distribution of bulk use quantities of exceptional quality biosolids will require the submittal and review of an acceptable distribution information sheet as described in these regulations. The approval of a distribution information sheet for bulk use quantities of exceptional quality biosolids will be issued in the form of a letter of approval of such use by the department's field offices. The derived material shall achieve acceptable vector attraction reduction standards and contain acceptable levels of solids and pollutant concentrations in accordance with these regulations. A permit for distribution or marketing is not

required provided that an operation permit has been issued for land application of the processed material as part of either an approved sludge management plan (§ 1.14 H) or an approved operation plan (§ 1.24). Approval of the distribution of bulk use quantities of exceptional quality biosolids is not required for a holder of a valid permit that authorizes distribution in bulk use quantities. All requests for bulk use approval shall be directed initially to the appropriate field office of the department. The Virginia Department of Environmental Quality, the Virginia Department of Agriculture and Consumer Services and the Virginia Department of Conservation and Recreation may participate in the review of such permits involving land application. An operation permit for distribution of bulk use quantities of exceptional quality biosolids will require the submittal and review of an acceptable distribution information sheet as described in these regulations. The approval of a distribution information sheet for bulk use quantities of exceptional quality biosolids will be issued in the form of a letter of approval of such use by the department's field offices or the Division of Wastewater Engineering.]

The permittee shall maintain records on the sludge processing facility operation, maintenance and laboratory testing. Records shall be maintained for all samples to include the [following: (i) the] date and time of sampling, [(ii)] the sampling methods used, [(iii)] the date analyses were performed, [(iv)] the identity of the analyst(s) [, (v)] the results of all required analyses and measurements. The records shall include all data and calculations used and shall be available to the department for inspections at reasonable times. All required records shall be kept for a minimum of five years.

C. Information furnished to all users. [±.] Exceptional quality biosolids distributed for public use in Virginia shall have proper identification of the producer and a description of the product including an acceptable statement of quality based on representative analytical testing. This information shall be provided by the owner in either brochures for bulk distribution or by proper labeling on bagged material. Labeling requirements should be addressed in a management plan or in the operation and maintenance manual for the processing facility. [Users of biosolids shall be informed that the supplied material is not to be used to grow mushrooms as a food crop.

Information provided to users of exceptional quality biosolids should note the following: (i) the nutrient content, (ii) the acceptable land application rates, (iii) the CCE value, the pH and (iv) the necessary precautions to be followed when handling exceptional quality biosolids. When biosolids are land applied on residential or public contact (recreation) sites the following restrictions apply:

1. Exceptional quality biosolids should not be spread during precipitation events or spread on land with slope greater than 8.0% (eight-foot rise in 100 feet), unless a suitable vegetative cover is provided or the

biosolids are incorporated within the topsoil immediately following application.]

[2. Regardless of quality, Biosolids shall not be used to grow mushrooms as a food crop. The generator shall provide literature indicating the potential hazards of misuse of sludge products which are not of exceptional quality.

2. The application site with suitable vegetative cover should not exceed a slope of 12% unless the exceptional quality biosolids are to be incorporated (rototilled or disced) within 48 hours after application.]

[3. Information provide to users of exceptional quality Biosolids should note the nutrient content, acceptable land application rates, CCE value and specify necessary precautions to be followed when handling sludge products, including exceptional quality biosolids, on residential or public contact (recreation) sites, such as:

(a.) Exceptional quality biosolids should not be spread during precipitation events or spread on land with slope greater than 8% (eight-foot rise in 100 feet), unless incorporated within the topsoil immediately following application.

(b.) The exceptional quality biosolids utilization site should have a vegetative cover prior to application unless the exceptional quality biosolids are to be incorporated (rototilled or disced) within 48 hours after application.

(c.) Access to the utilization site during spreading is to be controlled to avoid excessive direct human contact.

(d.) During picking up and spreading of the exceptional quality biosolids, it is recommended that precautions be taken by the applicant to avoid direct human contact, especially by children. The use of gloves is recommended.

(e.) Exceptional quality biosolids shall not be spread within 100 feet of a public water source, nor 50 feet of a private supply unless the private owner consents.

(f.) To prevent pollutant runoff land application of exceptional quality biosolids is prohibited: on snow covered areas; on any poorly drained soils if the water table is within 18 inches of the ground surface; in areas exhibiting seasonal ponding, or in the 25-year floodplain as defined and delineated by acceptable methods, (such as flood hazard surveys), unless immediately incorporated.

4. The processing facility owner shall establish the means to provide information available at the sludge

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processing site, for inspection by the department, concerning distribution of exceptional quality Biosolids products, to a single distributor or user in bulk use quantities exceeding 50 cubic yards daily, including the name and address of bulk distributor(s) and bulk user(s) and a description of the intended use of bulk use quantities.

5. All users of bulk use amounts that are utilized or stored on a single contiguous site shall be required to provide information identifying that location to the distributor.

3. Surface application not followed by immediate (same day) incorporation should not occur on: (i) snow covered areas, (ii) any poorly drained soils if the water table is within 18 inches of the ground surface, (iii) areas exhibiting seasonal ponding, (iv) the 25-year floodplain as defined and delineated by acceptable methods. (such as flood hazard surveys).

4. Land application should not occur within 100 feet of a public water source, nor 50 feet of a private supply unless the private owner consents.

5. Public access to the site should be controlled to avoid direct human contact during and immediately (same day) following the spreading operations.]

[6. The applied amounts of exceptional quality biosolids should be maintained within recommended volumes or weights per square area. Biosolids should be applied evenly and should not be stockpiled in amounts exceeding 50 cubic yards on unlined ground surfaces for more than seven consecutive days unless adequate covering is provided to prevent potential water quality problems from occurring. Exceptions to the requirement to provide covering may be granted if the applicant satisfactorily demonstrates that water quality pollution will be prevented in the absence of covering. Surface applications of exceptional quality biosolids should be restricted to such thickness for which a uniform application can be obtained. Users of nonbulk amounts of exceptional quality biosolids shall be adequately informed of proper site management practices as for home garden use.

The processing facility owner shall establish the means to provide information available at the sludge processing site, for inspection by the department. Such information shall document the distribution of exceptional quality biosolids to a single distributor or user in bulk use quantities exceeding 50 cubic yards in a period of five consecutive days. This documentation shall include the name and address of bulk distributor(s) and bulk user(s) and a description of the intended use of bulk use quantities. All users of bulk use amounts that are utilized or stored on a single contiguous site shall be required to provide information identifying that location to the distributor to be furnished to the department upon

request). The applied amounts of exceptional quality biosolids should be maintained within recommended volumes or weights per square area. Biosolids should be applied evenly and should not be stockpiled in amounts exceeding 100 cubic yards on unlined ground surfaces for more than seven consecutive days unless adequate covering is provided to prevent potential water quality problems from occurring. Exceptions to the requirement to provide covering may be granted if the applicant satisfactorily demonstrates that water quality pollution will be prevented in the absence of covering. Surface applications of exceptional quality biosolids should be restricted to such thickness for which a uniform application can be obtained. Users of nonbulk amounts of exceptional quality biosolids shall be adequately informed of proper site management practices as for home garden use.]

D. Distribution information. A distribution information form shall be provided by the sludge processing facility owner [or holder of an operation permit for distribution or marketing] and completed by any biosolids distributor or user prior to receiving bulk use quantities of [unblended] exceptional quality biosolids of more than 50 cubic yards during a [24 hour] period [of five consecutive days] or less. Copies of this form shall be maintained by the sludge processing facility. Such records shall be made available upon request. This form shall contain the following information, [as available,] at a minimum:

1. Date;
2. Name, address, and phone number of user;
3. Amount of exceptional quality biosolids obtained;
4. Location and property owner where biosolids are being used;
5. Size of area where biosolids are spread;
6. Proximity of site to closest [stream, pond river] or water supply source; and
7. Description of site use(s) [and application rate(s)] .

[Only the information listed in subdivisions 1 through 4 shall be necessary for submission by a biosolids distributor.]

The department reserves the right to prohibit the distribution of bulk use quantities of biosolids when it appears that such distribution is being accomplished in such a manner so as to circumvent the foregoing requirements.

E. Other uses. The use of a nonhazardous sewage sludge product, such as incinerator ash, will be evaluated on a case-by-case basis as provided for by these regulations.

§ 3.12. Sludge disposal.

Permits for sludge disposal practices will be issued through other state and federal regulations and are not subject to these regulations. Such practices may include:

1. *Incineration.* Emission quality control requirements will be established in accordance with state and federal regulations. The generated ash is required to be properly managed in accordance with state and federal regulations. Applicable regulatory requirements in addition to these regulations may involve permits issued by the appropriate state and federal agencies. Buffer separation requirements will be established on a site specific basis in accordance with the applicable regulations.

2. *Landfill.* Management of stabilized sludge suitable for topdressing of completed landfill areas will be subject to state and federal regulations. Codisposal of sludge within municipal solid waste landfills is subject to state and federal regulation. Codisposal requirements have included:

a. *Stabilization treatment of sludges.*

b. *Dewatering of sludges by methods designed to achieve a suspended solids level of 20% or more, or a treated sludge sample passes the paint filter test standards for free water.*

c. *A nonhazardous declaration from the owner.*

3. *Lagooning (surface disposal).* When these facilities are closed by burying the wastes in place, they may be considered to be surface disposal sites. A closure plan shall be provided to the appropriate agencies.

4. *Dedicated sites.* The primary purpose of surface disposal sites is to allow frequent long-term sludge application at a single location at amounts which exceed agronomic rates [but not for the purpose of reclaiming disturbed soils]. Sludge disposal operations on dedicated sites will be subject to state and federal regulations including site management practices. Permits will be issued through state and federal regulations to protect public health and the quality of state waters. Any dedicated site may be subject to local zoning requirements and may be recorded as a dedicated site in the appropriate circuit court deed book (Table A-3).

Article 3.

Agricultural Use of Biosolids.

§ 3.13. Standards for agricultural use.

A. *Standards for agricultural use of sewage sludge as biosolids have been established such that the concentrations of sludge contaminants released to the environment will not exceed the human health and*

environmental quality criterion for the relevant exposure pathways.

B. *Agricultural use standards involve regulation of the following:*

1. *Sludge characteristics as determined from sampling and testing as well as control of sewer use.*

2. *Sludge treatment (stabilization) in relation to process design and operational controls (Table 3).*

3. *Site management in relation to land application of biosolids for agronomic use, including: (i) operational methods, (ii) access restrictions, and (iii) buffer restrictions.*

4. *Crop management in relation to land application of biosolids and crop rotation, including: (i) application rate determinations, (ii) crop use restrictions.*

5. *Standards for biosolids characteristics including: (i) nutrient concentrations, (ii) heavy metal concentrations, (iii) organic chemical concentrations, and (iv) lime content/pH characteristics.*

6. *Standards for processing biosolids involving treatment process sequences for: (i) pathogen reduction treatment, and (ii) reduction of organic matter to minimize odors and reduce vector attraction.*

§ 3.14. Biosolids characteristics; nutrients; heavy metals; organic chemicals.

[A. *The primary agronomic value of municipal Biosolids is the nutrient concentration of the biosolids which must be established prior to agricultural use. Nitrogen and phosphorous concentrations typically found in municipal biosolids can support crop growth. However, nitrate nitrogen is mobile in soil and can accumulate in groundwater as a pollutant. Thus, the amount of Biosolids applied to land is usually restricted to the nitrogen requirements of the crop grown on the amended site immediately following application (agronomic rate). In addition, soil erosion and site runoff may result in phosphorous pollution of surface waters if surface application of biosolids is not controlled. The results of approved groundwater monitoring programs may be utilized to verify proposed application rates.*

A. *The primary agronomic value of biosolids, the nutrient content shall be established prior to agricultural use. The applied nitrogen and phosphorous content of biosolids shall be limited to amounts established to support crop growth. Nitrate nitrogen developed is a result of biosolids application shall be controlled in order not to accumulate in groundwater as a pollutant. Thus, the amount of biosolids applied to land shall be restricted based on the nitrogen requirements of the crop grown on the amended site immediately following application*

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(agronomic rate). In addition, soil erosion and site runoff should not result in phosphorous pollution of surface waters as a result of surface application of biosolids. The results of approved groundwater monitoring programs may be utilized to verify frequent application rates.]

B. The heavy metal content of biosolids may restrict the application rate below the agronomic rate. However, municipal biosolids would not normally contain excessive heavy metal concentrations unless a significant amount of a high metal content wastewater without pretreatment [without pretreatment] is routinely discharged into the municipal system [without pretreatment]. If a biosolid contains heavy metal concentrations below the ceiling values listed in Table 8, or is processed and evaluated as exceptional quality biosolids, the application rate [will generally for agricultural use shall] be unrestricted up to the agronomic rate for infrequent applications. The accumulated amount of heavy metals [may can] restrict the application rate for frequent applications of Biosolids.

C. Municipal biosolids can contain synthetic organic chemicals from industrial wastewater contributions and disposal of household chemicals and pesticides. Municipal biosolids typically contain very low levels of these compounds; however, biosolids may be required to be tested for certain toxic organic compounds prior to agricultural use (Table 13). [If performed and validated,] these test results shall be utilized to evaluate the maximum allowable annual loading rate for the tested biosolids. If analytical test results verify that biosolids contains levels of organic chemicals exceeding concentration limits incorporated in federal regulations or standards, appropriate restrictions shall be imposed for agricultural use of that biosolid.

§ 3.15. Biosolids treatment.

A. Stabilization. Biosolids treatment processes are primarily designed to increase the solids content of the biosolids by separation and removal of liquid and are designed to stabilize the solid fraction through biochemical conversions that inactivate pathogens and reduce vector attraction characteristics and the potential for odor production. Such treatment should be designed to improve the characteristics of the biosolids for a particular use/disposal practice, increase the economic viability of using a particular practice and reduce the potential for public health, environmental and nuisance problems.

B. Class I treatment. Class I treatment may be achieved by process sequences to further reduce (PFRP) or eliminate pathogens, i.e., Class A pathogen control. Class I treatment methods reduce all pathogens potentially contained in biosolids or septage to a level below specified limits (Table 3). [Class I microbiological standards shall be achieved at the time the biosolids is used or prepared for distribution and marketing in accordance with the appropriate management practices specified in Article 7. These processes may include one or more of the following operational parameters: Class A

microbiological standards and an acceptable solids content shall be achieved at the time biosolids are used or prepared for distribution or marketing in accordance with the appropriate management practices specified in these regulations. Class I treatment processes should include one or more of the following operations:]

1. Heat treatment. The temperature of the biosolids that is used or disposed is maintained at a specific value for a specified period of time:

a. When the percent solids of the biosolids is 7.0% or higher, the temperature of the biosolids shall be 50°C or higher; the time period shall be 20 minutes or longer; and the temperature and time period shall be determined using equation B-1, except when small particles of biosolids are heated by either warmed gases or an immiscible liquid.

Equation B-1: $D1 = (131,700,000) / [10^{(exp 0.1400(t))}]$

Where,

D1 = time in days that biosolids temperature is t or more

t = Biosolids temperature in degrees Celsius (°C).

exp = exponent or power that Base 10 is raised to.

b. When the percent solids of the biosolids is 7.0% or higher and small particles of biosolids are heated by either warmed gases or an immiscible liquid, the temperature of the biosolids shall be 50°C or higher; the time period shall be 15 seconds or longer; and the temperature and time period shall be determined using equation B-1.

c. When the percent solids of the biosolids is less than 7.0% and the time period is at least 15 seconds, but less than 30 minutes, the temperature and time period shall be determined using equation B-1.

d. When the percent solids of the biosolids is less than 7.0%; the temperature of the biosolids is 50°C or higher; and time period is 30 minutes or longer, the temperature and time period shall be determined using equation B-2.

Equation B-2:

$D2 = (50,070,000) / [10^{(exp 0.1400(t))}]$

D2 = time in days that biosolids temperature is t or more

t = Biosolids temperature in degrees Celsius (°C).

- e. The temperature of the biosolids is maintained at 70°C or higher for a time period of 30 minutes or longer (Pasteurization).
2. Heat drying. A process wherein dewatered biosolids cake is dried by direct or indirect contact with hot gases and the biosolids moisture content is reduced to 10% or lower. Direct drying is achieved when the biosolids particles reach temperatures of 80°C or higher. Indirect drying [~~is determined from when~~ may involve] the temperature of the gas stream measured at the point where the gas stream leaves the dryer. Indirect drying [~~is then~~ may be] achieved when the wetbulb temperature of the gas stream leaving the dryer is in excess of 80°C [or the biosolids particles reach temperatures of 80°C or higher] .
3. Thermophilic composting. A process using the within-vessel composting method which maintains a treated biosolids temperature of 55°C or greater for three days. A process using the static aerated pile composting method which maintains a treated biosolids temperature of 55°C or greater for three days. A process using the windrow composting method which maintains a treated biosolids temperature at 55°C or greater for at least 15 days during the composting period, and during the indicated high temperature period, there is a minimum of five turnings of the windrow. Operating temperatures are measured at the depth of 30 cm from the surface of the compost mixture. As thermophilic composting processes are less efficient in destroying pathogens than other disinfection processes an additional storage of processed compost up to 30 days or more may be necessary to achieve an adequate level of vector attraction reduction as verified by testing prior to final disposition (Table 3).
4. Thermophilic aerobic digestion. Liquid biosolids consisting of 50% or more waste biological liquid by dry weight, is agitated with air or oxygen to maintain one mg/l or more dissolved oxygen at mid-depth, during a mean cell residence time of 10 days or more at 55°C or more.
5. Alkaline (PFRP) stabilization. Thorough blending of an alkaline additive to digested biosolids in sufficient quantities to produce a mixture pH of 12 or more for a period of 72 hours or more [~~and~~ (1) with one of the following] : [(i)] mixture temperature of 55°C for a minimum period of 12 hours [~~or~~] , [(2) ~~a~~ (ii)] mixture temperature of 70°C or more for a minimum period of 30 minutes or more. Such treatment may be followed by storage for an acceptable period of time to dry the mixture to an adequate dry solids content. Alkaline addition to undigested biosolids will be considered on a case-by-case basis [with extensive monitoring used to verify the level of pathogen control achieved.]
6. Chlorine oxidation. A process of introducing high doses of chlorine (1,000 mg/l to 3,000 mg/l) into the biosolids stream under low pressure (30 psig or more) producing a biosolids pH of four or less in order to achieve Class A microbiological standards (Table 3), followed by acceptable drying to achieve a suspended solids content of 30% percent or more.
7. Alternative equivalent stabilization processes. The process operating parameters for alternative equivalent stabilization processes (PFRP) should be addressed, case by case, based on division evaluation of the results of adequate monitoring and testing programs (Table 3), with input from the USEPA staff, i.e., the Pathogen Equivalency Committee.
- C. Class II treatment. Class II Treatment may be achieved by Process Sequences to significantly Reduce Pathogens (PSRP), i.e., Class B Pathogen Control. Class II treatment methods reduce bacteria (fecal coliform, fecal streptococci, enterococci) found in the treated biosolids or septage two (2) logs or more (100 fold) below the densities found in the raw biosolids to achieve a density of (6 log10 per gram of total solids or less (Table 3)). Class B microbiological standards shall be achieved at the time the biosolids is removed and transported for land application in accordance with the management practices specified. [~~These processes~~ Class II treatment processes] may include one or more of the following [~~operational parameters:~~ operations:]
1. Anaerobic digestion. A process whereby biosolids is maintained in an anaerobic environment for a mean cell residences period ranging from 60 days at 20°C to 15 days at 35°C.
2. Aerobic digestion. A process of agitating biosolids with air or oxygen to maintain aerobic conditions for a mean cell residence period ranging from 60 days at 15°C to 40 days at 20°C.
3. Low-temperature composting. A process using the within-vessel, [~~static aerated~~] aerated static pile or windrow composting methods, whereby the temperature of treated biosolids is maintained at a minimum of 40°C for five days. For four hours during this period the operating temperature of the treated biosolids exceeds 55°C. Additional storage of processed compost for 30 days or more may be necessary to provide the necessary level of vector attraction reduction prior to final disposition.
4. Alkaline (PSRP) stabilization. A process where sufficient alkaline additive is blended with unstabilized biosolids to produce a minimum mixture pH of 12 after two hours of contact and a pH of 11.5 or more for 22 additional hours or more, with storage for a period sufficient to produce an acceptable dry solids content as necessary for the method of final disposition.

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5. Air drying. Biosolids treated by methods similar to those listed above, but not meeting [Class I,] Class II or III treatment [standards] is dried on sand beds or in basins with underdrains for a minimum period of three months, during which time the ambient daily temperature exceeds 0°C and a dried biosolids is produced.

D. Class III treatment. Class III treatment may be achieved by Process Sequences to Lower Pathogens (PSLP) that can result in Class B Pathogen Control. Class III treatment methods can reduce pathogenic bacteria (fecal coliform, fecal streptococci, enterococci) found in the treated biosolids or septage to one and one-half (1.5) logs (32 fold) below the densities found in the raw wastewater (Table 3). These processes may include the following:

1. Anaerobic digestion. A process whereby the biosolids is maintained in an anaerobic environment for a period of no more than 60 days at 20°C or no more than 15 days at 35°C, resulting in a volatile solids reduction of less than 38%.

2. Aerobic digestion. A process of agitating biosolids with air or oxygen to maintain aerobic conditions for a period and more than 40 days at 20°C or no more than 60 days at 15°C, resulting in a volatile solids reduction of less than 38%.

3. Air drying. A process whereby partially digested or Alkaline conditioned (pH greater than 10.5) [biosolids (septage) sludge or] septage is allowed to drain or dry on an underdrained surface or media, or in lined basins, in which the biosolids layer is 24 inches thick or less. The process requires a minimum drying time of three months and a residual solids content of 20% or more must be provided in the biosolids cake.

4. Lagoon storage. A process whereby partially digested or lime conditioned (pH greater than 10.5) sludge or septage is stored in lined lagoons for a period of 90 days or more at a temperature exceeding 0°C, and a dewatered biosolids is produced.

5. Alkaline treatment. A process whereby sufficient alkaline additive is blended with a mixture of primary/secondary [biosolids] sludge with more than 50% waste activated biosolids by weight, to produce a pH of 12 after two hours of contact [followed by a storage period sufficient to produce a dry solids content of 15 percent or more in the biosolids] .

E. Additional treatment methods to provide disinfection of treated biosolids. Pathogen treatment processes may be enhanced by providing additional treatment methods to eliminate parasitic worms and ova (EH process sequence). Any of the processes listed below, if added to stabilization processes described previously, will further lower pathogens. Because these processes, when used alone, do not reduce nuisance odors and the attraction of vectors, they are considered to be supplementary to typical

stabilization and pathogen treatment processes.

1. Beta Ray Irradiation. A process involving the irradiation of biosolids with beta rays at dosages of at least one megarad at 2°C.

2. Gamma Ray Irradiation. A process involving the irradiation of biosolids with gamma rays from certain isotopes, such 60Cobalt and 137Cesium, at dosages of at least 1.0 megarad at 20°C.

F. Vector attraction reduction parameters. [One of the appropriate vector attraction reduction requirements shall be met when Class A or B bulk biosolids is applied to agricultural land, forest, a public contact site, reclamation site, lawn or home gardens also; one of the appropriate vector attraction reduction requirements shall be met when Class A biosolids is sold or given away in a bag or other container for application to the land. The following operational methods will achieve the necessary vector attraction reduction requirements: One of the appropriate vector attraction reduction requirements shall be achieved and Class A or B pathogen control obtained when bulk biosolids are applied to agricultural land, forest, a public contact site, reclamation site, lawn or home gardens. One of the appropriate vector attraction reduction requirements shall be met when Class A biosolids are sold or given away in a bag or other container for application to the land. The following operational methods will achieve the necessary vector attraction reduction requirements:]

1. The mass of volatile solids in the biosolids shall be reduced by a minimum of 38% (see calculation procedures in "Environmental Regulations and Technology - Control of Pathogens and Vector Attraction in Biosolids", EPA-625/R-92/013, 1992, U.S. Environmental Protection Agency, Cincinnati, Ohio 45268).

2. When the 38% volatile solids reduction cannot be met for an anaerobically digested biosolid, vector attraction reduction can be demonstrated by digesting a portion of the originally digested biosolids anaerobically in the laboratory in a bench-scale unit for 40 additional days at a temperature between 30°C and 37°C. When at the end of the 40 days, the volatile solids in the biosolids at the beginning of that period is reduced by less than 17%, adequate vector attraction reduction is considered demonstrated for the originally digested biosolids.

3. When the 38% volatile solids reduction requirement cannot be met for an aerobically digested biosolid, vector attraction reduction can be demonstrated by digesting a portion of the originally digested biosolids that has a percent solids of 2.0% or less aerobically in the laboratory in a bench-scale unit for 30 additional days at 20°C. When at the end of the 30 days, the volatile solids in the biosolids at the beginning of that period is reduced by less than 15%, adequate vect

attraction reduction is considered demonstrated for the originally digested biosolids.

4. The specific oxygen uptake rate (SOUR) for biosolids treated in a Class III or better aerobic process shall be equal to or less than 1.5 milligrams of oxygen per hour per gram of total solids (dry weight basis) at a temperature of 20°C.

5. Biosolids shall be treated in a Class III or better aerobic process for 14 days or longer. During that time, the temperature of the biosolids shall be higher than 40°C and the average temperature of the biosolids shall be higher than 45°C.

6. The pH of treated biosolids shall be raised to 12 or higher by alkaline addition and, without the addition of more alkaline material, shall remain at 12 or higher for two hours and then at 11.5 or higher for an additional 22 hours. Alkaline stabilization of untreated biosolids shall be evaluated on a case-by-case basis.

7. The percent solids of treated biosolids that does not contain unstabilized solids generated in a primary wastewater treatment process shall be equal to or greater than 75% based on the moisture content and total solids prior to mixing with other materials.

8. The percent solids of treated biosolids that contains unstabilized solids generated in a primary wastewater treatment process shall be equal to or greater than 90% based on the moisture content and total solids prior to mixing with other materials.

9. For biosolids that are surface applied and incorporated, or injected, below the surface of the land:

a. No significant amount of the biosolids shall be present on the land surface within one hour after the biosolids are injected.

b. When the biosolids that are injected below the surface of the land are Class A with respect to pathogens, the biosolids shall be injected below the land surface within eight hours after being discharged from the pathogen treatment process.

c. Biosolids applied to the land surface shall be incorporated into the soil within six hours after application to or placement on the land.

d. When biosolids that are incorporated into the soil are Class A with respect to pathogens, the biosolids shall be applied to or placed on the land within eight hours after being discharged from the pathogen treatment process.

10. The pH of untreated domestic septage applied to land shall be raised to 12 or higher by alkaline

addition and, without the addition of more alkaline material, shall remain at 12 or higher for 30 minutes prior to application.

§ 3.16. Site access time restrictions.

A. Unrestricted access (UA). Biosolids that have undergone Class I Treatment to achieve Class A Pathogen Control may be applied or incorporated into the soil of agricultural lands and immediate public access is permitted. [Up to a 30-day waiting period following application to allow adhering biosolids to be washed from the foliar portion of the plants by precipitation; crops can be harvested for human consumption and domestic animals grazed. A waiting period is required up to 30 days following application (to allow adhering biosolids to be washed from the foliar portion of the plants by precipitation). This waiting period is required before: (1) crops are harvested for human consumption, (2) domestic animals are allowed to graze on the site.]

B. Restricted access (RA). [Following application or incorporation of biosolids that have undergone Class II Treatment to achieve Class B Pathogen Control, access to any site with a high potential for contact with the ground surface (public use) by the general public shall be controlled for a minimum time period of one year. Access to Agricultural sites and other sites with a low potential for public exposure shall be controlled for 30 days. Food crops with harvested parts that touch the biosolids/soil mixture and are not totally above the land surface shall not be harvested for 14 months after the application of biosolids. Food crops with harvested parts below the surface of the land shall not be harvested for 20 months after the application of biosolids when the biosolids remain on the land surface for four months or longer prior to incorporation into the soil, or 38 months when the biosolids remain on the land surface less than four months prior to incorporation. Feeding of harvested crops to animals shall not take place for a total of one (1) month after application or incorporation of Class II treated biosolids or properly treated septage (two (2) months for lactating dairy livestock). Grazing by animals whose products will or will not be consumed by humans is prevented for at least 30 days (60 days for lactating dairy livestock) after the last application of Class II treated biosolids or properly treated septage. Following application or incorporation of biosolids that have undergone Class II treatment to achieve Class B Pathogen Control public access and crop management shall be restricted as follows: (1) access to any site with a high potential for contact with the ground surface (public use) by the general public shall be controlled for a minimum time period of one year, (2) access to agricultural sites and other sites with a low potential for public exposure shall be controlled for 30 days, (3) food crops with harvested parts that touch the biosolids/soil mixture and are not totally above the land surface shall not be harvested for 14 months, (4) food crops with harvested parts below the surface of the land shall not be harvested for 20 months following application, when the biosolids

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remain on the land surface for four months or longer prior to incorporation into the soil, (5) food crops with subsurface harvested parts shall not be harvested for 38 months following application, when the biosolids remain on the land surface less than four months prior to incorporation, (6) feeding of harvested crops to animals shall not take place for a total of one month (two months for lactating dairy livestock), (7) grazing by animals whose products will or will not be consumed by humans is prevented for at least 30 days (60 days for lactating dairy livestock).]

C. Rigorous Restricted Access (RRA). [Following application to the surface or incorporation into soil Class B Biosolids that have undergone Class III pathogen reduction processes, controlled public access is required for 18 months or more on public use sites and 60 days on agricultural sites and other sites with a low potential for direct contact with the ground surface. Crops for direct human consumption cannot be grown within 24 months subsequent to Biosolids application. Food crops with harvested parts that touch the biosolids/soil mixture and are totally above the land surface shall not be harvested for 18 months after the application of biosolids. Food crops with harvested parts below the surface of the land shall not be harvested for 26 months after the application of biosolids when the biosolids remain on the land surface up to 4 months or more prior to incorporation into the soil, or 42 months when the biosolids remain on the land surface less than 4 months prior to incorporation. Other food crops, feed crops and fiber crops shall not be harvested for 30 days after the application of biosolids. Grazing by animals whose products are consumed by humans is prevented for at least two (2) months after the last application of Biosolids or treated septage. For sites receiving frequent applications of Class III Biosolids: Following application to the surface or incorporation into soil Class B biosolids that have undergone Class III pathogen reduction processes, public access and crop management shall be restricted as follows: (1) public access is controlled for 18 months or more on public use sites (2) public access is controlled for 60 days on agricultural sites and other sites with a low potential for direct contact with the ground surface, (3) crops for direct human consumption cannot be grown within 24 months, (4) food crops with harvested parts that touch the biosolids/soil mixture, but are totally above the land surface, shall not be harvested for 18 months, (5) food crops with harvested parts below the surface of the land shall not be harvested for 26 months after application when the biosolids remain on the land surface up to 4 months or more prior to incorporation into the soil, (6) food crops with subsurface harvested parts shall not be harvested for 42 months when the biosolids remain on the land surface less than 4 months prior to incorporation, (7) other food crops, feed crops and fiber crops shall not be harvested for 30 days, (8) grazing is prevented for two months for animals whose products are consumed by humans. For sites receiving frequent applications of Class III biosolids site restrictions shall include:]

1. Access [~~shall be~~] controlled by trespass-resistant fencing in all except those remote sites not accessible to the public.

2. Warnings [posted] of hazard and intent to prosecute trespassers [~~shall be present,~~] warning signs must be posted, at least 90 inches in area with lettering at least one-half (0.5) inch in size in conspicuous places every 100 feet in wooded or heavily vegetated areas and every 500 feet in open areas).

3. Procedures [~~shall be~~] in place for minimizing inadvertent transport of biosolids or septage from the site by staff, contaminated equipment or animals (e.g., washing of contaminated articles, animals or equipment when leaving a site).

4. [Sites shall be substantially apart (500 feet or more) from residences or other concentrations of human activity, and Site buffers separating operations by 500 feet or more from residences or other concentrations of human activity.]

5. Nonpoint source pollution to surface waters [~~shall be~~] prevented through soil conservation plans, vegetation belts, or other best management practices.

D. Modified Access (MA). If a biosolids processing sequence is used to treat PSRP or PSLP biosolids the eliminates or inactivates helminth eggs (EH), [public use access restrictions are reduced to six and eight months respectively, which shall include two summer months. A summary listing of access restrictions is presented in Table 10.

§ 3.17. Biosolids management for nitrogen loading.

A. Crop uptake guidelines. Section 3.10 A 3 states that application rates shall be approved by the department and the board and that nitrogenous substances are often the limiting factoring determining these application rates. The applicant is responsible for providing site specific biosolids loading rates on a field-by-field basis. In cases where nitrogen is the rate limiting constituent, such rates may be justified by determining the predominant soil type in a field and then correlating the appropriate soil productivity group and nitrogen requirement for the proposed crop. Soil Test Recommendations developed through the Virginia Polytechnic Institute and State University or the Virginia [~~or the State~~ Division of Soil and Water Conservation] Department of Conservation and Recreation may be used for such purposes. Table 11 summarizes the correlation between nitrogen requirement and productivity class for several crops [and trees of interest] grown and harvested in Virginia. The applicant may also justify site specific loading rates by documenting historic crop yield records (average of three highest yields in five years of record) or by written verifications from the VPI and SU, the Cooperative Extension Service or [State Department of Conservation and Recreation]

Nutrient Management Specialist. Written verification shall accompany a request for higher yield goals than those posted in Table 11.

B. Application rate calculations. For biosolids application, a nitrogen balance must be evaluated to determine the acceptable loading rate. For frequent biosolids application, the evaluation will require an assessment of biosolids mineralization rates for organic nitrogen present in the biosolids for the year it is applied as well as [~~that~~] residual organic nitrogen that will be mineralized from previous years' biosolids application. Table 12 summarizes acceptable organic nitrogen mineralization rates and ammonia volatilization rates for various types of biosolids and should be used in computing acceptable nitrogen loading rates unless information is provided to justify other rates. The nitrogen application rate on sites registered in the conservation reserve plan should be established in accordance with those land use restrictions. The application rates for treated septage shall be developed using Equation 1 contained in Table 13B.

§ 3.18. Maximum application rates for metals.

The maximum cumulative application of cadmium and other biosolids borne metals to soils used for crop production is summarized in Table 9. Parameters other than those listed in Tables 8, 9 and 14 can be used to evaluate the application rate of biosolids in accordance with current EPA technical regulations. Exceptional Quality Biosolids applied to lawns or home gardens in residential areas shall be of such quality so as to conform with the pollutant levels specified in Table 8-B.

§ 3.19. Maximum application rates for high lime biosolids.

Application rates for biosolids-borne calcium carbonate equivalency (CCE) may be restricted in accordance with the soil pH, as listed in Table 14. Biosolids conditioned or stabilized with lime [~~can~~] contain [~~high~~] quantities of lime [that may affect soil pH] (expressed as calcium carbonate equivalency). Unless properly controlled, high rates of CCE application can have an adverse effect on crop productivity by increasing the soil pH beyond the range optimum for maximum crop production. Therefore, agricultural use of biosolids with high CCE [~~contents~~] content should be controlled to correspond with current agricultural liming practices. Recommendations for application of agricultural limestone to soil types to obtain a desired pH value is given in Table 14. Corresponding application rates for lime stabilized biosolids may be computed by determining the actual CCE content of the Biosolids and adjusting the recommended lime rate by the appropriate factor. For example, the rates in Table 14 should be multiplied by a factor of 3.33 to determine the biosolids application rate needed (dry tons/acre) for biosolids with a CCE of 30%. Calcium carbonate equivalent loadings should not exceed rates designed to target soil pH values of 6.5 for low coastal plain soils and 6.8 for mid to upper coastal plains.

§ 3.20. Maximum application rates for phosphorus.

Biosolids use operations involving high application rates or phosphorus may involve additional monitoring requirements (§ 2.13) for permit issuance. [For biosolids use sites exhibiting very high soil test phosphorus of 55 or more parts per million parts phosphorus (Mehlich one analytical test procedure or equivalent), the Division of Soil and Water Conservation ~~any~~ require the preparation of a complete nutrient management plan and/or a soil conservation plan, as appropriate, if such sites exhibit a significant erosion potential based on site soils and topography. The required plans must be completed prior to any biosolids use operations on that site. Submission of additional information may be requested for any proposed biosolids use sites exhibiting very high soil test phosphorus of 55 or more parts per million parts phosphorus (Mehlich 1 analytical test procedure or equivalent). The Virginia Department of Conservation and Recreation may require the preparation of a complete nutrient management plan or a soil conservation plan, as appropriate, if such sites exhibit a significant erosion potential based on site soils and topography. The division will request such information from the Virginia Department of Conservation and Recreation and the required plans shall be completed prior to any biosolids use operations on that site.]

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TABLE 8

A. Recommended Ceiling Pollutant Limits for the Trace Metal Content of Biosolids Acceptable for Land Application.

<u>Pollutant</u>	<u>Concentration (mg/Kg) Dry Weight</u>
Arsenic	75
Cadmium	85
Chromium	3000
Copper	4300
Lead	840
Mercury	57
Molybdenum	75
Nickel	420
Selenium	32
Zinc	7500
Cadmium/Zinc Ratio (if cadmium equals or exceeds 21 mg/kg)	1.5%

B. MAXIMUM MONTHLY AVERAGE POLLUTANT CONCENTRATIONS FOR APPLICATION OF EXCEPTIONAL QUALITY BIOSOLIDS TO LAWNS OR HOME GARDENS IN RESIDENTIAL LOCATIONS

<u>POLLUTANT</u>	<u>CONCENTRATION IN MILLIGRAMS PER KILOGRAMS (DRY WEIGHT)</u>
Arsenic	41 (1)
Cadmium	21
Chromium	1200
Copper	1500
Lead	300
Mercury	17
Molybdenum	41 (1)
Nickel	420
Selenium	32
Zinc	2800

Notes: (1) The monthly average concentration is currently under study by USEPA as USDA has identified that these levels were unnecessarily low due to incomplete evaluation of data. The standard may be increased up to 54 mg/kg based on the 98 percentile levels in typical Biosolids as identified in NSSS.

TABLE 9

MAXIMUM CUMULATIVE APPLICATION OF BIOSOLIDS BORNE METALS
THAT CAN BE APPLIED TO SOILS USED FOR CROP PRODUCTION⁽¹⁾

Metal	[Kg/ha (lbs/AC)]	
Arsenic(2)	41	(36)
Cadmium	21	(18)
Chromium	3,000	(2,680)
Copper	1,500	(1,340)
Lead	300	(270)
Mercury	17	(16)
Molybdenum (2)	41	(36)
Nickel	420	(375)
Selenium	32	(29)
Zinc	2,800	(2,500)

- Note: (1) Such total applications to be made on soils with the Biosolids/soil mixture pH adjusted to 6.0 or greater if the Biosolids cadmium content is greater than or equal to 21 mg/kg.
The maximum cumulative application rate is limited for all ranges of cation exchange capacity due to soil background pH in Virginia of less than 6.5, and lack of regulatory controls of soil pH adjustment after Biosolids application ceases.
- (2) The maximum cumulative application may be increased in accordance with the results of USEPA recommendations at a later date.

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TABLE 10

COMPARISONS OF TIME RESTRICTIONS FOLLOWING COMPLETION OF BIOSOLIDS APPLICATION ASSOCIATED WITH CLASS II AND CLASS III TREATMENT LEVELS

Treatment Classification	II (PSRP)	III (PSLP)	II (PSRP)	III (PSLP)
Type of Application	Surface ⁽¹⁾	Surface ⁽¹⁾	Incorporated ⁽²⁾	Incorporated ⁽²⁾
Control of Access for Public Use (3)	12 Months	18 Months	12 Months	12 Months
Time lapse required before <u>above ground food crops with harvested parts that touch the biosolids/soil mixture can be harvested.</u>	14 Months	18 Months	14 Months	18 Months
Time lapse before <u>food crops with harvested parts below the land surface can be harvested</u>	<u>20 Months</u>	<u>26 Months</u>	38 Months	42 Months
<u>Harvesting food crops, feed crops and fiber crops</u>	<u>1 Month</u>	<u>1 Month</u>	<u>1 Month</u>	<u>1 Month</u>
<u>Grazing and feeding harvested crops to animals whose products are consumed by humans</u> (4)	1 Month	2 Months	1 Month	2 Months
<u>Grazing or feeding harvested crops to animals whose products are not consumed by humans</u>	1 Month	<u>1 Month</u>	1 Month	1 Month
<u>Harvesting turf for placement on land with a high potential for public exposure or a lawn</u> (5)	<u>12 Months</u>	<u>12 Months</u>	<u>12 Months</u>	<u>12 Months</u>

Note: (1) remains on land surface for four (4) months or longer prior to incorporation
 (2) remains on land surface for less than four (4) months prior to incorporation
 (3) public access to agricultural sites and other sites with a low potential for direct contact with the ground surface shall be controlled for 30 days [for sites receiving application of Class II treated biosolids and up to 60 days] or more following application of [Class III treated] biosolids.
 (4) the restriction for lactating dairy cows is two (2) months
 (5) this time restriction must be met unless otherwise specified by the permitting authority.

TABLE 11: Nitrogen Requirements for Agronomic Rates

A. Recommended Plant Available Nitrogen (PAN) Application Rates in pounds of Nitrogen (N) per acre for Various Non-Irrigated Crops Grown on Soils Receiving Infrequent Biosolids Applications (1)

Crop	Soil Productivity Group									
	I		II		III		IV		V	
	A	B	A	B	A	B	A	B		
	lbs N/acre									
Corn grain or silage	160 to 180	150 to 170	140 to 160	130 to 150	120 to 140	110 to 130	100 to 120	85 to 105	65 to 85	
Grain sorghum	140	130	120	110	100	95	90		80	
Full Season Soybeans (2)	160 to 180	150 to 170	140 to 160	130 to 150	120 to 140	110 to 130	100 to 120	85 to 105	65 to 85	
Canola (3)	100		90		80		60		60	
Wheat	100		90		80		60		60	
Barley	90		80		80		60		60	
Rye	75		75		75		75		75	
Oats	80		80		80		60		60	
Tallgrass hay ((4))	250		250		200		160		160	
Bermudagrass hay	300		300		260		210		210	
Pasture Fescue/Orchardgrass((5))	120		120		100		80		80	
Bermudagrass pasture	200		200		160		120		120	
Alfalfa	300		300		210		150		150	
Sudangrass, sudan-sorghum, millet ((6))	70		70		70		70		70	
Stockpiled tall fescue (summer application by August 31)	90		90		90		60		60	

Notes: (1) For proposed use of crops or PAN rates ((lbs/A)) not included in the following tables, adequate yield and PAN Data are to be submitted in accordance with [§1-15.6-]§1.14.G (and Appendix A) of these regulations.

(2) For double crop or late beans planted after 6/21, ((of any year,)) allowable PAN rates are the lowest of the listed values, as rounded to nearest factor of ten.

(3) For Fall Application Rate may sidedress up to 60 lbs fertilizer N/acre in late February before spring growth begins.

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B. Estimated Yields in Bushels (bu) or tons (T) per acre (A) of Various Non-Irrigated Crops for identified Soil Productivity Groups

Crop	I		II		III		IV		V
	A	B	A	B	A	B	A	B	
Corn									
Grain(bu/A)	160	150	140	130	120	110	100	85	65
Silage(T/A)	21	20	19	18	17	16	15	13	10
Grain Sorghum(bu/A)	140	130	120	110	100	90	90		80
Soybeans(bu/A)									
Early season	50	45	40	30	35		25		20
Late season [(1)(7)]	40	34	34		25		18		15
Canola [(2)(8)]	UNDETERMINED AT THIS TIME								
Wheat(bu/A)									
Standard	64		56		48		40		24
Intensive	80		70		60		50		30
Barley(bu/A)									
Standard	100		70		60		50		30
Intensive	115		88		75		63		38
Oats	80		80		80		60		60
Tallgrass hay(T/A)	>4.0		3.5-4.0	3-3.5	<3.0		NA		NA
Bermudagrass hay(T/A)	>6.0		4.0-6.0		<4.0		NA		NA
Alfalfa(T/A)	>6.0		4.0-6.0		<4.0		NA		NA

Notes:

- ~~[(4) For frequent applications apply 60 lbs PAN/acre per year. Following infrequent application rate, subsequent frequent applications should be adjusted on a case-by-case basis, accounting for residual from other wastes and crops (Appendix A, Table A-2).]~~
- (4) Apply listed PAN rate when application occurs between 3/1 and 9/30 in any year and apply only one-half of listed PAN rates if application will occur between 10/1 of any year and 2/28 of the following year, with remaining PAN applied after 3/1 of that following year.}]
- [(5) For frequent applications apply 60 lbs PAN/acre per year. Following infrequent application rate, subsequent frequent applications should be adjusted on a case-by-case basis, accounting for residual from other wastes and crops (Appendix A, Table A-2).]
- [(6) Sudangrass, sudan-sorghum and pearl millet may receive a PAN rate of 120 lbs/A if the application occurs between 3/1 and 6/1 of any year and two cuttings are to be made, weather permitting. For Foxtail or German Millet, cut only once, application will be limited to a PAN rate of 70 LBS/A.)]
- [(7) Late season beans would be planted on or after 6/21 of that year.)]
- [(8) Sufficient Yield Data not currently available.]

C: Residual Plant available nitrogen (PAN) remaining from growth of various Legumes during the previous year [(1)-(9)]

Crop	%Stand	Yield Description	Residual Pan (lbs/A)
Alfalfa	50-75	Good (>4T/A)	90
	25-49	Fair (3-4T/A)	70
	<25	Poor (<3T/A)	50
Red Clover	>50	Good (>3T/A)	80
	25-49	Fair (2-3T/A)	60
	<25	Poor (<2T/A)	40
Hairy Vetch	80-100	Good	100
	50-79	Fair	75
	<50	Poor	50
Peanuts			45
Soybeans			20[(2)(10)]

Notes: [(1)-(9)] The Residual PAN values must be subtracted from the PAN values listed in Table A of this section to determine Biosolids Application rates following growth of Legume Crops the previous year.

[(2)-(10)] Where yield data is available utilize 0.5 pounds per bushel.

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TABLE 12

A. ESTIMATED NITROGEN MINERALIZATION RATES FOR BIOSOLIDS

<u>Biosolids Type</u>	<u>Years After Application</u>		
	<u>First</u>	<u>Second</u>	<u>Third</u>
Lime Stabilized	0.30	0.15	0.07
Aerobic digestion	0.30	0.15	0.08
Anaerobic digestion ⁽¹⁾	0.20 ⁽²⁾	0.10	0.05
Composted ⁽³⁾	0.10	0.05	0.03

Note: ⁽¹⁾ Typical anaerobically digested municipal Biosolids should be characterized by a total volatile solids fraction of 55 percent or less, total organic nitrogen of 4 percent or less and an ammonia nitrogen content of one (1) percent or less.

⁽²⁾ The mineralization rate may be increased up to a value of 0.3 in accordance with the degree of stabilization achieved.

⁽³⁾ Biosolids compost should be characterized by a total organic nitrogen content of two (2) percent or less and no significant ammonia nitrogen.

B. ESTIMATED AMMONIA NITROGEN VOLATILIZATION RATES FOR Biosolids

<u>Management Practice</u>	<u>Percent Ammonia Volatilized</u>	
	<u>Biosolids pH < 10</u>	<u>Biosolids pH ≥ 10</u>
Injection below surface	0	0
Surface application with/		
-- Incorporation within 24 hours	15	25
-- Incorporation within 1-7 days	30	50
-- Incorporation after 7 days	50	75

TABLE 13

A. ORGANIC CHEMICAL TESTING THAT MAY BE REQUIRED TO IDENTIFY AN EXCEPTIONAL QUALITY BIOSOLIDS

Organic Chemicals
Aldrin/dieldrin (total)
Benzo(a)pyrene
Chlordane
DDT/DDE/DDD (total)⁽¹⁾
Dimethyl nitrosamine
Heptachlor
Hexachlorobenzene
Hexachlorobutadiene
Lindane
Polychlorinated biphenols
Toxaphene
Trichloroethylene

Note:

- ⁽¹⁾ DDT 2,2 - Bis(chlorophenyl) - 1,1,1 - Trichloroethane
DDE 1,1 - Bis(chlorophenyl) - 2,2 - Dichloroethane
DDD 1,1 - Bis(chlorophenyl) - 2,2 - Dichloroethane

B. THE RECOMMENDED APPLICATION RATE FOR DOMESTIC SEPTAGE APPLIED TO AGRICULTURAL LAND, FOREST, OR A RECLAMATION SITE SHALL NOT EXCEED THE ANNUAL APPLICATION RATE CALCULATED USING [THE FOLLOWING] EQUATION: $(\frac{N}{0.0026})$

$$AAR = \frac{N}{0.0026}$$

Where:

AAR = Annual application rate in gallons per acre per 365 day period.

N = Amount of nitrogen in pounds per acre per 305 day period needed by the crop or vegetation grown on the land.

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TABLE 14

- A. Recommended Lime Application Rates Needed to Adjust Initial Soil pH to 6.5 for the lower coastal plains soils.

<u>Initial Soil pH</u>	<u>Soil Type*</u>	
	<u>Sandy</u> <u>Lime, Tons/AC</u>	<u>Loamy</u> <u>Lime, Tons/AC</u>
4.8	3.5	4.5
5.0	3.0	3.75
5.5	1.75	2.5
6.0	1.25	1.5
{6.3}	{0.75}	{1.0}

- B. Recommended lime application rates needed to adjust initial soil pH to 6.8 for middle and upper coastal plains soils.

<u>Initial Soil pH</u>	<u>Soil Type*</u>	
	<u>Sandy</u> <u>Lime, Tons/AC</u>	<u>Loamy</u> <u>Lime, Tons/AC</u>
4.8	4.25	5.75
5.0	4.0	5.25
5.5	3.0	4.0
6.0	2.0	2.75
6.5	{1.75}	{1.5}

Note: *"Sandy Soils" include those surface soils designated by VSDA-SCS soil classification as "sandy loam" or lighter in texture; "loamy" soils include those classified as having textures heavier than sandy loam.

PART IV.
PERMIT APPLICATION INFORMATION REQUIRED
FOR LAND APPLICATION, MARKETING, OR
DISTRIBUTION OF BIOSOLIDS.

§ 4.1. Minimum information required for completion of a biosolids management plan utilizing land application.

A. General information.

1. *Legal Name and Address:* The legal name of the owner making application for a permit is to appear on the title page or in the opening paragraph or both. Both the mailing and physical address should be included.

2. *Owner Contact:* The name, title, address and telephone number of the individual to be contacted regarding this application should be furnished.

3. A general description of the proposed plan including: name and location of generator(s) and owners involved and copies of agreements developed, biosolids quality, biosolids treatment and handling processes, means of biosolids transport or conveyance, location and volume of storage proposed, general location of sites proposed for application and methods of biosolids application proposed. A description of temporary storage methods should be provided.

4. Written permission of landowner(s) and farmers on a form approved by the department and the board (see Table A-1) and pertinent lease agreements as may be necessary for operation of the treatment works.

5. [Completed local government ordinance form in accordance with Article 2, § 62.1-44.15:3 of the State Water Control Law. Compliance with local government zoning and applicable ordinances.]

B. Design Information

1. Biosolids Characterization

a. Amount(s) and volume(s) to be handled.

b. Biosolids laboratory analytical data of a representative number of samples of Biosolids in accordance with the guideline specified in accordance with Tables 2 and 3. Statement that the Biosolids is nonhazardous, documentation statement for treatment and quality and description of how treated biosolids meets other standards in accordance with these regulations.

2. If a [facility construction] permit must be issued the appropriate certificate shall be obtained from the State Water Control Board and a Permit To Operate obtained in accordance with § 1.20 or [§ 1.26 § 1.24], with plans and specifications for storage facilities of all biosolids to be handled, including routine and

emergency storage, depicting the following information:

a. Site layout on a recent 7.5 minute topographic quadrangle or other appropriate scaled map with the following information.

(1) Location of any required soil, geologic and hydrologic test holes or borings will be submitted.

(2) Location of the following field features within 0.25 miles of the site boundary (indicate on map) with the approximate distances from the site boundary.

(a) Water well(s) (operating or abandoned)

(b) Surface waters

(c) Spring(s)

(d) Public water supply(s)

(e) Sinkhole(s)

(f) Underground and/or surface mine(s)

(g) Mine pool (or other) surface water discharge point(s)

(h) Mining spoil pile(s) and mine dump(s)

(i) Quarry(s)

(j) Sand and gravel pit(s)

(k) Gas and oil well(s)

(l) Diversion ditch(s)

(m) Occupied dwelling(s), including industrial and commercial establishments

(n) Landfill(s) - dump(s)

(o) Other unlined impoundment(s).

(p) Septic tanks and drainfields.

(q) Injection wells.

b. Topographic map (10-foot contour preferred) of sufficient detail to clearly show the following information:

(1) Maximum and minimum percent slopes.

(2) Depressions on the site that may collect water.

(3) Drainageways that may attribute to rainfall run-on to or runoff from this site.

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(4) Portions of the site (if any) which are located within the 100-year floodplain.

c. Data and specifications for the liner proposed for seepage control.

d. Scaled plan view and cross-sectional view of the facilities showing inside and outside slopes of all embankments and details of all appurtenances.

e. Calculations justifying impoundment capacity.

f. Groundwater monitoring plans for the facilities including pertinent geohydrological data to justify upgradient and downgradient well location and depth.

3. Generic plan(s) for on-site temporary storage.

4. A legible topographic map of proposed application areas to scale as needed to depict the following features:

(a) Property boundaries

(b) Surface water courses

(c) Water supply wells and springs

(d) Roadways

(e) Rock outcrops

(f) Slopes

(g) Frequently flooded areas (SCS designation)

The map shall also show the acreage to be amended with biosolids together with the net acres for biosolids application computed.

5. County map or other map of sufficient detail to show general location of the site and proposed transport vehicle haul routes to be utilized from the treatment plant.

6. A USDA soil survey map, if available, of proposed sites for land application of biosolids.

7. Representative soil samples are to be collected to address each major soil types for each field and analyzed for the soil parameters indicated in accordance with Table 5, and test results should be submitted with the operational plan.

8. For projects utilizing frequent application of biosolids the following additional site information will be necessary.

a. Information specified (2 a and 4).

b. Representative soil borings and test pits to a depth of five feet or to edrock if shallower, are to be coordinated for each major soil type and the following tests performed and data collected.

(1) Soil type

(2) Soil texture for each horizon (USDA classification)

(3) Soil color for each horizon

(4) Depth from surface to mottling and bedrock if less than two feet.

(5) Depth from surface to subsoil restrictive layer

(6) Indicated infiltration rate (surface soil)

(7) Indicated permeability of subsoil restrictive layer

c. Additional soil testing in accordance with Table 5.

d. Groundwater monitoring plans for the land treatment area including pertinent geohydrologic data to justify upgradient and downgradient well location and depth.

9. Description of agricultural practices including a list of proposed crops to be grown, their respective anticipated yield, planting and harvesting schedules, proposed biosolids application rates on a field-by-field basis and how biosolids application will be integrated with these schedules.

10. Pertinent calculations justifying storage and land area requirements for biosolids application including an annual biosolids balance incorporating such factors as precipitation, evapotranspiration, soil percolation rates, wastewater loading, monthly storage (input and drawdown).

§ 4.2. Operation plan (to be made available for field use and farmer/owner information).

A. Comprehensive, general description of the operation including biosolids source(s), quantities, flow diagram illustrating treatment works biosolids flows and solids handling units, site description, crops utilized, application rates, methodology of biosolids handling for application periods, including storage and nonapplication period storage, and alternative management methods when storage is not provided. Information in accordance with a nutrient management plan as approved by the Department of Conservation and Recreation shall be submitted for: (i) all frequent at agronomic application sites; and (ii) all frequent below agronomic application sites. The nutrient management plan information shall also be submitted for proposed application sites owned or operated in conjunction with operations in which:

domestic livestock have been, are, or will be stabilized or confined and fed or maintained for a total of 45 days or more in any 12 month period; and (ii) crops, vegetation, forage growth or post-harvest residues are not sustained over any portion of the operation site. The approved nutrient management plan shall account for all sources of nutrients to be applied to the site and include at a minimum the following information: (i) a site map indicating the location of any waste storage facilities and the fields where biosolids will be applied; (ii) site evaluation and assessment of soil types and potential productivities; (iii) nutrient management sampling including soil monitoring; (iv) biosolids application rates based on the overall nutrient requirements of the proposed crop and soil monitoring results and (v) biosolids and other nutrient source application schedules and land area requirements.

B. Biosolids transport.

1. Description and specifications on the bed or the tank vehicle.
2. Haul routes to be used from the biosolids generator to the storage unit and land application sites.
3. Procedures for biosolids off-loading at the biosolids facilities and the land application site together with spill prevention, cleanup, (including vehicle cleaning), field reclamation and emergency spill notification and cleanup measures.
4. Voucher system used for documentation and record keeping.

C. Field operations.

1. Storage.

- a. Routine storage - supernatant handling and disposal, biosolids handling, and loading of transport vehicles, equipment cleaning, freeboard maintenance, inspections for structural integrity.
- b. Emergency storage - procedures for Department/Board approval and implementation.
- c. Temporary storage - procedures to be followed including either designated site locations provided in the "Design Information" or the specific site criteria for such locations including the liner/cover requirements and the time limit assigned to such use.
- d. Field reclamation of off-loading areas.

2. Application methodology.

- a. Description and specifications on spreader vehicles.

b. Procedures for calibrating equipment for various biosolids contents to ensure uniform distribution and appropriate loading rates on a day-to-day basis.

c. Procedures used to ensure that operations address the following constraints: Application of biosolids to frozen ground, pasture/hay fields, crops for direct human consumption and saturated or ice/snow covered ground; maintenance buffer zones, slopes, prohibited access for beef and dairy animals, soil pH requirements, and proper site specific biosolids loading rates on a field-by-field basis.

§ 4.3. Record keeping.

A. Monitoring and testing requirements for biosolids, groundwater, soil and surface water including sample frequency, methods and locations of sampling and analytical methods/laboratory facilities to be utilized. Procedures for daily acquisition and recording of all necessary data including all necessary forms must be fully described.

B. Reporting requirements, as specified by issued certificates, permits or other approvals, will be fully described to ensure timely submission of all such reports.

C. Records related to data and information specified in agreements between generator, owner, agents, landowners and farmers shall be described and maintained for a minimum period of five years or the duration of the certificate or permit or subsequent revisions, if longer than five years.

TABLE A-1
BIOSOLIDS APPLICATION AGREEMENT

This Biosolids application agreement is made on.....between..... referred to here as "landowner", and referred to here as "owner".

Landowner is the owner of agricultural land shown on the map attached as Exhibit A and designated there as..... ("landowner's land"). Owner agrees to apply and landowner agrees to comply with certain permit requirements following application of Biosolids on landowner's land in amounts and in a manner authorized by permit number.....which is held by the owner.

Landowner acknowledges that the appropriate application of Biosolids will be beneficial in providing fertilizer and soil conditioning to his property. Moreover, landowner acknowledges that he has been expressly advised that, in order to protect public health:

1. Public access to landowner's land upon which Biosolids has been applied should be controlled for at least 30 days (60 days for Class III treatment biosolids which remain on the land surface for a time period of four (4) or more months) following any application

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of biosolids and no biosolids amended soil shall be excavated or removed from the site during this same period of time unless adequate provisions are made to prevent public exposure to soil, dusts or aerosols:

2. Food crops with harvested parts that touch the biosolids/soil mixture and are totally above the land surface shall not be harvested for 14 months (18 months for Class III treatment biosolids) after the application of biosolids. Food crops with harvested parts below the surface of the land shall not be harvested for 20 months (26 months for Class III treatment biosolids) after the application of biosolids when the biosolids remain on the land surface for a time period of four (4) or more months prior to incorporation into the soil, or 38 months (42 months for Class III treatment biosolids) when the biosolids remain on the land surface for a time period of less than four (4) months prior to incorporation. Other food crops, feed crops and fiber crops shall not be harvested for 30 days after the application of biosolids;

3. Following biosolids application to pasture or hayland sites, meat producing livestock should not be grazed or fed chopped forage for 30 days (60 days for Class III treatment biosolids) and lactating dairy animals should be similarly restricted for a minimum of 60 days. Other animals should be restricted from grazing for 30 days;

4. Supplemental commercial fertilizer or manure applications should be coordinated with the Biosolids applications such that the total crop needs for nutrients are not exceeded as identified on the nutrient balance sheet (Table A-2) or the nutrient management plan approved by the Virginia Department of Conservation and Recreation to be supplied to the landowner by the owner at the time of application of Biosolids to a specific permitted site;

5. Tobacco, because it has been shown to accumulate cadmium, should not be grown on landowner's land for 3 years following the application of biosolids borne cadmium equal to or exceeding 0.45 pounds/acre (0.5 kilograms/hectare);

6. Turf grown on land where biosolids are applied shall not be harvested for one year after application of biosolids when the harvested turf is placed on either land with a high potential for public exposure or a lawn, unless otherwise specified by the permitting authority.

Owner agrees to notify landowner or landowner designee of his proposed schedule for Biosolids application and specifically prior to any particular application to landowner's land. This agreement may be terminated by either party upon written notice to the address specified below.

Landowner: Owner:
 By:.....
 Mailing Address: Mailing Address

TABLE A-2
 Example of a Nutrient Balance Sheet

Year	Crop	Field: Acres:			Notes
		Crop Needs	Biosolids Supplied	Balance Needed From Fertilizer	
		N-P ₂ O ₅ -K ₂ O	N-P ₂ O ₅ -K ₂ O	N-P ₂ O ₅ -K ₂ O	
1992	Corn	140-50-80	140-70-10	0-0-70	1.
1993	Wheat-Soybeans	100-90-140	70-90-0	30-0-140	2., 3.

NOTES:

1. The supplied information above should be used as a guide to coordinate manure and/or fertilizer applications if needed with the biosolids supplied nutrients. Crop needs are based upon Virginia Tech recommendations for your soil sample results and the predominant (10% or more of acreage) soil series in your field.
2. Significant residual nitrogen and phosphorus is supplied by biosolids in the second year following application.
3. Apply 140 pounds potash in fall or winter to small grain, apply 30 pounds nitrogen to small grain in late winter or early spring if needed.

TABLE A-3
 SLUDGE DISPOSAL SITE DEDICATION

....., a Virginia Corporation, does dedicate that tract or parcel of real estate situated, lying and being in County, Virginia, more particularly described by deed and plat of survey of record in Deed Book pages..... and..... of the Clerk's Office of the Circuit Court of County, Virginia, and being the identical real estate which said corporation acquired by grant with General Warranty of Title and Modern English Covenants from..... Said dedication being to establish the aforesaid area for the disposal of sewage sludge only, and that said sludge disposal site will not be used for human habitation, grazing land for domestic animals or for agricultural purposes, and will not be accessible to the public. The full interest and control of the foresaid area dedicated shall remain with the..... and this instrument is solely for the purpose of assuring the Department of Health and the Water Control Board of the Commonwealth of Virginia as to the matters hereinabove set forth. WITNESS the following signatures and seal this day of..... 19....

BY:

.....
ATTEST:.....

State of.....
County of.....

The foregoing instrument was acknowledged before me
this..... day of, 19..., by.....of.....
a..... corporation, on behalf of the
corporation.....

Notary Public

My Commission Expires.....

.....
For use of Clerk of Court

This Sludge Disposal Site Dedication Document, as
described above, was recorded in Deed Book..... page
on the..... day of..... 19.....

SIGNED:..... of the.....
Circuit Clerks Office

PART V.
PERMIT ISSUANCE FORMS

§ 5.1. Permit issuance forms.

An application for a construction permit or operation
permit is to be submitted in accordance with § 1.14. The
application forms are contained in this part. A complete
application for an operation permit would include the
appropriate information contained in Part IV.

B. Following site inspections or approval of plans and
specifications submitted in accordance with §§ 1.13
through 1.16 a construction permit or operation permit
will be issued in accordance with § 1.17 or § 1.20,
respectively. The permit forms are contained in this
Appendix.

C. Following completion of construction the owner must
provide a Statement of Completion in accordance with §
1.19. Statement of Completion submittal form is contained
in this part.

D. Following initial site inspections or final inspections,
if necessary, an operation permit will be issued in
accordance with § 1.20.

V.A.R. Doc. No. R95-152; Filed November 23, 1994, 11:25 a.m.

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APPLICATION FOR A BIOSOLIDS USE CONSTRUCTION OR OPERATION PERMIT

<u>For Department Use Only</u>	
Commonwealth of Virginia Department of Health Env. Engineering Field Office:	Health Department Identification No.: Date Received:

Type of System or Works: NEW UPGRADE MODIFICATIONS

Owner:

Name: _____

Street or Mailing Address: _____

City _____ State _____ Zip Code _____

Phone No.: (_____) _____
 Area Code

Authorized Representative:

Name: _____

Street or Mailing Address: _____

City _____ State _____ Zip Code _____

Phone No.: (_____) _____
 Area Code

Consulting Engineer:

Name of Firm: _____

Project Engineer: _____

Street or Mailing Address: _____

Phone No.: (_____) _____
 Area Code

Project Description:

Permit No.: _____

DATE ISSUED: INTERIM FINAL
EXPIRATION DATE: _____

System Works Biosolids Source(s): _____

Location of Operations:

City: _____ Counties: _____
(Attach Listing of Sites if Applicable)

Total acreage involved: _____

Total annual amount of Biosolids from each source: _____

Type of treatment for pathogen control for each source (if applicable) _____

Process Description including supernatant management: _____

Treatment Certification:

Owner(s) of Biosolids Source/Treatment Works:
phone # _____

Street or Mailing Address: _____

City _____ State _____ Zip Code _____

Yes No A statement indicating that a proper class of Biosolids treatment will be provided for this project has been issued by the owner(s) of the Biosolids Source/Treatment Works and is attached (Biosolids Use Regulation).

(Name, Title and Signature of Official Representative of Applicant)


COMMONWEALTH OF VIRGINIA
 Department of Health
 Division of Wastewater Engineering
 Biosolids Use/Treatment Works Operation Permit

_____ is Hereby Granted Permission to Operate
 a Biosolids Use/Treatment Works Having a Design size or Capacity of _____
 [Biosolids] _____
 At _____
 (Attach List of Approved Sites)

 Located in _____
 (city, town, and/or county)

In Accordance with the Provisions of Title 32.1, Chapter 6, Article 2, Section 32.1-164, Code of Virginia As Amended and Section §1.20 of the Biosolids Use Regulations of the Virginia Department of Health as Amended. This Permit is in accordance with the Department's approval of Plans, Specifications and Other Documents as follows: _____

And With The Understanding That _____ Will Operate the
 Sewerage System/Treatment Works in Accordance With Section §1.25 of the Biosolids Use Regulations of the Virginia
 Department of Health As Amended.

Engineering Description Sheet Attached () Yes () No

PERMIT NO. _____	RECOMMENDED _____ Director, Division of Wastewater Engineering
EFFECTIVE DATE _____	RECOMMENDED _____ Director, Office of Water Programs
	APPROVED _____ State Health Commissioner

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Date

Name
Environmental Field Office or Division of Wastewater Engineering
Virginia Department of Health
Address
Address
City, Virginia Zip

Subject: [Blank] County
: [Project Name]

Dear Sirs:

This letter is to inform the Virginia Department of Health, Division of Wastewater Engineering that the [project name] has been substantially completed in accordance with the Construction Permit # [fill in] issued on [date]. This State of Completion of Construction is in fulfillment of Section 51.19 of the Biosolids Use Regulations. I certify that sufficient inspections were made at my direction to ensure that my statement above is correct. The following date(s) are proposed for a final inspection: [date] Please contact me concerning an acceptable date and time for your office.

Sincerely yours,
[Name]
[Firm]

Professional Title, Seal,
License as Applicable
Number and Signature thru Seal

cc: [Project Owner]
[Contractor, if necessary]

* * * * *

Title of Regulation: VR 355-29-100. Board of Health Regulations Governing Vital Records.

Statutory Authority: § 32.1-273 of the Code of Virginia.

Effective Date: April 1, 1995.

Summary:

Section 32.1-273 of the Code of Virginia authorizes the Board of Health to prescribe a fee for searching and certification of vital records of birth, death, marriage, and divorce. Senate Bill 402, passed by the 1994 General Assembly, raised the maximum limit on vital records fees to \$8.00. Accordingly, the regulations raise the current fee of \$5.00 to the new fee of \$8.00.

Summary of Public Comment and Agency Response: No public comment was received by the promulgating agency.

Agency Contact: Copies of the regulation may be obtained from Rosanne Kolesar, Regulatory Coordinator, Department of Health, 1500 East Main Street, Richmond, Virginia 23220, telephone (804) 786-1983. There may be a charge for copies.

VR 355-29-100. Board of Health Regulations Governing Vital Records.

PART I.
GENERAL INFORMATION.

§ 1.1. Authority for regulations.

Chapter 7 of Title 32.1 of the Code of Virginia establishes the vital records and health statistics system in the Commonwealth. The Board of Health is directed to promulgate procedural rules for the conduct of activities under this chapter and to promulgate regulations.

§ 1.2. Purpose of regulations.

The board has promulgated these regulations to facilitate the vital record registration activities and health statistical services in a manner to ensure the uniform and efficient administration of the system. Required certificates, reports, and forms shall be prescribed, where feasible, to include data collected nationally for the benefit of all citizens. The protection of individual data from casual perusal is essential to the validity of the program as well as a desirable shield of sensitive personal information while providing health statistics for the protection of society as a whole.

§ 1.3. Administration of regulations.

These regulations are administered by ~~the following:~~ *the State Board of Health, the State Health Commissioner, and the State Registrar of Vital Records and Health*

Statistics.

A. State Board of Health.

The Board of Health is the governing body of the State Department of Health, which is the Vital Records and Health Statistics Agency. In this capacity, the board has the responsibility to promulgate, amend, and repeal, as appropriate, regulations necessary to implement the vital records and health statistics system, and to collect, catalog, and evaluate information reported to it.

B. State Health Commissioner.

The State Health Commissioner is the chief executive officer of the State Department of Health. The commissioner has the authority to act, within the scope of regulations promulgated by the board, for the board when it is not in session.

C. State Registrar of Vital Records and Health Statistics.

The State Registrar shall carry out the provisions of Chapter 7 of Title 32.1 of the Code of Virginia and the regulations of the board.

§ 1.4. Application of regulations.

These regulations have general application throughout the Commonwealth.

§ 1.5. Effective date of regulations.

~~The amendments to these regulations are effective July 1, 1990.~~

§ 1.6. 1.5. Application of Administrative Process Act.

Except where specifically provided otherwise by statute, the provisions of the Virginia Administrative Process Act, which is codified as Chapter 1.1:1 of Title 9 of the Code of Virginia, shall govern the adoption, amendment, modification, and revision, of these regulations, and the conduct of all proceedings hereunder.

§ 1.7. 1.6. Powers and procedures of regulations not exclusive.

The board reserves 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 Chapter 7 of Title 32.1 of the Code of Virginia.

PART II.
SUPPLIES AND FORMS.

§ 2.1. State Registrar.

The State Registrar shall prepare, print, and supply all blanks and forms to be used in registering, recording, and

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preserving data of vital records and health statistics or in otherwise carrying out the purpose of the statutes governing vital statistics. He shall prepare and issue such detailed instructions concerning use of all forms and supplies as may be required to secure the uniform observance of the statutes and the maintenance of an adequate system for the collection, registration, and preservation of data of vital records and health statistics throughout the Commonwealth.

§ 2.2. County and city registrars.

County and city registrars shall maintain an adequate supply of all forms and blanks as furnished by the State Registrar in order to furnish required forms and blanks to all registrars and reporting sources within their jurisdiction.

§ 2.3. Use of forms.

No forms other than those supplied by the State Registrar shall be used for vital event registration. All such forms, records, and reports are property of the Commonwealth of Virginia. As such, they shall be protected from unauthorized use, access, and distribution and shall be surrendered to the State Registrar or his representative upon demand.

PART III. DATA REQUIRED ON VITAL STATISTICS CERTIFICATES.

§ 3.1. Birth certificate items.

The certificate of birth to be used shall be:

1. Certificate of Live Birth, Commonwealth of Virginia, for current registrations, and shall contain the following items: child's full name; place of birth; usual residence of mother; sex of child; single or plural birth, and birth order of plural birth; date of birth; full name of father (except when mother is not married to the father); age of father (except when mother is not married to the father); birthplace of father (except when mother is not married to the father); full maiden name of mother; age of mother; birthplace of mother; certification of parent (if available); certification of attendant at the birth, including title, address and date signed; date the certificate was received by the registrar; registrar's signature; registration area and certificate numbers; state birth number; and supplemental confidential data to consist of the following items: medical record and social security numbers of the mother; medical record number of the child; hispanic origin, if any, and race of mother; education of mother; mother transferred prior to delivery; hispanic origin, if any, and race of father (except when mother is not married to the father); social security numbers of the father; education of father (except when mother is not married to the father); pregnancy history of mother,

including date of last live birth and date of last other termination of pregnancy; date of last normal menses and physician's estimate of gestation; month of pregnancy prenatal care began; source of prenatal care; number of prenatal visits; birthweight of child in grams; mother married to father of child; Apgar score of child at one minute and five minutes; obstetric procedures and method of delivery; newborn conditions and congenital malformations or anomalies of child, if any; infant transferred; medical history for this pregnancy; other history for this pregnancy; and events of labor and delivery. An optional item for the parent to request the State Registrar to report the birth to the Social Security Administration for account number issuance may be added to the Certificate of Live Birth if the State Registrar and the Social Security Administration develop procedures for such.

2. Delayed Certificate of Birth, Commonwealth of Virginia, for delayed registrations, and shall contain the following items: full name at time of birth; sex; place of birth; date of birth; name of father (except when mother was not married to father at the time of birth or during the 10 months next preceding the birth); race of father (except when mother was not married to the father); birthplace of father (except when mother was not married to the father); full maiden name of mother; race of mother; birthplace of mother; certification and signature of applicant; address of applicant; relationship of applicant to registrar; statement and signature of notary public (or other official authorized to administer oaths); description of documentary evidence submitted; certification and authorized signature of the State Registrar; date certificate filed by the State Registrar; and number of certificate.

§ 3.2. Death certificate items.

The certificate of death to be used shall be the Certificate of Death, Commonwealth of Virginia, and shall contain the following items: full name of decedent; place of death; usual residence; date of death; sex; hispanic origin, if any, and race; education; date of birth; age; birthplace; citizenship; usual occupation and industry; veteran status; social security number; father's name; mother's maiden name; marital status and name of spouse, if married or widowed; informant's name; medical certification of cause of death; autopsy; if female, was there a pregnancy during past three months; and supplementary data concerning death due to external causes; certification of attending physician or medical examiner, including title, address, and date signed; disposition of the body; signature of funeral director or person legally filing this certificate; name and address of funeral home; date received by registrar; registrar's signature; registration area and certificate numbers; and state file number.

§ 3.3. Fetal death or induced termination of pregnancy report items.

The record of fetal death or induced termination of pregnancy to be used shall be:

1. The Report of Fetal Death Commonwealth of Virginia, and shall contain the following items for spontaneous fetal deaths: place of occurrence; usual residence of patient (mother); full maiden name of patient; medical record number and social security number of patient; hispanic origin, if any, and race of patient; age of patient; education of patient; sex of fetus; patient married to father; previous deliveries to patient; single or plural delivery and order of plural delivery; date of delivery; date of last normal menses and physician's estimate of gestation; weight of fetus in grams; month of pregnancy care began; number of prenatal visits; when fetus died; congenital malformations, if any; events of labor and delivery; medical history for this pregnancy; other history for this pregnancy; obstetric procedures and method of delivery; autopsy; medical certification of cause of spontaneous fetal death; signature of attending physician or medical examiner including title, address and date signed; method of disposal of fetus; signature and address of funeral director or hospital representative; date received by registrar; registrar's signature; registration area and report numbers.

2. The Report of Induced Termination of Pregnancy, Commonwealth of Virginia, and shall contain the following items for induced terminations of pregnancy: place of occurrence; usual residence of patient; patient identification number; age of patient; hispanic origin, if any, and race of patient; education of patient; patient married to father; date of pregnancy termination; pregnancy history of patient; date of last normal menses and physician's estimate of gestation; type of termination procedures; pregnancy terminated because of genetic defect; signature, title, and address of person completing this report; registration area and report numbers.

§ 3.4. Marriage return and certificate items.

The record of marriage to be used shall be the Marriage Return and Certificate, Commonwealth of Virginia, and shall contain the following items: city or county of the court of issuance; court clerk's number; for the groom: full name, age, date and place of birth, race, marital status if previously married, number of marriage, education, usual residence, the names of parents; for the bride: full name, maiden name, age, date and place of birth, race, marital status if previously married number of marriage, education, usual residence, and names of parents; signature of clerk of court and date of license; date and place of marriage; whether civil or religious ceremony; certification and signature of officiant indicating title, address, and year and court of qualification; date received by clerk of court from officiant; and state file number.

3.5. Report of divorce or annulment items.

The report of divorce or annulment to be used shall be the Report of Divorce or Annulment, Commonwealth of Virginia, and shall contain the following items: city or county of court of issuance; for the husband: full name, date and place of birth, race, education, number of marriage, usual residence; for the wife: full maiden name, date and place of birth, race, education, number of the marriage, usual residence; date and place of marriage; identity of plaintiff and to whom divorce granted; number and custody of children under 18 in this family; date of separation; date of divorce; legal grounds or cause of divorce; signature of attorney or petitioner; certification and signature of clerk of court indicating type of decree; court file number; date final order entered; and state file number.

PART IV. PREPARATION OF CERTIFICATES.

§ 4.1. Requirements for completion.

All certificates and records provided for in the statutes governing vital event registration shall be prepared on a typewriter with a black ribbon whenever possible or shall be printed legibly in black ink. All signatures required shall be entered in black ink. No certificate shall be considered as complete and correct and acceptable for filing:

1. That does not supply all items of information called for thereon or satisfactorily account for their omission.
2. That contains alterations or erasures.
3. That does not contain original signatures.
4. That is marked "copy" or "duplicate."
5. That is a carbon copy.
6. That is prepared on an improper form.
7. That contains obviously improper or inconsistent data.
8. That contains any data relative to the putative father of a child born out of wedlock without his written consent or unless determined by a court of competent jurisdiction as required by § 32.1-257 of the Code.
9. That contains an indefinite cause of death denoting only symptoms of disease or conditions resulting from disease.
10. That is not prepared in conformity with these regulations or instructions issued by the State Registrar.

PART V. REGISTRATION DISTRICTS.

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§ 5.1. Geographical areas.

For vital event registration purposes, the Commonwealth is hereby divided into registration districts as follows: Each independent city and each county shall constitute a registration district, provided that the State Registrar may designate special registration districts within cities and counties where necessary to facilitate registration.

§ 5.2. Registrars' representatives.

Each registrar for an independent city or county may appoint one or more representatives to act for the registrar after regular office hours. Such representatives may issue out-of-state transit permits as specified in Part X of these regulations.

PART VI. DUTIES OF REGISTRARS.

§ 6.1. Acceptance of certificates.

Each registrar shall examine certificates as they are submitted for registration to determine whether they have been prepared in accordance with the provisions of the statutes, regulations, and instructions. If unsatisfactory, it shall be the duty of the registrar to notify the person responsible for the registration of its defects and to secure a complete and correct registration. Each registrar or his deputy shall note over his signature the date each certificate of birth, death, or report of fetal death was filed with him and shall number consecutively the certificates of birth, death, and fetal death in three separate series beginning with number 1 for the first certificate in each respective series in each calendar year.

§ 6.2. Local records.

On forms furnished by the State Registrar, each registrar shall record the following information from the original records before forwarding such original records to the State Registrar:

1. For birth records. The full name of the child; sex and race of child; date of birth; place of birth; names of parents; residence of parents; date filed; local certificate number; congenital malformations of child; and premature indicator.
2. For death records. The full name of the decedent; race and sex of decedent; date and place of death; residence of decedent; cause of death; date filed; and local certificate number.
3. For spontaneous fetal death records. Surname of family; race and sex of fetus; date and place of delivery; names and residence of parents; causes of death; date filed; and local report number.

§ 6.3. Reporting periods.

A. Special registrars shall, on the 5th day and the 20th day of each month, transmit all original certificates filed with them during the period preceding such dates to the city or county registrar having jurisdiction over the special registration district. If no birth, death, or fetal death was registered in any month, that fact shall be reported on the 5th day of the following month on a form provided for that purpose.

B. City and county registrars shall, on the 10th day and 25th day of each month, transmit to the State Registrar all complete original certificates filed with them or received by them from special registrars during the period preceding such dates. Each shipment of certificates sent by special registrars and by city and county registrars shall be accompanied by a transmittal form provided for that purpose.

§ 6.4. Promotion of registration.

Each registrar is to familiarize himself with the statutes, regulations, and instructions so that he may promote and stimulate complete and accurate registration. Lists of hospitals, physicians, medical examiners, funeral directors, and midwives should be maintained where necessary for reference purposes.

PART VII. FOUNDLING REGISTRATION.

§ 7.1. Procedure.

Whoever assumes custody of a living infant of unknown parentage shall on a blank certificate of live birth report the required facts. The certificate shall be plainly marked "foundling registration" in the top margin and data required will be determined by approximation. Parentage data shall be left blank, and the certification of the informant shall be signed by the custodian indicating title, if any. The item "Certification of the attendant," shall be signed by the physician who examines the foundling child. On the reverse of the form shall be listed the name and address of the persons or institution with whom such child has been placed for care and the date and place the child was found.

PART VIII. DELAYED BIRTH REGISTRATION.

§ 8.1. Late registration and delayed registration defined.

A. "~~Late registration.~~" The registration of a nonrecorded birth after the statutory time prescribed for filing but within one year from the date of birth shall be a "late birth registration." As such, its filing shall be subject to the requirements of § 8.3 of these regulations but shall not be considered a "delayed registration."

B. "~~Delayed registration.~~" The registration of a nonrecorded birth after one year from the date of birth shall be a "delayed birth registration."

1. For those births occurring more than one year but less than seven years prior to the date of filing, the birth registrations shall be prepared and filed on the certificate of live birth form in use at the time of birth and shall be plainly marked in the upper margin "delayed registration." Such certificates shall be subject to the requirements of § 8.3 of these regulations and not subject to § 8.4.

2. The registration of a nonrecorded birth seven or more years after the date of birth shall be a "delayed birth registration" and shall be registered by the State Registrar on special forms provided for such purposes and shall be subject to the requirements of § 8.4 of these regulations.

§ 8.2. Who may file a late or delayed birth certificate.

A person born in the Commonwealth of Virginia whose birth is not recorded, or his parent, guardian, legal representative, or an older person having knowledge of the facts of birth, may file a certificate of birth after the time prescribed for filing subject to the procedures and requirements established by these regulations and instructions issued by the State Registrar.

§ 8.3. Procedures and requirements for late birth registration and delayed birth registration within seven years of date of birth.

A. Late birth registrations and delayed birth registrations filed within seven years of the date of birth shall be prepared and filed on the certificate of live birth form in use at the time of birth. To be acceptable for filing, the certificate must be signed by the physician or other person who attended the birth; or if the birth occurred in a hospital, the hospital administrator, or his designated representative, may sign the certificate; or if the physician or other person who attended the birth is not available, and the birth did not occur in a hospital, the certificate may be signed by one of the parents, provided that a notarized statement is attached to the certificate outlining the reason why the certificate cannot be signed by the attendant.

B. The State Registrar or the city or county registrar may require the presentation of additional evidence in support of the facts of birth or an explanation for the delay in filing in any case where there appears to him reason to question the adequacy of the registration.

§ 8.4. Procedure and requirements for delayed birth registration seven or more years after date of birth.

A. Application for a delayed birth registration after seven years have elapsed since the date of birth shall be made to the State Registrar and shall be filed according to instructions issued by the State Registrar. If a prior birth certificate is located for the registrant, a delayed birth certificate shall not be filed. The final acceptance of a delayed birth certificate for filing shall remain in a

pending status until evidence is submitted in support thereof satisfactory to the State Registrar as outlined in subsection D of this section, or until one year from the date of application, in which event the application shall lapse.

B. The following facts concerning the person whose birth is to be registered must be established:

1. The full name of the person at the time of birth, except that the delayed certificate may reflect a name established by adoption or legitimation when such evidence is submitted.

2. The date and place of birth.

3. The names of the parents, except that if the mother of the child was not married to the father of the child at the time of birth, or during the 10 months preceding such birth, the name of the father shall not be entered on the delayed certificate unless the child has been adopted or legitimated, or parentage has been determined by a court of competent jurisdiction pursuant to § 32.1-257 of the Code of Virginia, or both natural parents present a sworn acknowledgement of paternity.

C. Delayed birth certificates shall be prepared on forms supplied by the State Registrar. Each such delayed certificate shall be signed and sworn to before an official authorized to administer oaths by the person whose birth is to be registered if such person is available and is competent to sign and swear to the accuracy of the facts stated therein; if not, the application shall be signed and sworn to by one of the parents, guardian, legal representative, or by an older person having knowledge of the facts of birth.

D. 1. The birth facts entered on the delayed certificate shall be supported by at least three pieces of documentary evidence; except that:

a. If one of the documents was established before the registrant's seventh birthday, only two such documents shall be required.

b. If the person whose birth is being registered is 15 years of age or under, only two such documents shall be required.

2. All documents used in evidence, such as insurance policy applications, marriage records, children's birth records, baptismal records, federal census abstracts, immunization records, and the like, shall be at least five years old, except that an affidavit of personal knowledge need not be five years old. Only one such affidavit of personal knowledge shall be used as a supporting document.

3. Facts of parentage need only be supported by one such document described above.

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4. Documents shall be in the form of the original or certified or true copies thereof.

5. All documents, except the affidavit of personal knowledge, shall be returned to the applicant after review.

E. Whether delayed certificates and documentary evidence submitted conform with these regulations and are acceptable for filing shall be determined by the State Registrar. If, in his judgment, an applicant does not submit the documentation required in support of the facts of birth or if there appears reason to question the delayed registration, the delayed birth certificate shall not be accepted and the applicant shall be advised of its deficiencies.

1. If a delayed birth certificate is acceptable for filing, the State Registrar, or his designated representative, shall abstract on the delayed birth certificate form a description of each document submitted in support of the delayed registration, including the kind and title of the document; the name and relationship of the affiant if the document is an affidavit of personal knowledge; the date the document was originally established; and

2. The State Registrar, or his designated representative, shall then enter the date of filing of the delayed registration, and by his signature thereto shall certify:

a. That no prior birth certificate is on file for the person whose birth is to be registered.

b. That the documentary evidence submitted to establish the facts of birth has been reviewed and is in conformity with the stated facts.

§ 8.5. Cancellation records.

When the State Registrar shall be satisfied that a late or a delayed birth certificate was obtained through fraud or misrepresentation, he shall give to the person named in the certificate a notice in writing of his intention to cancel said certificate. The notice shall give such person an opportunity to appear to show cause why the certificate should not be cancelled. The notice may be served on such person or in the case of a minor or incompetent to his parent or guardian by forwarding the notice by certified mail to his last known address on file in the Division of Vital Records and Health Statistics. Any appeal shall be governed by the provisions of the Virginia Administrative Process Act pursuant to Title 9, Chapter 1.1:1 of the Code of Virginia.

PART IX. NEW BIRTH CERTIFICATES AFTER ADOPTION, LEGITIMATION, ACKNOWLEDGEMENT OF PATERNITY, OR COURT DETERMINATION OF PATERNITY.

§ 9.1. Adoptions.

A. A new certificate of birth may be prepared by the State Registrar for a child born in Virginia and subsequently adopted through the courts of Virginia, the several states of the United States, or in a foreign country. An adoption report or certified copy of an adoption decree must be in the possession of the State Registrar together with a request that a new certificate be prepared.

B. A certificate of birth may be prepared by the State Registrar for a child born in a foreign country and subsequently adopted through a court in Virginia. An adoption report must be in the possession of the State Registrar together with a request that a Virginia registration of the birth be prepared. Such certificates shall not confer citizenship upon the child or the adoptive parents.

§ 9.2. Legitimation.

If the natural parents of a child shall marry after the birth of a child, a new certificate of birth may be prepared by the State Registrar for a child born in Virginia provided that the name of another man is not shown as the father on the original certificate. If another man is so listed, a new certificate may be prepared only if a determination of paternity shall be ordered by a court of competent jurisdiction. An affidavit of paternity, executed subsequent to the birth of the child, by both natural parents and a certified copy of the parent marriage record must be in the possession of the State Registrar together with a request that a new certificate be prepared.

§ 9.3. Acknowledgement of paternity.

A new certificate of birth may be prepared by the State Registrar for a child born out of wedlock in this Commonwealth upon receipt of a sworn acknowledgement of paternity, executed subsequent to the birth of the child, signed by both parents and a written request by both parents that the child's surname be changed or not be changed on the certificate to that of the father. If another man is shown as the father of the child on the original certificate, a new certificate may be prepared only when a determination of paternity is made by a court of competent jurisdiction.

§ 9.4. Court determination of paternity.

A new certificate of birth may be prepared by the State Registrar for a child born in this Commonwealth upon receipt of a certified copy of a court determination of paternity, together with a request from the natural mother or person having legal custody of said child that such new certificate be prepared. If the surname of the child is not decreed by the court, the request for the new certificate shall specify the surname to be placed upon the certificate.

§ 9.5. Change of sex.

A new certificate of birth may be prepared by the State Registrar for a person born in this Commonwealth whose sexual designation has been clarified or changed through medical or surgical procedure for cases including, but not limited to, hermaphroditism or pseudo-hermaphroditism. A certified copy of the court order changing the name of the registrant as well as designating the sex of the registrant must be in the possession of the State Registrar together with a request that a new certificate be prepared.

§ 9.6. New certificate.

The new certificate of birth prepared after adopting, legitimation, court determination of paternity, or acknowledgement of paternity shall be on the form in use at the time of birth and shall include the following items and such other information necessary to complete the certificate:

1. The name of the child;
2. The date and place of birth as transcribed from the original certificate;
3. The names and personal particulars of the adoptive parents or of the natural parents, whichever is appropriate;
4. The name of the attendant, printed or typed;
5. The birth number assigned to the original birth certificate;
6. The original filing date.

The information necessary to locate the existing certificate and to complete the new certificate shall be submitted on forms prescribed by the State Registrar.

§ 9.7. Sealed files.

After preparation of the new certificate, the existing certificate and the evidence upon which the new certificate was based are to be placed in a special file. Such file shall not be subject to inspection except upon order of a circuit court of this Commonwealth or by the State Registrar for purposes of properly administering the system of vital records and health statistics.

PART X. PROCEDURES FOR FILING DEATH CERTIFICATES.

§ 10.1. A proper and complete medical certification of cause of death defined.

A complete and properly executed medical certification of cause of death shall mean the entry by a physician or medical examiner of a definite medical diagnosis of the underlying cause of death and related conditions following

the instructions indicated on the death certificate. This may be variously:

1. Supported by clinical findings of the physician who attended the deceased for the illness or condition that resulted in death;
2. Supported by tentative clinical findings that may or may not be supported by the gross findings of an autopsy; or
3. Supported by autopsy findings where necessary to establish a definite medical diagnosis of cause of death.

In cases where an autopsy is to be performed, the physician or medical examiner shall not defer the entry of the cause of death pending a full report of microscopic and toxicological studies. In any case where the autopsy findings significantly change the medical diagnosis of cause of death, a supplemental report of the cause of death shall be made by the physician or medical examiner to the registrar as soon as the findings are available. (As examples: If it is clear that a patient dies of "cancer of the stomach," report the cause while a determination of the histological type is being carried out. Similarly, if it is clear that a death is from "influenza," do not delay the medical certification while a laboratory test is being carried out to determine the strain).

§ 10.2. Responsibility of the attending physician.

When a patient shall die, the physician in charge of the patient's care for the illness or condition shall be responsible for executing and signing the medical certification of cause of death as follows:

1. If the physician is present at or immediately after the death, he shall execute and sign the medical certification of cause of death on the death certificate form prescribed by the State Registrar.
2. In an case where an autopsy is scheduled and the physician wishes to await its gross finding to confirm a tentative clinical finding, he shall give the funeral director notice that he attended the patient and when he expects to have the medical data necessary for the certification of cause of death. If the provisions of § 10.1 of these regulations cannot be adhered to, he shall indicate that the cause is "pending" and sign the certification. Immediately after the medical data necessary for determining the cause of death have been made known, the physician shall, over his signature, forward the cause of death to the registrar.
3. If the physician is unable to establish the cause of death or if a death is within the jurisdiction of the medical examiner, he shall immediately report the case to the local medical examiner and advise the funeral director of this fact. If the medical examiner does not assume jurisdiction, the physician shall sign

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the medical certification.

4. An associate physician who relieves the attending physician while he is on vacation or otherwise temporarily unavailable may certify to the cause of death in any case where he has access to the medical history of the case, provided that he views the deceased at or after death occurs and that death is from natural causes. In all other cases in which a physician is unavailable, the funeral director shall contact the medical examiner.

5. When the attending physician shall have given the person in charge of an institution authorization in writing, the person in charge of such institution, or his designated representative, may prepare the medical certification of cause of death in cases where all pertinent aspects of the medical history are a part of the official medical records and the death is due to natural causes. In such instances, the signature shall be that of a physician.

§ 10.3. Responsibility of the medical examiner.

When a medical examiner assumes jurisdiction in a death or when death occurs without medical attendance, the medical examiner shall be responsible for executing and signing the medical certification of cause of death as follows:

1. The medical examiner shall, at the time of releasing a body to a funeral director or person who first assumes custody of a dead body, or as soon as practicable thereafter, execute and sign the medical certification of cause of death on the death certificate form prescribed by the State Registrar.

2. In any case where an autopsy is scheduled and the medical examiner wishes to await its gross findings to confirm a tentative clinical finding, he shall give the funeral director notice as to when he expects to have the medical data necessary for the certification of cause of death. If the provisions of § 10.1 of these regulations cannot be adhered to, he shall indicate that the cause is "pending" and sign the certification. Immediately after the medical data necessary for determining the cause of death have been made known, the medical examiner shall, over his signature, forward the cause of death to the registrar.

3. In any case where a death has been referred to the medical examiner because a physician in attendance is deceased or physically incapacitated and there was no associate physician, the medical examiner shall prepare and sign the medical certification of cause of death.

§ 10.4. Responsibility of the hospital or institution.

When a patient shall die in a hospital or institution, and the death is not under the jurisdiction of the medical

examiner, the person in charge of such institution, or his designated representative, shall where feasible and where the cause of death is known, aid in the preparation of the death certificate as follows:

1. Place the full name of the deceased on the death certificate form and obtain from the attending physician the medical certification of cause of death.

2. If authorized in writing by the attending physician, the person in charge, or his designated representative, may prepare the medical certification of cause of death in cases where all pertinent aspects of the medical history are a part of the official hospital records and the death is due to natural causes. The signature shall be that of a physician.

3. Present the partially completed death certificate identified by the name and the complete medical certification to the funeral director.

4. In a case of long-term residence by a patient in a state institution, a death certificate including personal particulars of the deceased may be prepared for presentation to the funeral director.

§ 10.5. Responsibility of the funeral director.

Each funeral director who has been authorized to take custody of a dead human body shall exercise the following responsibilities with respect to the preparation and filing of the death certificate:

1. When he arrives to take custody of the body, he shall first ascertain whether an attending physician or local medical examiner has established the cause of death as follows:

a. If a physician was present at or after the death, he shall obtain the medical certification of cause of death from such physician if the death is from natural causes. An associate physician or person in charge of an institution may prepare the medical certification as outlined in § 10.2 of these regulations.

b. If a physician attended the deceased but did not complete the medical certification of cause of death, the funeral director shall immediately contact such physician in person or by telephone to be certain that he was the attending physician and to ascertain whether the physician is to assume responsibility for the medical certification or to refer the case to the medical examiner.

c. When a medical examiner assumes jurisdiction in a death, or when death occurs without medical attendance, or when a physician in attendance is incapacitated, the funeral director shall obtain the signed medical certification of cause of death from the medical examiner as required by subdivision

of § 10.3 of these regulations.

2. The personal history of the deceased and the facts of the death shall be obtained from the best source possible. This source may be variously: a member of the immediate family of the deceased who possesses the necessary information; a hospital records custodian whose records contain the necessary information; or the local medical examiner having jurisdiction over a case. The name of the informant shall be entered on the death certificate. The facts required as to the manner and place of disposal of the body or its removal from the Commonwealth shall be entered over the signature of the funeral director. He shall personally sign the certificate and print or type the name of his firm.

3. Except as outlined in § 10.7 of these regulations, a satisfactory death certificate shall be filed with the city, county, or special registrar in the city or county where death occurred, or a dead body is found, prior to final disposal of the body or its removal from the Commonwealth, and within three days. In cases where a completed medical certification is not available when the funeral director takes possession of a body, he shall not move the body from the place of death until so authorized by the local medical examiner or until the attending physician has advised him that death is from natural causes and the physician is able to prepare the medical certification of cause of death. In every case, the removal of a dead human body from the city or county of death is unlawful unless notice is given to the city, county, or special registrar by telephone or in person. Such notice shall consist of the name of the deceased, date and place of death, and the name of the attending physician or of the medical examiner, as the case may be, and, if the body is to be removed, the destination within the Commonwealth. Such notification shall be made during the next available business hours of the registrar following the time of death. After business hours, in independent cities and in designated counties, such notification shall be made immediately on assumption of custody of the deceased to the registrar's representative.

§ 10.6. Out-of-state transit permits.

A. The body of any person whose death occurs in Virginia or whose body shall be found dead therein shall not be removed from the Commonwealth unless an out-of-state transit permit on a form prescribed by the State Registrar has been issued by the city, county, or special registrar of the city or county where the death occurred or the body was found except as outlined in § 10.7 of these regulations.

B. No out-of-state transit permit shall be issued until a proper certificate of death is filed except as outlined in § 10.7 of these regulations.

C. A certificate of death shall be considered to be

properly filed:

1. When all items thereon have been answered in the manner prescribed by the State Registrar; and

2. When the certificate has been presented for filing with the city, county, or special registrar of the city or county where the death occurred or the body was found, or, in emergency cases, with the city or county registrar of the area to which removal was made within the Commonwealth.

§ 10.7. Emergency cases: Filing of death certificates elsewhere.

A. Under the conditions of § 32.1-266 of the Code of Virginia, the following situations are declared to be proper reasons for emergency extensions of time periods for filing a completed death certificate:

1. A completed or "pending" medical certification is unavailable.

2. Personal data concerning the deceased is temporarily unavailable.

3. The body must be moved immediately out of the Commonwealth.

B. If one or more of the above situations exists and the conditions of subdivision 3 of § 10.5 of these regulations have been complied with by the funeral director when the body is to be moved, any authorized registrar, or registrar's representative, may issue an out-of-state transit permit. Such permit shall be issued upon application by a funeral director and the presentation by the funeral director, over his signature only, of a death certificate form complete in as many known details as possible.

C. The incomplete death certificate form originally furnished to the registrar as outlined in subsection B of this section is to be placed by the funeral director with a completed death certificate as soon as the missing data become known or the medical certification is obtained, or within 10 days, whichever occurs first.

D. Under emergency provisions and the conditions of subdivision 1 c of § 10.5 of these regulations, the death certificate may be filed with a registrar other than the registrar at the place of death. When a registrar of an area other than the place of death receives a completed death certificate, he shall not sign nor number the certificate, but shall make a notation in the left-hand margin indicating his name and whether or not an out-of-state permit has been issued. The registrar receiving the death certificate shall immediately forward the death certificate to the city or county registrar at the place of death.

§ 10.8. Forwarding "pending cause" death certificates.

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A death certificate received by a city or county registrar which contains a signed medical certification of cause of death, but the cause is not complete by reason of a pending inquest, investigation, or autopsy should be sent to the State Registrar on the regular reporting date with completed records. If the cause of death is completed by the presentation of a second and complete certificate before the original certificate is sent to the State Registrar, the original incomplete certificate should be marked "VOID." The completed death certificate should be processed as a current certificate and should be forwarded to the State Registrar. If the cause of death is completed by a properly signed query form or other statement, the cause of death information may be added to the incomplete death certificate by the State Registrar.

§ 10.9. Disinterment permits.

A. Unless so ordered by a court of competent jurisdiction, a body shall not be disinterred for removal or transportation until an application for disinterment has been submitted to the city or county registrar or to the State Registrar.

B. The city or county registrar at the place from which disinterment is to be made shall issue a disinterment permit in triplicate. One copy shall be retained by the funeral director to whom issued, one copy filed with the sexton or person in charge of the cemetery in which disinterment is to be made, and one copy to be used during transportation and filed with the sexton or person in charge of the cemetery of reinterment. The State Registrar may issue a letter of authorization in lieu of individual permits when numbers of bodies are to be moved in one operation from the same place of disinterment to the same place of reinterment.

C. A disinterment permit shall not be required if a body is to be disinterred and reinterred in the same cemetery; however, the sexton or other person in charge of the cemetery shall establish a record relative to the facts of disinterment and reinterment within the cemetery.

D. A body kept in a receiving vault shall not be regarded as a disinterred body until after expiration of 30 days.

PART XI. CORRECTION AND AMENDMENT.

§ 11.1. Applications for correction.

A. After 30 days from the date of filing, no change or alteration in any birth or death certificate on file with the State Registrar or on file in any city or county of this Commonwealth shall be made except upon application to the State Registrar.

1. To change or alter a birth certificate, such application shall be made by the reporting source, one of the parents, guardian, or legal representative of the

child, or, if the person whose certificate is involved is 18 years of age or over, by the person himself.

2. To change or alter a death certificate, such application shall be made by the surviving spouse or the next of kin of the deceased, attending funeral director, or other reporting source. Changes or alterations of the medical certification of cause of death may be requested only by the attending physician or by the medical examiner.

B. Within 30 days from the date of filing, missing data or corrected information may be entered on a birth or death certificate by the State Registrar or by the city or county registrar when the original record is in his possession.

1. Applications for changes or alterations may be made by persons outlined in subdivision A 1 or A 2 of § 11.1 1 of these regulations.

2. Missing or corrected data may be obtained at the initiative of the city or county registrar by personal call, telephone, or query form from the reporting source responsible for filing the birth or death certificate. Data so obtained by the registrar shall not be deemed an amendment.

C. Marriage and divorce or annulment records on file with the State Registrar may be amended only by notification from the clerk of court in which the original record is filed. Such notification to the State Registrar shall indicate what items have been amended on the original record and shall indicate that the State Registrar's copy should be amended accordingly. Evidence required for amending marriage and divorce or annulment records shall be determined by the court in which the original record is filed.

§ 11.2. Evidence required for corrections or amendments.

Every application for a correction or amendment of a birth or death certificate shall be accompanied by appropriate documentary evidence as follows:

1. Except as provided in subdivisions 2 and 3 of this section, name changes, other than minor corrections in spelling involving the given names or surname of a registrant, or the given names or surnames of the parents or of a spouse as listed on a certificate, shall require that a certified or attested copy of a court order changing the name be obtained.

2. Within one year of birth, the given names listed on a birth certificate may be changed by the affidavit of:

a. Both parents, or

b. The mother in the case of a child born out of wedlock, or

c. The father in the case of the death or incapacity of the mother, or

d. The mother in the case of the death or incapacity of the father, or

e. The guardian or agency having legal custody of the registrant.

3. In cases of hermaphroditism or pseudo-hermaphroditism, given names of a registrant may be changed on a birth certificate by affidavit of the parents or guardian as listed in subdivision 2 of this section, or by affidavit of the registrant if 18 years of age or older. Additionally, a statement from a physician must be submitted which certified the birth record of the registrant contains an incorrect designation of sex because of congenital hermaphroditism, pseudo-hermaphroditism, or ambiguous genitalia which has since been medically clarified.

4. Except as otherwise provided in the Code of Virginia or these regulations, after one year from the date of birth, any change of name shall be made only by court order, and any second change of name within one year shall be made only by court order.

5. Within seven years after birth, given names may be added to a birth certificate where such information has been left blank by use of an affidavit only prepared by the parent, guardian, or legal representative of the child.

6. If the date of birth on a birth certificate is to be changed more than one year, a certified copy of a court order changing the date of birth shall be submitted.

7. In all other cases, an affidavit shall be obtained which sets forth: the identity of the incorrect record, the incorrect data as it is listed, the correct data as it should be listed, and the documentary evidence supporting the facts. In addition to the affidavit, a document or certified or true copy of such document, must be obtained which is over five years of age and will establish the identity of the certificate to be altered or corrected and will support the true and correct facts. The five years may be waived for recently filed certificates. Any item of a vital record which has been previously corrected may only be changed again by court order.

8. All documents, except the affidavit, shall be returned to the applicant after review.

§ 11.3. Methods of correcting or altering certificates.

A. A new name authorized by court order shall be recorded by drawing a single line through the name appearing on the certificate and inserting above it or to

the side of it the new name. In addition, there shall be inserted on the certificate a statement that the name was changed by court order and the date and place of such order. The word "Amended" shall be written in the top margin of the certificate. Certificates on which given names are added within seven years after birth or on which given names have been changed at any time pursuant to subdivision 3 of § 11.2 of these regulations shall not be considered as amended.

B. In all other cases, corrections or alterations shall be made by drawing a single line through the incorrect item, if listed, and by inserting the correct or missing data immediately above it or to the side of it, or by completing the blank item, as the case may be. In addition, there shall be inserted on the certificate a statement identifying the affidavit and documentary evidence used as proof of the correct facts and the date the correction was made. If three months have elapsed from the date of filing, the word "Amended" shall be written in the top margin of the certificate unless otherwise stated in these regulations.

PART XII. INSPECTION OF RECORDS AND DISCLOSURE OF INFORMATION.

§ 12.1. Individual requests.

Upon request, the State Registrar or the city or county registrar shall disclose data or issue certified copies of birth or death records or information when satisfied that the applicant therefor has a direct and tangible interest in the content of the record and that the information contained therein is necessary for the determination or protection of personal or property rights.

1. A direct and tangible interest may be evidenced by requests from the registrant, members of his immediate family, his guardian, or their respective legal representatives in the case of birth records. Such direct and tangible interest may be evidenced by requests from surviving relatives or their legal representatives in the case of death records.

2. For the purposes of securing information or obtaining certified copies of birth and death records, the term "legal representative" shall include an attorney, physician, funeral director, insurance company, or an authorized agency acting in behalf of the registrant or his family.

3. A direct and tangible interest shall not be evidenced by the natural parents of an adopted child; nor by commercial firms, agencies, nonprofit or religious organizations requesting listings of names or addresses.

§ 12.2. Research requests.

The State Registrar or the city or county registrar may permit use of data from vital records for bona fide

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research purposes subject to reasonable conditions the State Registrar may impose to ensure that the use of the data is limited to such research purposes.

§ 12.3. Official requests.

The State Registrar or the city or county registrar may disclose data from vital records to federal, state, county, or municipal agencies of government which request such data in the conduct of their official duties; except that records governed by §§ 32.1-261 and 32.1-274 D and E of the Code of Virginia, may be made available only by the State Registrar for official purposes to federal, state, county, or municipal agencies charged by law with the duty of detecting or prosecuting crime, preserving the internal security of the United States, or for the determination of citizenship.

§ 12.4. Application for records.

The State Registrar or the city or county registrar may require written applications for data; the identification of an applicant; or a sworn statement, when it shall seem necessary to establish an applicant's right to information from vital records.

PART XIII. CERTIFICATIONS OF DATA; FEES.

§ 13.1. Certified copies; how prepared.

Under the provision of § 32.1-272 of the Code of Virginia and Part XII of these regulations, certifications of vital records may be prepared and issued by the State Registrar and, where applicable, by the city or county registrar.

1. Certifications may be made by photostat or other reproduction process, typewriter, or electronic print except that medical and health data on the birth certificate shall not be so certified.
2. The statement to appear on each certification of a vital record is to read as follows:

"This is to certify that this is a true and correct reproduction or abstract of the official record filed with the Department of Health, Virginia.

Date issued

.....Registrar"

The registrar will enter the appropriate city or county name in the spaces provided, date and sign the certification, and enter his official title.

3. The seal of the issuing office is to be impressed on the certification.
4. Short form certifications of birth records, or birth

registration cards, which make no reference to parentage may be issued by the State Registrar.

§ 13.2. Fees.

The fee to be charged by the State Registrar or by the city or county registrar shall be ~~\$5.00~~ \$8.00 for each full certification or short form certification of a vital record, or for a search of the files or records when no copy is made.

VA.R. Doc. No. R95-179; Filed December 7, 1994, 12:09 p.m.

STATE CORPORATION COMMISSION

AT RICHMOND, NOVEMBER 23, 1994

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

CASE NO. PUE940070

Ex Parte: In the matter of adopting rules to govern the safety of intrastate hazardous liquid pipelines pursuant to the Virginia Hazardous Liquid Pipeline Safety Act

ORDER ESTABLISHING REVISED ORDER DATES FOR NOTICE AND COMMENT

On November 2, 1994, the Commission entered an Order for Notice and Comment ("Order"). In its Order the Commission proposed to adopt by reference Parts 195 and 199 of Title 49 of the Code of Federal Regulations as the minimum pipeline safety regulations applicable to the intrastate hazardous liquid pipelines located in the Commonwealth, along with the additional requirements specified in Appendix A to the Order. The Order required that notice of the proposed regulations be published by November 16, 1994, and that comments regarding the proposed regulations, requests for a hearing on the proposed regulations, and proof of publication be filed on or before December 2, 1994.

Upon request of its Staff, the Commission is of the opinion and finds that the dates for notice and comment should be revised to establish December 8, 1994 as the date for completion of publication and December 30, 1994 as the date by which comments and requests for hearing must be filed; accordingly,

IT IS ORDERED:

(1) That, on or before December 30, 1994, any person may submit comments in support of, or in opposition to, the Commission's adoption of the pipeline safety rules in Parts 195 and 199 of Title 49 of the Code of Federal Regulations and other requirements as specified in Appendix A with the Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23216;

(2) That, on or before December 30, 1994, any person who desires to be heard on the proposed regulations and other requirements shall file with the Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23216, a written request for such hearing, together with a statement of reasons why their position cannot be expressed adequately in writing to the Commission;

(3) That the Division of Energy Regulation shall publish the following notice once as classified advertising in major

newspapers of general circulation in the Commonwealth, publication to be completed by December 8, 1994:

PUBLIC NOTICE

Pursuant to Virginia Code § 56-555, the State Corporation Commission ("Commission") proposes to adopt Parts 195 and 199 of Title 49 of the Code of Federal Regulations ("C.F.R.") as the minimum pipeline safety regulations applicable to intrastate hazardous liquid pipeline systems in Virginia. Additionally, the Commission proposes that these pipeline systems report certain accidents in accordance with Section 195.52(b)(1) through (b)(6) of Title 49 C.F.R. to the Commission's Division of Energy Regulation.

Any person desiring to file written comments concerning this matter or to request a formal hearing on an objection which cannot be presented effectively in writing shall, on or before December 30, 1994, send such comments or request for hearing to the Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23216. A request for a hearing must state a substantive objection to the Commission's proposal and the reasons it cannot be presented effectively in writing. If the Commission does not receive any proper requests for hearing, the aforementioned gas safety regulations may be adopted without hearing. Further information regarding this matter may be obtained from the Commission's Division of Energy Regulation, P.O. Box 1197, Richmond, Virginia 23209, or by telephone at (804) 371-9611.

(4) That this order shall be sent forthwith to the Registrar of Regulations for appropriate publication in the Virginia Register.

(5) That, on or before December 30, 1994, the Division of Energy Regulation shall file with the Clerk of the Commission proof of publication of the notice prescribed herein.

AN ATTESTED COPY of this Order shall be sent to the Commission's Division of Energy Regulation and the Office of General Counsel.

V.A.R. Doc. No. R95-170; Filed December 5, 1994, 11:26 a.m.

FINAL REGULATION

STATE CORPORATION COMMISSION

Title of Regulation: Rules Governing Insurance Holding Companies (Insurance Regulation No. 14).

Statutory Authority: §§ 12.1-13 and 38.2-223 of the Code of Virginia.

State Corporation Commission

Effective Date: January 1, 1995

AT RICHMOND, DECEMBER 1, 1994

COMMONWEALTH OF VIRGINIA

At the relation of the

STATE CORPORATION COMMISSION

CASE NO. INS940114

Ex Parte: In the matter of
adopting revised Rules Governing
Insurance Holding Companies

ORDER ADOPTING REGULATION

WHEREAS, by order entered herein August 5, 1994, all interested persons were ordered to take notice that the Commission would enter an order subsequent to September 15, 1994, adopting a revised regulation proposed by the Bureau of Insurance unless on or before September 15, 1994, any person objecting to the adoption of the regulation filed a request for a hearing with the Clerk of the Commission;

WHEREAS, as of the date of this order, no request for a hearing has been filed with the Clerk of the Commission; however, several interested persons did file comments to the proposed regulation and the Bureau of Insurance filed a response to those comments; and

THE COMMISSION, having considered the proposed regulation, the comments of interested persons, and the response of the Bureau of Insurance, is of the opinion that the regulation, as amended by the Bureau's response to the comments of interested persons, should be adopted;

THEREFORE, IT IS ORDERED that the regulation entitled "Revised Rules Governing Insurance Holding Companies" which is attached hereto and made a part hereof should be, and it is hereby, ADOPTED to be effective January 1, 1995.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to the Bureau of Insurance in care of Deputy Commissioner Alfred W. Gross, who shall forthwith give further notice of the adoption of the regulation by mailing a copy of this order, together with a copy of the regulation, to all insurance companies licensed in the Commonwealth of Virginia.

Rules Governing Insurance Holding Companies (Insurance Regulation No. 14).

COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

BUREAU OF INSURANCE

REVISED RULES GOVERNING INSURANCE
HOLDING COMPANIES
with reporting forms and instructions

INSURANCE REGULATION 14

Effective: January 1, 1995

~~Section 1. Authority.~~

~~This regulation is adopted pursuant to §§ 12.1-13 and 38.2-223 of the Code of Virginia.~~

~~§ 2. § 1. Purpose.~~

The purpose of this regulation is: to set forth rules and procedural requirements which the commission deems necessary to carry out the provisions of Articles 5 and 6 in Chapter 13 (§ 38.2-1322, et seq. and § 38.2-1335 et seq., hereinafter, "the Act") of the Code of Virginia, concerning insurance holding companies and subsidiaries of insurance companies. The information called for by this regulation is necessary and appropriate for the protection of the policyholders in this Commonwealth.

~~§ 3. § 2. Severability clause.~~

If any provision of this regulation or the application thereof to any person or circumstance is for any reason held to be invalid, the remainder of the regulation and the application of such provision to other persons or circumstances shall not be affected thereby.

~~§ 4. § 3. Definitions.~~

~~A. "Commission" means the State Corporation Commission.~~

~~B. "Commissioner of Insurance" means the administrative or executive officer of the division or bureau of state government established to administer the insurance laws of a state other than Virginia.~~

~~C. "Executive officer" means chief executive officer, chief operating officer, chief financial officer, president, vice-president, treasurer, secretary, controller, and any other individual performing functions corresponding to those performed by the foregoing officers under whatever title.~~

~~D. "Foreign insurer" shall include an alien insurer except where clearly noted otherwise.~~

~~E. "NAIC" means National Association of Insurance Commissioners.~~

~~F. "The Act" means Articles 5 and 6 in Chapter 13 (§ 38.2-1322 et seq. and § 38.2-1335 et seq.) of the Code of Virginia.~~

~~G. "Ultimate controlling person" means that person~~

State Corporation Commission

which is not controlled by any other person.

H. Unless the context otherwise requires, other terms found in this regulation are used as defined in Virginia Code § 38.2-1322 ; Title 38.2 of the Code of Virginia, or industry usage if not defined by the Code of Virginia.

§ 5. § 4. Acquisition of control – applications for approval pursuant to § 38.2-1323 A.

A. A person filing an application or statement pursuant to subsection A of § 38.2-1323, or any related provision of §§ 38.2-1324 through 38.2-1328, of the Act shall furnish the required information designated on Form A of this regulation.

1. Where applicable and required by Form A, Form E shall also be filed.

2. Whenever an application includes information in the format required by Form E, the Commission may require an opinion of an economist as to the competitive impact of the proposed acquisition.

B. When the person being acquired controls a domestic insurer, such person shall, for purposes of completing a Form A application, be deemed to be a "domestic insurer."

1. The name of the domestic subsidiary insurer should be indicated on the cover page as follows:

"ABC Insurance Company, a subsidiary of XYZ Holding Company," and

2. References to "the insurer" contained in Form A shall refer to both the domestic subsidiary insurer and the person being acquired.

C. The applicant shall promptly advise the commission of any changes in the information so furnished on Form A, or any attachments thereto, arising subsequent to the date upon which such information was furnished, but prior to the commission's disposition of the application and consummation of the acquisition of control.

1. Within two business days after the person filing the application learns of the change, an amendment setting forth the change, together with copies of all documents and other material relevant to the change, shall be filed with the commission. The filing shall be made with the Clerk of the Commission. Except where the applicant is also the insurer, the applicant shall show on each such filing that a copy has also been sent to the insurer.

2. A failure to file complete and accurate information as required by this regulation is grounds for a denial by the commission pursuant to § 38.2-1326.

3. As used in this section and for purposes of all

Form A filings, "material change" includes any change in the identity of executive officers or any party to a merger or a liquidating transaction.

D. Where "control" is derived from a management agreement, including any other agreement between a domestic insurer and another person other than an a contract for goods or nonmanagement services, any termination of the agreement and or any substitution of persons under such agreement shall be deemed a change of control requiring notice and application to the commission pursuant to § 38.2-1323 of the Act.

E. A person seeking to merge with or acquire a domestic insurer may apply to the commission for an order exempting the person from the provisions of §§ 38.2-1323 through 38.2-1327 if the merger or acquisition meets the standards for exemption provided in § 38.2-1328.

1. The application shall be in writing and shall be filed with the Clerk of the Commission. The applicant shall identify the parties to the merger or acquisition and shall state (i) the purpose of the merger or acquisition, (ii) the method of merger or acquisition and (iii) why the person believes the exemption criteria of § 38.2-1328 will be met.

2. Within 30 days after the application for exemption is filed with the Clerk's Office, the commission shall enter an order granting the exemption or giving notice of a hearing to determine the merits of the application.

F. Any hearing held to consider an application filed pursuant to the provisions of this section and § 38.2-1323 of the Act shall be held pursuant to § 38.2-1326 and shall begin, unless waived by the insurer, within 40 days of the date the application is filed with the commission. An application shall be deemed filed upon receipt by the commission of all material required by the section or § 38.2-1324 of the Act.

§ 5. § 5. Acquisitions under § 38.2-1323 B involving insurers not otherwise covered by § 38.2-1323 A.

A. An acquisition covered by subsection B of § 38.2-1323 of the Act may be subject to orders pursuant to subsections B and C of § 38.2-1323 of the Code of Virginia unless the acquiring party files a pre-acquisition notification or an acquisition statement in the format prescribed by Form E of this regulation. The person being acquired may file the statement.

1. The commission may enter an order suspending the license of an insurer involved in such an acquisition if there is substantial evidence that the effect of the acquisition may be substantially to lessen competition in any line of insurance in this Commonwealth or tend to create a monopoly therein, and is detrimental to policyholders or the public in general.

State Corporation Commission

2. Such an order may also be entered if the insurer fails to file adequate information sufficient to rebut a reasonable belief that the merger or acquisition causes or tends to cause a substantial lessening of competition in any line of insurance, and also is detrimental to policyholders or the public.

3. In determining whether competition may be detrimental, the commission shall consider, among other things, whether applicable competitive standards promulgated by the NAIC have or may be violated as a consequence of the acquisition. Such standards may include any indicators of competition identified or enumerated by the NAIC in any model laws or portions of practice and procedure or instructional manuals developed to provide guidance in regulatory oversight of holding company systems, mergers and acquisitions, or competitive practices within the marketplace. Such standards include particularly the definitions, guidelines or standards embodied in any model holding company act or model holding company regulation adopted by the NAIC. In addition, the commission may request and consider the opinion of an economist as to the competitive impact of the acquisition whenever pre-acquisition notification is submitted pursuant to subsection B of § 38.2-1323 of the Act.

4. An order suspending license shall not be entered under § 38.2-1323 B of the Act unless the involved insurer has received 10 days notice and an opportunity to be heard. The notice of hearing shall be accompanied by a request for such information as required by § 38.2-1324 of the Act; it may include also a request for an opinion of an economist as to the competitive impact of the acquisition.

a. Requested information shall be filed as an acquisition statement in the format of Form E of this regulation.

b. If the commission determines that the acquisition or merger causes or tends to cause a substantial lessening of competition in any line of insurance, the commission may request the insurer to furnish the additional information required by § 38.2-1324, in order to rebut the reasonable belief that such lessening of competition is detrimental to policyholders or the public in general.

5. An order suspending license shall not be entered under ~~Virginia Code~~ § 38.2-1323 B of the Code of Virginia and this section ~~5-1~~ if:

a. The acquisition will yield substantial economies of scale or economies in resource utilization that cannot be feasibly achieved in any other way, and the public benefits which would arise from such economies exceed the public benefits which would arise from not lessening competition; or

b. The acquisition will substantially increase the availability of insurance, and the public benefits of such increase exceed the public benefits which would arise from not lessening competition.

6. The commission's order suspending license entered under this section shall not become final earlier than 21 days after it is issued, during which time the involved insurer may submit a plan to remedy the anticompetitive impact of the acquisition within a reasonable time. Based upon such plan or other information, the commission shall specify the conditions, if any, under the time period during which the aspects of the acquisition causing a violation of the applicable competitive standards announced by the Commission would be remedied and the order vacated or modified.

B. Any hearing held pursuant to the provisions of this section shall begin, unless waived by the insurer, within 40 days of the date of receipt by the commission of all material required by § 38.2-1323 of the Act.

C. For the purposes of this section and § 38.2-1323 B of the Act, "acquisition" means any agreement, arrangement or activity the consummation of which results in a person acquiring directly or indirectly control of another person, and includes but is not limited to the acquisition of voting securities, the acquisition of assets, bulk reinsurance and mergers.

§ 6. Annual registration of insurers - registration statement filings and amendments.

A. An insurer required to file a registration statement pursuant to § 38.2-1329 of the Act shall furnish the required information in the format designated on Form B of this regulation.

1. The initial registration statement shall be filed with the commission within 15 days after the insurer becomes subject to registration under § 38.2-1329 of the Act.

2. Annually thereafter by April 30 of each year, for the previous calendar year, the registrant shall file a completely restated up-to-date registration statement in the format designated on Form B, with amendments consolidated therein. Each such registration statement shall contain a summary outlining all items in the current registration statement representing changes from the prior registration statement. The summary shall be prepared in the format designated on Form C, as specified in the instructions of that form, which is a part of this regulation.

B. An insurer shall file a copy of its most current registration statement and the Form C filing, also known as a Summary of Registration Filing, in each state in which the insurer is authorized to do business, if requested by the Insurance Commissioner of that state.

C. Amendments to Form B.

1. An amendment to Form B shall be filed under the following conditions:

- a. Within 15 days after the end of any month in which there is a material change to the information provided in the annual registration statement;
- b. Within 15 days after the end of any month in which the registrant or insurer learns there is a change in control of the registrant, in which case all of Form B and Form C shall be made current;
- c. Within 15 days after the end of any month in which the registrant or insurer learns there is a material change in information given in Item 5 of Form B;
- d. Within 15 days after the end of any month in which there is a material change in any portion of the information given in Item 6 of Form B;
- e. Within 15 days after *the end of any month in which* there is a change of the chief executive officer, president, or more than one-third of the directors reported in Item 4 of Form B,
- f. Within two business days following the declaration of any dividend or other distribution to an insurer's shareholder, and
- g. Within 120 days after the end of each fiscal year of the ultimate controlling person of the insurance holding company system.

2. Amendments shall be filed in the Form B format. Subject to the provisions of § 6 A 2 of this regulation, only those items which are being amended need be reported. Each such amendment shall include at the top of the cover page "Amendment No. (insert number) to Form B ~~for~~ Registrant Statement, brought current from (insert year)" and shall indicate as its "Date," the date of the change and not the date of the original filings. Filings made in the format of Forms A, D, E or F may be deemed amendments filed in the Form B format when accompanied by certification under oath or affirmation that the transaction reported on such Form A, D, E or F has been consummated. If the commission's approval of the transaction is required by the Act, the certification shall state also that consummation was pursuant to terms and agreements approved by the commission.

3. As used in this section, "material transaction" has the meaning set forth in § 38.2-1322 of the Act except that, unless the commission by rule, order or regulation prescribes otherwise, no sale, purchase, exchange, loan or extension of credit or investment shall be considered "material" unless it involves at least 0.5% of an insurer's admitted assets or 5.0% of

the insurer's surplus to policyholders, as of the 31st day of December next preceding. Any sale or other transaction which is one of a series of transactions occurring within a 12-month period that are sufficiently similar in nature as to be reasonably construed as a single transaction and that in the aggregate exceed the minimum limits herein provided shall be deemed a material transaction.

D. Exemptions and alternative and consolidated registrations.

1. Any insurer which is authorized to do business in this Commonwealth may file a registration statement on behalf of any affiliated insurer or insurers which are required to register under § 38.2-1329 of the Act. A registration statement may include information not required by the Act regarding any insurer in the insurance holding company system even if such insurer is not authorized to do business in this Commonwealth. In lieu of filing a registration statement on Form B, the authorized insurer may file a copy of the registration statement or similar report which it is required to file in its state of domicile, provided:

- a. The statement or report contains substantially similar information required to be furnished on Form B; and
- b. The filing insurer is the principal insurance company in the insurance holding company system.

2. The question of whether the filing insurer is the principal insurance company in the insurance holding company system is a question of fact and an insurer filing a registration statement or report in lieu of Form B on behalf of an affiliated insurer, shall set forth a brief statement of facts which will substantiate the filing insurer's claim that it, in fact, is the principal insurer in the insurance holding company system.

3. With the prior approval of the commission, an insurer not licensed to transact the business of insurance in this Commonwealth may follow any of the procedures which could be done by an authorized insurer under subdivision 1 of this subsection.

4. Any insurer may take advantage of the provisions of § 38.2-1329 G or § 38.2-1329 H of the Act without obtaining the prior approval of the commission. The commission, however, reserves the right to require individual filings if it deems such filings necessary in the interest of clarity, ease of administration or the public good.

5. The state of entry of an alien insurer shall be deemed to be its state of domicile for the purpose of this regulation.

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6. Any foreign insurer subject to disclosure requirements and standards adopted by statute or regulation in the jurisdiction of its domicile that are substantially similar to those contained in § 38.2-1329 of the Act, shall be exempted and excepted from registration in this Commonwealth pursuant to § 6 of these rules and § 38.2-1329 A of the Act; however, if requested by the commission, such insurer shall furnish to the commission a copy of the registration statement or other information filed with its state of domicile. Such information shall be filed with the commission within 15 days after the commission makes its request.

7. Any insurer not otherwise exempt or excepted from § 38.2-1329 of the Code of Virginia may apply for an exemption from the requirements of this section of the Code of Virginia by submitting a statement to the commission setting forth its reasons for being exempt.

§ 7. Disclaimers and termination of registration.

A. A disclaimer of affiliation or a request for termination of registration claiming that a person does not, or will not upon the taking of some proposed action, control any other person (hereinafter referred to as the "subject") shall contain the following information:

1. The number of authorized, issued and outstanding voting securities of the subject;
2. With respect to the person whose control is denied and all affiliates of such person, the number and percentage of shares of the subject's voting securities which are held of record or known to be beneficially owned, and the number of such shares concerning which there is a right to acquire, directly or indirectly; and also information as to all transactions in any securities of the subject which were effected during the past six months by such persons;
3. All material relationships and bases for affiliation, including a description of all contracts and agreements, between the subject and the person whose control is denied and all affiliates of such person; and
4. A statement explaining why such person should not be considered to control the subject.

B. A request for termination of registration under § 38.2-1329 of the Act for lack of affiliation shall be deemed to have been granted unless the commission, within 30 days after receipt of the request, notifies the registrant otherwise. Thereafter, the subject shall be relieved of any registering or reporting requirements under § 38.2-1329 of the Act that may arise out of the subject's relationship with the person, unless and until the commission disallows the disclaimer.

1. The commission shall disallow the disclaimer only after giving all interested parties notice and

opportunity to be heard.

2. Any disallowance shall be supported by specific findings of fact.

§ 8. Transactions subject to prior notice filing.

A. An insurer required to give notice of a proposed transaction pursuant to § 38.2-1331 of the Act shall furnish the required information in the format designated on Form D, as specified in the instructions of that form, which is a part of this regulation.

B. The approval of any material transactions pursuant to § 38.2-1331 of the Act shall be deemed an amendment to an insurer's registration statement under subdivision C 4 of § 38.2-1329 of the Act without further filing other than written confirmation under oath or affirmation by registrant that the transaction as approved by the commission has been consummated. Such confirmation shall be filed within two business days following consummation of the approved transaction.

§ 9. Dividends and other distributions.

A. ~~Section 38.2-1329 notice of dividends and other distributions.~~

~~1. Each registered insurer shall report to the commission, pursuant to § 38.2-1329, all dividends and other distributions to shareholders within two business days following their declaration. The notice shall be filed at least 10 days prior to payment or distribution and shall be in the format prescribed by Form F of this regulation. Unless the declaration has received the prior approval of the Commission pursuant to § 38.2-1330.C, such notice shall include at least the following:~~

- ~~(a) The amount of the proposed dividend;~~
- ~~(b) The date of declaration, date of record and date established for payment of the dividend;~~
- ~~(c) A statement as to whether the dividend is to be in cash or other property and, if in property, a description thereof, its cost, and its fair market value together with an explanation of the basis for valuation;~~
- ~~(d) The amounts, dates and form of payment of all dividends or distributions (including regular dividends but excluding distributions of the insurer's own securities) paid within the period of twelve (12) consecutive months ending on the date fixed for payment of the proposed dividend for which approval is sought and commencing on the day after the same day of the same month in the last preceding year;~~
- ~~(e) A brief statement as to the effect of th~~

proposed dividend upon the insurer's surplus and the reasonableness of surplus in relation to the insurer's outstanding liabilities and the adequacy of surplus relative to the insurer's financial needs; and

(f) A statement stating whether the dividend or distribution is extraordinary. The insurer shall also state either the date of approval, if any, pursuant to § 38.2-1330.C or the date on which such approval is anticipated.

(2) No declaration of an extraordinary dividend or distribution shall confer any rights on shareholders without the prior approval of the Commission pursuant to § 38.2-1330.C. However, an insurer may declare a dividend or distribution which is conditional upon the Commission's approval, and the declaration shall confer no rights upon shareholders until (i) the Commission has approved the payment of the dividend or distribution or (ii) the Commission has not disapproved the dividend or distribution within the thirty-day period provided by § 38.2-1330.C of the Act.

(3) When a dividend or distribution is approved, pursuant to § 38.2-1330.C, prior to its declaration, the insurer may comply with the requirements of § 38.2-1329.E by filing written confirmation under oath or affirmation that the dividend or distribution, as approved by the Commission, as been declared. Confirmation shall be filed within two (2) business days following declaration.

B. Section 38.2-1330 extraordinary dividends or other extraordinary distributions.

(1) An insurer may obtain approval, pursuant to § 38.2-1330.C, of an extraordinary dividend or distribution by filing a request for approval with the Commission. The request shall be filed in the format prescribed by Form F and shall include at least the following:

(a) All the information required in subsection A above for a § 38.2-1329 notice of declared dividends and other distributions;

(b) Statements of financial condition and earnings for the period intervening from the last annual statement filed with the Commission and the end of the month preceding the month in which the request for dividend approval is submitted; and, if the date of payment or distribution is more than sixty (60) days removed from the date of the most current financial statement submitted by the insurer, the insurer shall include also a pro forma statement as of the day after the distribution or payment of the dividend showing its effect and other known and reasonably projected adjustments to the financial condition and earnings of the insurer; and

(c) A copy of the calculations determining that the

proposed dividend is extraordinary. The work paper shall include the following information:

i. The amounts, dates and form of payment of all dividends or distributions paid within the period of twelve (12) consecutive months ending on the date fixed for payment of the proposed dividend for which approval is sought, and commencing on the day after the same day of the same month in the last preceding year.

ii. Surplus as regards policyholders (total capital and surplus) as of the 31st day of December next preceding;

iii. If the insurer is a life insurer, the net gain from operations for the 12-month period ending the 31st day of December next preceding;

iv. If the insurer is not a life insurer, the net income less realized capital gains for the 12-month period ending the 31st day of December next preceding and the two preceding 12-month periods; and

v. If the insurer is not a life insurer, the dividends paid to stockholders excluding distributions of the insurer's own securities in the preceding two calendar years.

(2) Statements on each factor set forth in subsection B of § 38.2-1330 of the Act must be submitted in support of the request for approval of an extraordinary dividend or distribution, although these factors are not intended to be an exhaustive list. In determining the adequacy and reasonableness of an insurer's surplus no single factor is controlling. The Commission, instead, will consider the net effect of all of these factors plus other factors bearing on the financial condition of the insurer. In comparing the surplus maintained by other insurers, the Commission will consider the extent to which each of these factors varies from company to company and in determining the quality and liquidity of investments in subsidiaries, the Commission will consider the individual subsidiary and may discount or disallow its valuation to the extent that the individual investments so warrant.

(3) In addition, in order to determine the possibility of any financial effect on the insurer, the Commission may request the means of funding and the purpose of the extraordinary dividend or distribution.

A. Each registered insurer shall report to the commission as required under § 38.2-1329 of the Act, all dividends and other distributions to shareholders within two business days following declaration. Except as provided in subsection B of this section, such report shall be filed in the format prescribed by Form F and shall include at least the following:

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1. A statement stating whether the dividend or distribution is extraordinary. If the dividend or distribution is extraordinary, the insurer also shall state the date of approval, if any, obtained pursuant to § 38.2-1330 C of the Act, or the earliest date on which such approval may be deemed;

2. The amount of the proposed dividend;

3. The date of declaration, date of record and date established for payment of the dividend;

4. A statement as to whether the dividend is to be in cash or other property and, if in property, a description thereof, its cost, and its fair market value together with an explanation of the basis for valuation;

5. The amounts, dates and form of payment of all dividends or distributions (including regular dividends but excluding distributions of the insurer's own securities) paid within the period of 12 consecutive months ending on the date fixed for payment of the proposed dividend for which approval is sought and commencing on the day after the same day of the same month in the last preceding year; and

6. A brief statement as to the effect of the proposed dividend upon the insurer's surplus and the reasonableness of surplus in relation to the insurer's outstanding liabilities and the adequacy of surplus relative to the insurer's financial needs.

B. If payment of an extraordinary dividend or distribution has been approved prior to its declaration, the insurer may comply with the requirements of § 38.2-1329 E of the Act by filing written confirmation under oath or affirmation that the extraordinary dividend or distribution, as approved by the commission, as been declared. Confirmation shall be filed within two business days following declaration.

C. An insurer may obtain prior approval of an extraordinary dividend or distribution, as required by § 38.2-1330 C of the Act, by filing a request for approval with the commission. The request for approval shall be filed in the format prescribed by Form F and shall include at least the following:

1. All the information required in subsection A of this section;

2. Statements of financial condition and earnings for the period intervening from the last annual statement filed with the commission and the end of the month preceding the month in which the request for dividend approval is submitted; and, if the date of payment or distribution is more than 60 days removed from the date of the most current financial statement submitted by the insurer, the insurer shall include also a pro forma statement as of the day after the distribution or payment of the dividend showing its effect and other

known and reasonably projected adjustments to the financial condition and earnings of the insurer; and

3. A copy of the calculations determining that the proposed dividend is extraordinary. The work paper shall include the following information:

a. The amounts, dates and form of payment of all dividends or distributions (including regular dividends but excluding distributions of the insurer's own securities) paid within the period of 12 consecutive months ending on the date fixed for payment of the proposed dividend for which approval is sought, and commencing on the day after the same day of the same month in the last preceding year;

b. Surplus as regards policyholders (total capital and surplus) as of the 31st day of December next preceding;

c. If the insurer is a life insurer, the net gain from operations for the 12-month period ending the 31st day of December next preceding;

d. If the insurer is not a life insurer, the net income less realized capital gains for the 12-month period ending the 31st day of December next preceding and the two preceding 12-month periods; and

e. If the insurer is not a life insurer, the dividends paid to stockholders (excluding distributions of the insurer's own securities) in the preceding two calendar years.

4. Statements on each factor set forth in subsection B of § 38.2-1330 of the Act must be submitted in support of the request for approval of an extraordinary dividend or distribution, although these factors are not intended to be an exhaustive list. In determining the adequacy and reasonableness of an insurer's surplus no single factor is controlling. The commission, instead, will consider the net effect of all of these factors plus other factors bearing on the financial condition of the insurer. In comparing the surplus maintained by other insurers, the commission will consider the extent to which each of these factors varies from company to company and in determining the quality and liquidity of investments in subsidiaries, the commission will consider the individual subsidiary and may discount or disallow its valuation to the extent that the individual investments so warrant.

5. In addition, in order to determine the possibility of any financial effect on the insurer, the commission may request the means of funding and the purpose of the extraordinary dividend or distribution.

D. No declaration of an extraordinary dividend or distribution shall confer any rights on shareholders without

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the prior approval thereof pursuant to § 38.2-1330 C of the Act. However, an insurer may declare an extraordinary dividend or distribution which is conditional upon the commission's approval, and the declaration shall confer no rights upon shareholders until (i) the commission has approved the payment of the dividend or distribution or (ii) the commission has not disapproved the payment within the 30-day period provided by § 38.2-1330 C of the Act.

§ 10. Management of controlled insurers and standards for transactions with affiliates.

A. Notwithstanding the control of an authorized insurer by any person, neither the officers and directors of the insurer nor any similarly situated person to whom authority has been delegated, shall thereby be relieved of any obligation or liability to which they would otherwise be subject by law, and the insurer shall be managed so as to assure its separate operating identity consistent with the Act and Title 38.2 of the Code of Virginia.

B. Nothing herein shall preclude an authorized insurer from having or sharing a common management or cooperative or joint use of personnel, property, or services with one or more other persons under arrangements meeting the standards of subsection A of § 38.2-1330 of the Act:

1. The terms shall be fair and reasonable;
2. Charges or fees for services performed shall be reasonable;
3. Expenses incurred and payments received shall be allocated to the insurer in conformity with customary insurance accounting practices consistently applied;
4. The books, accounts, and records of each party shall disclose clearly and accurately the precise nature and details of the transactions as agreed upon in writing by the parties; and
5. The insurer's surplus to policyholders following any dividends or distributions to shareholder affiliates shall be reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs.

FORM A - INSTRUCTIONS FOR APPLICATION FOR APPROVAL OF ACQUISITION OF CONTROL OF OR MERGER WITH A DOMESTIC INSURER

I. Regulation as to Use of Form A. -

(1) Form A shall be used by an applicant required to file an application with the Commission pursuant to Section 38.2-1323 of the Code. Subsequent amendments shall also be filed on Form A, but shall include on the top of the cover "Amendment No. to" and shall indicate the date of the amendment and not the date of the original filing.

(2) Form A and all amendments, attachments or exhibits thereto shall be filed with the Clerk of the Commission.

(3) Information required by and filed in the format of Form A shall be open for public inspection at the offices of the Clerk of the Commission during the pendency of the application.

(4) An Applicant may request in writing that specific data or documents be treated as confidential. The applicant's request shall be in the form of a motion for a protective order filed with the Clerk's Office and stating the grounds why the data or documents should be treated as confidential. A copy of the motion together with the data or documents for which confidentiality is being requested shall be addressed and delivered to the Commissioner of Insurance, State Corporation Commission - Bureau of Insurance, P. O. Box 1157, Richmond, VA 23209 (Tyler Building - 6th Floor, 1300 East Main Street, Richmond, VA 23219).

Confidentiality may be requested pursuant to § 38.2-1333 for specific data or documents incorporated by reference or described as exhibits attached to and filed with the Form A application. Information required by and filed in the format of Form E also shall be given confidential treatment as though such filings were subject to § 38.2-1333.

Confidentiality of certain information will also be recognized pursuant to § 38.2-1324.A.2 also if requested by a written motion filed with the Commission.

In addition and pursuant to § 38.2-1306, no document which is determined to be a special report shall be open to public inspection.

No information shall receive confidential treatment if its omission from the Form A makes the Form A misleading, incomplete, unclear or confusing. Notwithstanding other provisions to the contrary, nothing contained in this regulation shall prevent or be construed as prohibiting the Commission from disclosing otherwise confidential information, administrative or judicial orders, or the content of any analysis or any matter related thereto, to the insurance regulatory officials of any state or country, or to law-enforcement officials of this or any other state or agency of the federal government at anytime provided that those officials are required under their law to maintain its confidentiality.

II. Preparation of Application. - This form is not to be used as a blank form to be filled in, but only as a guide in the preparation of the application. The application shall contain the numbers and captions of all items, but the text of the items may be omitted provided the answers thereto are prepared in such a manner as to indicate clearly the scope and coverage of the items. All instructions, whether appearing under the items of the form or elsewhere therein, are to be omitted. Unless expressly provided

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otherwise, if any item is inapplicable or the answer thereto is in the negative, an appropriate statement to that effect shall be made.

III. Number of Copies - Signatures.

(1) The original and seven (7) copies of each application, and any amendments thereto, shall be filed with the Commission by personal delivery or mail addressed to: The Clerk of the Commission, State Corporation Commission, Document Control Center, P. O. Box 2118, Richmond, VA 23216 (Tyler Building, 1300 East Main Street, Richmond, VA 23219). A copy of the transmittal letter should be delivered or mailed to the Deputy Commissioner, Financial Regulation Division, State Corporation Commission - Bureau of Insurance, P. O. Box 1157, Richmond, VA 23209 (Tyler Building - 6th Floor, 1300 East Main Street, Richmond, VA 23219)

(2) The original and seven (7) copies of exhibits and or all other papers or documents required by or described as attached to the Form A application shall be filed also through the Clerk of the Commission unless prior to filing the applicant requests and receives the written approval of the Commission (i) to file fewer copies of an exhibit or attachment or (ii) to designate as confidential any data, exhibit, attachment or document which is to be filed and considered in connection with an insurer's Form A application.

(3) At least one copy of each application filed with the Commission shall be manually signed in the manner prescribed by this form. Unsigned copies shall be conformed.

(4) If the signature of any person is affixed pursuant to a power of attorney or other similar authority, a copy of such power of attorney or other authority shall also be filed with the application.

IV. Requirements as to Printing and Language.

(1) Statements should be prepared on paper 8 1/2"x11" in size and preferably bound at the top or the top left-hand corner. All pages should be sequentially numbered. Exhibits and financial statements, unless specifically prepared for the filing, may be submitted in their original size.

(2) All copies of any statements, papers or documents shall be clear, easily readable and suitable for photocopying. Debits in credit categories and credits in debit categories shall be designated so as to be clearly distinguishable as such on photocopies.

(3) Statements shall be in the English language and monetary values shall be stated in United States currency. If any exhibit or other paper or document filed with the statement is in a foreign language, it shall be accompanied by a translation into the English

language and any monetary value shown in a foreign currency normally shall be converted into United States currency.

(4) Any amendments to the application that include the refiling of original documents in their entirety shall be "red-lined" or otherwise marked to reflect all changes made by the amendment.

V. Additional Information and Exhibits.

(1) In addition to the information expressly required to be included in the application, there shall be added such further material information, if any, as may be necessary to make the information contained therein not misleading.

(2) The applicant may file such exhibits as it may desire in addition to those expressly required by the statement. Such exhibits shall be so marked as to indicate clearly the subject matters to which they refer.

(3) No statement required by this application shall be deemed filed with the Commission until on the date all such material required and sufficient to constitute a full statement has been provided.

VI. Information Unknown or Not Available. - Information required need be given only insofar as it is known or reasonably available to the person filing the statement. If any required information is unknown and not reasonably available to the person filing, either because the obtaining thereof would involve unreasonable effort or expense, or because it rests peculiarly within the knowledge of another person not affiliated with the person filing, the information may be omitted, subject to the following conditions:

(1) the applicant shall give such information on the subject as it possesses or can acquire without unreasonable effort or expense, together with the sources thereof; and

(2) the applicant shall include a statement either showing that unreasonable effort or expense would be involved or indicating the absence of any affiliation with the person within whose knowledge the information rests and stating the result of a request made to such person for the information.

VII. Incorporation by Reference.

(1) Information required by any item of this application may be incorporated by reference in answer or partial answer to any other item.

(2) Information contained in a statement filed pursuant to the Securities Act of 1933, the Securities Exchange Act of 1934 or disclosure and information contained in any financial statement, annual report, proxy statement, any other document filed with

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governmental authority, or any other document may be incorporated by reference in answer or partial answer to any item of this application, provided such information substantially satisfies the requirements of this application and copies of all documents containing such information are attached as exhibits to this application. Excerpts of documents may be filed as exhibits if the documents are extensive.

(3) Material incorporated by reference shall be clearly identified in the reference. An express statement that the specified matter is incorporated by reference shall be made at the particular place in the application where the information is required. Matter shall not be incorporated by reference in any case where such incorporation would render the statement incomplete, unclear or confusing.

(4) Documents incorporated by reference which are currently on file with the Commission and which were filed within three years need not be attached as exhibits unless the Commission specifically requests otherwise. References to information contained in exhibits or in documents already on file shall clearly identify the material and shall specifically indicate that such material is to be incorporated by reference in answer to the item. The Commission may at any time in its discretion require the filing of copies of any omitted documents.

VIII. Summaries or Outlines of Documents. - Where an item requires a summary or outline of the provisions of any document, only a brief statement shall be made as to the pertinent provisions of the document. In addition to such statement, the summary or outline may incorporate by reference particular parts of any exhibit or document currently on file with the Commission which was filed within three years and may be qualified in its entirety by such reference.

IX. Omission of Substantially Identical Documents. - In any case where two or more documents required to be filed as exhibits are substantially identical in all material respects except as to the parties thereto, the dates of execution, or other details, the person filing need file a copy of only one of such documents with a schedule identifying the omitted documents and setting forth the material details in which cited documents differ from filed documents. The Commission may at any time in its discretion require the filing of copies of any omitted documents.

X. Extension of Time for Furnishing Information. - If it is impractical to furnish any required information, document or report at the time it is required to be filed, the applicant may file with the Commission as a separate document an application (i) identifying the information, document or report in question, (ii) stating why the filing thereof at the time required is impractical, and (iii) requesting an extension of time for filing the information, document or report to a specified date. The request for extension shall be deemed granted unless the Commission,

within thirty (30) days after receipt thereof enters an order denying the request.

APPLICATION FOR APPROVAL OF ACQUISITION OF CONTROL OF OR MERGER WITH A DOMESTIC INSURER

filed with the

STATE CORPORATION COMMISSION
COMMONWEALTH OF VIRGINIA

DATE:

.....
Name of Domestic Insurer (Insurer) NAIC No.

by

.....
Name of Acquiring Person (Applicant)

.....
NAIC No. State of Domicile

Name, Title, Address and Telephone Number of Individual to Whom Notices and Correspondence Concerning this Statement Should be Addressed:

.....
.....
.....

FORM A

ITEM 1. INSURER AND METHOD OF ACQUISITION

State the name and address of the domestic insurer to which this application relates and a brief description of the method by which control is to be acquired and maintained. Identify any affiliate of the Applicant or Insurer that will play an intermediate role in the acquisition or maintenance of control by Applicant.

ITEM 2. IDENTITY AND BACKGROUND OF THE APPLICANT

(a) State the name and address of the Applicant seeking to acquire control over the Insurer.

(b) If the Applicant is not an individual, state the nature of its business operations for the past five years or for such lesser period as such person and any predecessors thereof shall have been in existence. Briefly describe the business intended to be done by the Applicant and the Applicant's subsidiaries.

(c) If the Applicant is not an individual, identify all persons who directly or indirectly own, control, hold with

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power to vote, or hold proxies representing collectively ten percent or more of the voting securities of the Applicant. For each such person state whether a disclaimer of affiliation has or will be filed with the Commission pursuant to § 38.2-1329.I. State also the basis for disclaiming the affiliation.

(d) Furnish a chart or listing clearly presenting the identities of the inter-relationships among the Applicant and all affiliates of the Applicant and with any third party through whom the Applicant intends to acquire, maintain or exercise control of the Insurer. The relationships of the holding company group to the ultimate parent (even if such parent is outside the reported holding company) should be shown. Show the Federal Employer's Identification No. for each listed person. Also identify each insurer as such and show its NAIC Company Code. Indicate in such chart or listing the percentage of voting securities of each person which is owned or controlled by the Applicant or by any other such person. If control of any person is maintained other than by the ownership or control of voting securities, indicate the basis of such control. As to each person specified in such chart or listing indicate the type of organization (e.g. corporation, trust, partnership) and the state or other jurisdiction of domicile. If court proceedings involving a reorganization or liquidation are pending with respect to any such person, indicate which person, and set forth the title of the court, nature of proceedings and the date when commenced.

ITEM 3. IDENTITY AND BACKGROUND OF INDIVIDUALS ASSOCIATED WITH THE APPLICANT

(a) State the following with respect to (1) the Applicant if (s)he is an individual or (2) all persons who are directors, executive officers or owners of ten percent (10%) or more of the voting securities of the Applicant if the Applicant is not an individual.

i. Name and business address;

ii. Present principal business activity, occupation or employment including position and office held and the name, principal business and address of any corporation or other organization in which such employment is carried on;

iii. Material occupations, positions, offices or employment during the last five years, giving the starting and ending dates of each and the name, principal business and address of any business corporation or other organization in which each such occupation, position, office or employment was carried on; if any such occupation, position, office or employment required licensing by or registration with any federal, state or municipal governmental agency, indicate such fact, the current status of such licensing or registration, and an explanation of any surrender, revocation, suspension or disciplinary proceedings in connection therewith.

iv. Whether or not such person has ever been convicted in a criminal proceeding (excluding minor traffic violations) during the last ten years and, if so, give the date, nature of conviction, name and location of court, and penalty imposed or other disposition of the case.

(b) If the applicant is a partnership, limited partnership, syndicate or other group, the Commission may require additional information, pursuant to § 38.2-1324 of the Act, concerning any partner, member or person in the group and any officer, corporate director, or beneficial owner of more than ten percent of the outstanding voting securities of the corporation if the applicant is a corporation.

ITEM 4. NATURE, SOURCE AND AMOUNT OF CONSIDERATION

(a) Describe the nature, source and amount of funds or other considerations used or to be used in effecting the merger or other acquisition of control. If any part of the same is represented or is to be represented by funds or other consideration borrowed or otherwise obtained for the purpose of acquiring, holding or trading securities, furnish a description of the transaction (including but not limited to interest, and principal repayments), the names of the parties thereto, the relationship, if any, between the borrower and the lender, the amounts borrowed or to be borrowed, and copies of all agreements, promissory notes and security arrangements relating thereto, and proposed manner and method of repayment.

(b) Explain the criteria used in determining the nature and amount of such consideration.

(c) If the source of the consideration is a loan made in the lender's ordinary course of business and if the Applicant wishes the identity of the lender to remain confidential, he must specifically request that the identity be kept confidential.

(d) If the acquisition of control involves a management agreement or other contract services, give a full description of such agreement, contracts, arrangements or understanding, including all provisions pertaining to compensation or termination under the agreement.

ITEM 5. FUTURE PLANS OF INSURER

(a) Describe any plans or proposals which the Applicant may have to declare an extraordinary dividend, to liquidate the Insurer, to sell its assets to or merge it with any person or persons or to make any other material change in its business operations or corporate structure or management.

(b) Describe Applicant's operational plans for the domestic insurer covering the succeeding twenty-four (24) months, including, but not limited to, change of location, change of name, increase in capital and/or surplus, type of business to be written, and anticipated premium

volume. For the Insurer, provide the full name of any new director or officer to be employed as a result of the reported acquisition of control and provide the information specified in Item 3(a) of this Form A. Describe also any financial or employment guarantees given to present or contemplated management.

(c) Describe any other arrangement or agreement, oral or written, entered into by the Applicant, an acquiring party or any of their affiliates and the domestic insurer during the immediately preceding twelve (12) months.

ITEM 6. COMPETITION

(a) State whether the proposed acquisition or merger

i. Involves only insurers which individually and collectively hold five percent (5%) or less of all markets in which such insurers transact business and will not produce, as a direct or indirect result of merger or acquisition, an insurer or collection of involved insurers which hold five percent (5%) or more of any market;

ii. Is primarily other than an insurance transaction and is either an acquisition of a person by another person, or a merger of two persons, neither of which is directly, or through their affiliates, primarily engaged in the business of insurance;

iii. Is a transaction in which there will be no increase in any market share held by any involved insurer;

iv. Involves insurers which are authorized solely to write ocean marine insurance and which do not anticipate future requests for additional or other licensing authority in this Commonwealth.

(b) If any one of the foregoing statements is answered in the affirmative, the Applicant may proceed to Item 7. Otherwise, the Applicant shall complete and file the information required by Form E in the format designated on that form as specified in the instructions of that form, which are a part of this regulation.

For purposes of this question, "market" means direct written insurance premium in this Commonwealth for a line of business as contained in the annual statement required to be filed by insurers licensed to do business in this Commonwealth; and the term "insurer" includes any company or group of companies under common management, ownership or control.

ITEM 7. VOTING SECURITIES TO BE ACQUIRED

State and describe the number of shares of the Insurer's voting securities which the Applicant, its affiliates and any person listed in Items 1 or 3 plan to acquire, and the terms of the offer, request, invitation, agreement or acquisition, and provide a statement as to the method by which the fairness of the proposal was determined.

ITEM 8. OWNERSHIP OF VOTING SECURITIES

State the amount of each class of any voting security of the Insurer which is beneficially owned or concerning which there is a right to acquire beneficial ownership by the Applicant, its affiliates or any person listed in Item 3.

ITEM 9. CONTRACTS, ARRANGEMENTS, OR UNDERSTANDINGS WITH RESPECT TO VOTING SECURITIES OF THE INSURER

Give a full description of any contracts, arrangements or understandings with respect to any voting security of the Insurer in which the Applicant, its affiliates or any person listed in Item 3 is involved, including but not limited to transfer of any of the securities, joint ventures, loan or option arrangements, puts or calls, guarantees of loans, guarantees against loss or guarantees of profits, division of losses or profits, or the giving or withholding of proxies. Such description shall identify the persons with whom such contracts, arrangements or understandings have been made.

ITEM 10. RECENT PURCHASES OF VOTING SECURITIES

Describe any purchases of any voting securities of the Insurer by the Applicant, its affiliates or any person listed in Item 3 during the twelve (12) calendar months preceding the filing of this Application. Include in such description the dates of purchase, the names of the purchasers, and the consideration paid or agreed to be paid therefore. State whether any such shares so purchased are pledged or hypothecated.

ITEM 11. RECENT RECOMMENDATIONS TO PURCHASE

Describe any recommendations to purchase any voting security of the insurer made during the twelve (12) calendar months preceding the filing of this statement by the Applicant, its affiliates or any person listed in Item 3, or by anyone based upon interviews or at the suggestion of the Applicant, its affiliates or any person listed in Item 3.

ITEM 12. AGREEMENTS WITH BROKER-DEALERS.

Describe the terms of any agreement, contract or understanding made with any broker-dealer as to solicitation of voting securities of the insurer for tender, and the amount of any fees, commissions or other compensation to be paid to broker-dealers with regard thereto.

ITEM 13. LITIGATION OR ADMINISTRATIVE PROCEEDINGS.

Provide a brief description of any litigation or administrative proceedings of the following types, either then pending or concluded within the preceding fiscal year, to which the Applicant, the ultimate controlling person and/or any intermediate acquiring party or any of

State Corporation Commission

their directors or executive officers was a party or of which the property of any such person is or was the subject; give the names of the parties and the court or agency in which such litigation or proceeding is or was pending;

(a) criminal prosecutions or administrative proceedings by any government agency or authority which may be relevant to the trustworthiness of any party thereto; and

(b) proceedings which may have a material effect upon the solvency or capital structure of the Applicant, ultimate controlling person and/or any intermediate acquiring party including, but not necessarily limited to, bankruptcy, receivership or other corporate reorganizations.

An "intermediate acquiring party" is any third party through whom the Applicant intends to acquire, maintain or exercise control of the Insurer.

ITEM 14. FINANCIAL STATEMENTS AND EXHIBITS

(a) Financial statements and exhibits shall be attached to this statement as an appendix, but list under this item the financial statements and exhibits so attached.

(b) The financial statements shall include the annual financial statements of the persons identified in Item 2(d) for the preceding five fiscal years (or for such lesser period as such Applicant and its affiliates and any predecessors thereof shall have been in existence), and similar information covering the period from the end of such person's last fiscal year, if such information is available. Such statements may be prepared on either an individual basis, or, unless the Commission otherwise requires, on a consolidated basis if such consolidated statements are prepared in the usual course of business.

The annual financial statements of the Applicant shall be accompanied by the certificate of an independent public accountant to the effect that such statements present fairly the financial position of the applicant and the results of its operations for the year then ended, in conformity with generally accepted accounting principles or with requirements of insurance or other accounting principles prescribed or permitted under law. If the Applicant is an insurer which is actively engaged in the business of insurance, the Commission may determine that the financial statements need not be certified, provided they are based on the Annual Statement of such person filed with the insurance department of the person's domiciliary state and are in accordance with the requirements of insurance or other accounting principles prescribed or permitted under the law and regulations of such state. Unless the Commission provides otherwise, all other annual financial statements required hereunder also shall be certified.

(c) File as exhibits copies of all tender offers for, requests or invitations for, tenders of, exchange offers for, and agreements to acquire or exchange any voting

securities of the insurer and (if distributed) of additional soliciting material relating thereto, any proposed employment, consultation, advisory or management contracts concerning the insurer, annual reports to the stockholders of the insurer and the Applicant for the last two fiscal years, and any additional documents or papers required by Form A.

ITEM 15. SIGNATURE AND OATH

Signature and oath shall be in the following form:

SIGNATURE

Pursuant to the requirements of § 38.2-1324 of the Code of Virginia and Insurance Regulation No. 14 (revised), _____, Applicant, has caused this application to be duly signed on its behalf in the City/County of _____ and State of _____ on the _____ day of _____.

(SEAL)

Name of Applicant

By: _____
(Name) (Title)

Attest:

(Signature of Officer)

Title: _____

OATH

The undersigned deposes and says that (s)he has duly executed the attached application dated _____, 19____, for and on behalf of _____, (name of Applicant company)

that (s)he is the _____
(title of officer)

of such company; and that (s)he has the authority to execute and file such instrument. Deponent further says that (s)he is familiar with such instrument and the contents thereof, and that the facts therein set forth are true to the best of his(her) knowledge, information and belief.

(Signature)

(Type or print name beneath signature)

Subscribed and sworn to before me this _____ day of 19____

.....
Notary Public in and for the
City/County of
State of

FORM B - INSTRUCTIONS FOR INSURANCE
HOLDING COMPANY SYSTEM ANNUAL
REGISTRATION STATEMENT

(1) The original and one copy of each statement, including exhibits and all other papers and documents filed as a part thereof, shall be filed with the Commission by personal delivery or mail addressed to: State Corporation Commission - Bureau of Insurance, ATTN: Financial Regulation Division, P. O. Box 1157, Richmond, VA 23209 (Tyler Building - 6th Floor, 1300 East Main Street, 23219).

I. Regulation as to Use of Form B. -

(2) At least one copy of each statement filed with the Commission shall be manually signed in the manner prescribed by this form. Unsigned copies shall be conformed.

(1) Form B shall be used by an insurer (Registrant) required to file a statement with the Commission pursuant to Section 38.2-1329 of the Code. The insurer's initial registration statement, prepared in the format of Form B, shall be filed with the Commission within fifteen (15) days after the insurer becomes subject to registration under § 38.2-1329 of the Act. Annually thereafter by April 30 of each year, for but dated as of the end of the previous calendar year, the Registrant shall file a completely restated up-to-date registration statement in the format designated on Form B, with amendments consolidated therein. Intervening Disclosures which may be filed in the format of Form A, D, E or F shall be filed in such formats. Filings made in the format of Form A, D, E or F may be deemed amendments filed in the Form B format when accompanied by certification under oath or affirmation that the transaction reported on such Form A, D, E or F has been consummated. If the Commission's approval of the transaction is required by the Act, the certification shall state also that consummation was pursuant to terms and agreements approved by the Commission. All other amendments shall be filed in the format required by Form B, provided that all such amendments, and any confirmation certification, shall include a cover which commences: "Amendment No. to ..." and shall indicate as its "Date," the date of the amendment and not the date of the original filing.

(3) If the signature of any person is affixed pursuant to a power of attorney or other similar authority, a copy of such power of attorney or other authority shall also be filed with the statement.

IV. Requirements as to Printing and Language. -

(2) Information required by and filed in the format of Form B shall receive confidential treatment pursuant to § 38.2-1333 of the Act. The Registrant may request in writing that specific documents incorporated by reference, including any exhibits attached to and filed with the Form B statement, similarly receive confidential treatment.

(1) Statements should be prepared on paper 8 1/2"x11" in size and preferably bound at the top or the top left-hand corner. All pages should be sequentially numbered. Exhibits and financial statements, unless specifically prepared for the filing, may be submitted in their original size.

(2) All copies of any filed statements, papers or documents shall be clear, easily readable and suitable for photocopying. Debits in credit categories and credits in debit categories shall be designated so as to be clearly distinguishable as such on photocopies.

II. Preparation of Statement. - This form is not to be used as a blank form to be filled in, but only as a guide in the preparation of the statement. The statement shall contain the numbers and captions of all items, but the text of the items may be omitted provided the answers thereto are prepared in such a manner as to indicate clearly the scope and coverage of the items. All instructions, whether appearing under the items of the form or elsewhere therein, are to be omitted. Unless expressly provided otherwise, if any item is inapplicable or the answer thereto is in the negative, an appropriate statement to that effect shall be made.

(3) Statements shall be in the English language and monetary values shall be stated in United States currency. If any exhibit or other paper or document filed with the statement is in a foreign language, it shall be accompanied by a translation into the English language and any monetary value shown in a foreign currency normally shall be converted into United States currency.

(4) Any amendments to the application that include the re-filing of original documents in their entirety shall be "red-lined" or otherwise marked to reflect all changes made by the amendment.

III. Number of Copies - Signatures. -

V. Additional Information and Exhibits. -

(1) In addition to the information expressly required to be included in the statement there shall be added such further material information, if any, as may be necessary to make the information contained therein not misleading.

(2) The Registrant may file such exhibits as it may desire in addition to those expressly required by the statement. Such exhibits shall be so marked as to indicate clearly the subject matters to which they refer.

VI. Information Unknown or Not Available. - Information required need be given only insofar as it is known or

State Corporation Commission

reasonably available to the Registrant. If any required information is unknown and not reasonably available to the person filing, either because the obtaining thereof would involve unreasonable effort or expense, or because it rests peculiarly within the knowledge of another person not affiliated with the Registrant, the information may be omitted, subject to the following conditions:

(1) the Registrant shall give such information on the subject as it possesses or can acquire without unreasonable effort or expense, together with the sources thereof; and

(2) the Registrant shall include a statement either showing that unreasonable effort or expense would be involved or indicating the absence of any affiliation with the person within whose knowledge the information rests and stating the result of a request made to such person for the information.

VII. Incorporation by Reference. -

(1) Information required by any item of this statement may be incorporated by reference in answer or partial answer to any other item.

(2) Information contained in a statement filed pursuant to the Securities Act of 1933, the Securities Exchange Act of 1934 or disclosure and information contained in any financial statement, annual report, proxy statement, any other document filed with a governmental authority, or any other document may be incorporated by reference in answer or partial answer to any item of this statement, provided such information substantially satisfies the requirements of this statement and copies of all documents containing such information are attached as exhibits to this statement. Excerpts of documents may be filed as exhibits if the documents are extensive.

(3) Material incorporated by reference shall be clearly identified in the reference. An express statement that the specified matter is incorporated by reference shall be made at the particular place in the application where the information is required. Matter shall not be incorporated by reference in any case where such incorporation would render the statement incomplete, unclear or confusing.

(4) Documents incorporated by reference which are currently on file with the Commission and which were filed within three years need not be attached as exhibits unless the Commission specifically requests otherwise. References to information contained in exhibits or in documents already on file shall clearly identify the material and shall specifically indicate that such material is to be incorporated by reference in answer to the item. The Commission may at any time in its discretion require the filing of copies of any omitted documents.

VIII. Summaries or Outlines of Documents. - Where an item requires a summary or outline of the provisions of any document, only a brief statement shall be made as to the pertinent provisions of the document. In addition to

such statement, the summary or outline may incorporate by reference particular parts of any exhibit or document currently on file with the Commission which was filed within three years and may be qualified in its entirety by such reference.

IX. Omission of Substantially Identical Documents. - In any case where two or more documents required to be filed as exhibits are substantially identical in all material respects except as to the parties thereto, the dates of execution, or other details, the person filing need file a copy of only one of such documents with a schedule identifying the omitted documents and setting forth the material details in which cited documents differ from filed documents. The Commission may at any time in its discretion require the filing of copies of any omitted documents.

X. Extension of Time for Furnishing Information. - If it is impractical to furnish any required information, document or report at the time it is required to be filed, the Registrant may file with the Commission as a separate document an application (i) identifying the information, document or report in question, (ii) stating why the filing thereof at the time required is impractical, and (iii) requesting an extension of time for filing the information, document or report to a specified date. The request for extension shall be deemed granted unless the Commission, within thirty (30) days after receipt thereof enters an order denying the request.

INSURANCE HOLDING COMPANY SYSTEM ANNUAL REGISTRATION STATEMENT

filed with the

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION
Bureau of Insurance

DATE:

by

.....
Name of Registrant

On Behalf of the Following Insurance Companies

.....
Name NAIC No. Dom. State

Name, Title, Address and Telephone Number of
Individual to Whom Notices and Correspondence
Concerning this Statement Should be Addressed:

.....
.....
.....

FORM B

ITEM 1. IDENTITY AND CONTROL OF REGISTRANT

Furnish the exact name of each insurer registering or being registered (hereinafter called "the Registrant"), the home office address and principal executive offices of each; the date on which each Registrant became part of the insurance holding company system; and the method(s) by which control of each Registrant was acquired and is maintained.

ITEM 2. ORGANIZATIONAL CHART

Furnish a chart or listing clearly presenting the identities of and interrelationships among all affiliated persons within the insurance holding company system. Show the Federal Employers Identification No. for each listed person. Also identify each insurer as such and list its NAIC Company Code. All affiliated non-insurers must be shown. The chart or listing should show the percentage of each class of voting securities of each affiliate which is owned, directly or indirectly, by another affiliate. If control of any person within the system is maintained other than by the ownership or control of voting securities, indicate the basis of such control. As to each person specified in such chart or listing indicate the type of organization (e.g., corporation, trust, partnership) and the state or other jurisdiction of domicile.

ITEM 3. THE ULTIMATE CONTROLLING PERSON

As to the ultimate controlling person in the insurance holding company system furnish the following information:

- (a) Name.
- (b) Home office address.
- (c) Principal executive office address.
- (d) The organizational structure of the person, i.e., corporation, partnership, individual, trust, etc.
- (e) The principal business of the person.
- (f) The capital structure of the person, including the type and number of shares issued and whether such shares are outstanding.
- (g) The name and address of any person who holds or owns 10% or more of any class of voting security, the class of such security, the number of shares held of record or known to be beneficially owned, and the percentage of class so held or owned and state whether or not such person has filed a disclaimer of affiliation as to such ownership interests pursuant to subsection I of § 38.2-1329 of the Act.
- (h) If court proceedings involving a reorganization or liquidation are pending, indicate the title and location of

the court, the nature of proceedings and the date when commenced.

ITEM 4. BIOGRAPHICAL INFORMATION

Furnish the following information for the directors and executive officers of the ultimate controlling person: the individual's name and address, his or her principal occupation and all offices and positions held during the past five years, and any conviction of crimes (excluding minor traffic violations) during the past ten years.

ITEM 5. TRANSACTIONS AND AGREEMENTS

Briefly describe the following agreements in force, relationships subsisting and transactions currently outstanding or which have occurred during the last calendar year between the Registrant and its affiliates:

- (a) Loans, other investments, or purchases, sales or exchanges of securities of the affiliates by the Registrant or of the Registrant by its affiliates;
- (b) Purchases, sales or exchanges of assets;
- (c) Transactions not in the ordinary course of business;
- (d) Guarantees or undertakings for the benefit of an affiliate or other third party which result in an actual contingent exposure of the Registrant's assets to liability, other than insurance contracts entered into in the ordinary course of the Registrant's business;
- (e) All management and service contracts and all cost-sharing arrangements;
- (f) Reinsurance agreements or other risk-sharing arrangements;
- (g) Dividends and other distributions to shareholders;
- (h) Consolidated tax allocation agreements; and
- (i) Any pledge or hypothecation of the Registrant's stock and/or of the stock of any subsidiary or controlling affiliate, for a loan made to any member of the insurance holding company system.

Unless the Commission provides otherwise by rule, order or regulation, no information need be disclosed for sales, purchases, exchanges, loans or extensions of credit, investments or guarantees involving the lesser of (i) one-half of 1% (0.5%) of the Registrant's admitted assets or (ii) five percent (5%) of the insurer's surplus to policyholders, as of the 31st day of December next preceding, unless such sale or other transaction is one of a series of transactions, occurring within a twelve (12) month period, that are sufficiently similar in nature as to be reasonably construed as a single transaction and that in the aggregate exceed the minimum limits herein provided.

State Corporation Commission

The description shall be in a manner as to permit the proper evaluation thereof by the Commission, and shall include at least the following:

- (j) The nature and purpose of the transaction,
- (k) The nature and amounts of any payments or transfers of assets between the parties,
- (l) The identity of all parties to such transaction, and
- (m) The relationship of the affiliated parties to the Registrant.

ITEM 6. LITIGATION OR ADMINISTRATIVE PROCEEDINGS

A brief description of any litigation or administrative proceedings of the following types, either then pending or concluded within the preceding fiscal year, to which the ultimate controlling person or any of its directors or executive officers was a party or of which the property of any such person is or was the subject; give the names of the parties and the court or agency in which such litigation or proceeding is or was pending:

- (a) Criminal prosecutions or administrative proceedings by any government agency or authority which may be relevant to the trustworthiness of any party thereto; and
- (b) Proceedings which may have a material effect upon the solvency or capital structure of the Registrant or the ultimate holding company including, but not necessarily limited to, bankruptcy, receivership or other corporate reorganizations.

ITEM 7. STATEMENT REGARDING PLAN OR SERIES OF TRANSACTIONS

The insurer shall furnish a statement that transactions entered into since the filing of the prior year's annual registration statement are not part of a plan or series of like transactions, the purpose of which is to avoid statutory threshold amounts and the review that might otherwise occur.

ITEM 8. FINANCIAL STATEMENTS AND EXHIBITS

- (a) Financial statements and exhibits should be attached to this statement as an appendix, but list under this item the financial statements and exhibits so attached.
- (b) The financial statements shall include the annual financial statements of the ultimate controlling person in the insurance holding company system as of the end of the person's latest fiscal year.

If at the time of the initial registration, the annual financial statements for the latest fiscal year are not available, annual statements for the previous fiscal year may be filed and similar financial information shall be

filed for any subsequent period to the extent such information is available. Such financial statements may be prepared on either an individual basis, or, unless the Commission otherwise requires, on a consolidated basis if such consolidated statements are prepared in the usual course of business.

Unless the Commission otherwise permits, the annual financial statements shall be accompanied by the certificate of an independent public accountant to the effect that such statements present fairly the financial position of the ultimate controlling person and the results of its operations for the year then ended, in conformity with generally accepted accounting principles or with requirements of insurance or other accounting principles prescribed or permitted under law. If the ultimate controlling person is an insurer which is actively engaged in the business of insurance, the annual financial statements need not be certified, provided they are based on the Annual Statement of such insurer filed with the insurance department of the insurer's domiciliary state and are in accordance with requirements of insurance or other accounting principles prescribed or permitted under the law and regulations of such state.

(c) Exhibits shall include:

- i. The most recent annual report to shareholders of the ultimate controlling person;
- ii. The latest proxy material used by the ultimate controlling person;
- iii. The most recent annual financial audit report prepared by an independent public accountant including, if available, individual audit reports of any affiliated domestic insurers;
- iv. All reports submitted to the Securities and Exchange Commission during the preceding year, including, but not limited to, Forms 8K, 10K and 10Q; and
- v. Any additional documents or papers required by this Form B.

ITEM 9. FORM C REQUIRED

A Form C, Summary of Registration Statement, must be prepared and filed with the Registrant's initial Form B filing. A Form C filing shall also be filed with the Form B filing due from each Registrant, pursuant to Section 6 of the regulation, within 120 days of the end of the calendar year.

ITEM 10. SIGNATURE AND OATH

- (a) Signature and oath shall be in the following form for Registrant's initial registration statement and all amendments filed in the format of Form B:

State Corporation Commission

SIGNATURE

Pursuant to the requirements of § 38.2-1329 of the Code of Virginia and Insurance Regulation No. 14 (revised), the Registrant has caused this application to be duly signed on its behalf in the City/County of and State of on theday of

(SEAL)

By: (Name) (Title)

Attest:

.....

Title:.....

OATH

The undersigned deposes and says that (s)he has duly executed the attached application dated, 19....., for and on behalf of (name of applicant company) that (s)he is the (title of officer) of such company; and that (s)he has the authority to execute and file such instrument. Deponent further says that (s)he is familiar with such instrument and the contents thereof, and that the facts therein set forth are true to the best of his(her) knowledge, information and belief.

..... (Signature)

..... (Type or print name beneath signature)

Subscribed and sworn to before me this day of 19.....

(SEAL)

..... Notary Public in and for the City/County of State of

(b) Signature and oath shall be as follows when treating other form filings as amendments to a Form B filing:

SIGNATURE AND OATH

Pursuant to the requirements of §§ 38.2-1329.E and 38.2-1331.D of the Code of Virginia and Insurance Regulation No. 14, the undersigned deposes and says that the transaction described in the Form filing dated

....., 19....., filed by and approved on by the Bureau of Insurance State Corporation Commission for the Commonwealth of Virginia (Commission) was consummated, as approved by the Commission, on, 19.....

The undersigned further deposes and says:

(i) That (s)he is authorized to execute and file this certification with the Commission as an amendment to the Form B Registration Statement filed by

..... (Registrant)

on behalf of (the insurance company);

(ii) That (s)he is familiar with the transaction, such instruments and the contents thereof, and that the facts therein set forth and herein certified are true to the best of his/her knowledge, information and belief;

(iii) That (s)he is the (Title of Officer)

of such Registrant.

(Signature)

..... (Type or print name beneath)

Subscribed and sworn to before me this day of 19.....

(SEAL)

..... Notary Public in and for the City/County of State of

FORM C - INSTRUCTIONS FOR SUMMARY OF REGISTRATION STATEMENT

I. Regulation as to Use of Form C. -

(1) The information required by these instructions shall constitute a Form C filing and may be referred to as a Summary of Registration Statement. An insurer required to register with the Commission pursuant to § 38.2-1329 shall use Form C to prepare a summary outlining all items in the current registration statement representing changes from the prior registration statement. The Summary of Registration Statement shall be filed with the Commission annually by April 30 . It shall accompany the restated up-to-date registration statement which each insurer subject to registration pursuant to § 38.2-1329 of the Code is required to file with the Commission.

II. Preparation of Application. -

State Corporation Commission

This form is not to be used as a blank form to be filled in but only as a guide in the preparation of the application. The summary shall contain the numbers and captions of all items, but the text of the items may be omitted provided the answers thereto are prepared in such a manner as to indicate clearly the scope and coverage of the items. All instructions, whether appearing under the items of the form or elsewhere therein, are to be omitted. Unless expressly provided otherwise, if any item is inapplicable or the answer thereto is in the negative, an appropriate statement to that effect shall be made.

III. Number of Copies - Signatures. -

(1) Two copies of each Form C filing shall be filed with the Commission by personal delivery or mail addressed to: State Corporation Commission - Bureau of Insurance, ATTN: Financial Regulation Division, P. O. Box 1157, Richmond, VA 23209 (Tyler Building - 6th Floor, 1300 East Main Street, 23219).

(2) A copy of Form C shall be filed in each state in which an insurer is authorized to do business, if the Insurance Commissioner of that state has notified the insurer of its request in writing, in which case the insurer has seven (7) 15 days from receipt of the notice to file such form.

(3) At least one copy of each Form C filing filed with the Commission shall be manually signed in the manner prescribed by this form. Unsigned copies shall be conformed.

(4) If the signature of any person is affixed pursuant to a power of attorney or other similar authority, a copy of such power of attorney or other authority shall also be filed with the Form C filing.

IV. Requirements as to Printing and Language. -

(1) Form C filing should be prepared on paper 8 1/2"x11" in size and preferably bound at the top or the top left-hand corner.

(2) Pages shall be consecutively numbered, clear, easily readable and suitable for photocopying.

(3) Statements shall be in the English language and monetary values shall be stated in United State currency.

SUMMARY OF REGISTRATION STATEMENT

filed with the

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION
Bureau of Insurance

DATE:

by

.....
Name of Registrant

On Behalf of the Following Insurance Companies

..... Name NAIC No. Dom. State
..... Name NAIC No. Dom. State
..... Name NAIC No. Dom. State

Name, Title, Address and Telephone Number of Individual to Whom Notices and Correspondence Concerning this Statement Should be Addressed:

.....
.....
.....

FORM C

Furnish a brief description of all items in the current annual registration statement which represent changes from the registrant's initial registration statement or the prior year's annual registration statement, whichever was most recently filed. The description shall be in a manner, as to permit the proper evaluation thereof by the Commission, and shall include specific references to Item numbers in the annual registration statement and to the terms contained therein.

Changes occurring under Item 2 of Form B insofar as changes in the percentage of each class of voting securities held by each affiliate is concerned, need only be included where such changes are ones which result in ownership or holdings of ten percent (10%) or more of voting securities, loss or transfer of control, or acquisition or loss of partnership interest.

Changes occurring under Item 4 of Form B need only be included where: (i) an individual is, for the first time, made a director or executive officer of the ultimate controlling person; (ii) a director or executive officer terminates his or her responsibilities with the ultimate controlling person; or (iii) an individual is named president of the ultimate controlling person.

If a transaction disclosed on the registration statement for the prior year has been changed, the nature of such change shall be included. If a transaction disclosed on the prior year's registration statement has been effectuated, furnish the mode of completion and describe any flow of funds between affiliates resulting from the transaction.

The insurer shall furnish a statement that transactions entered into since the filing of the Registrant's registration

State Corporation Commission

statement for the prior year are not part of a plan or series of like transactions whose purpose it is to avoid statutory threshold amounts and the review that might otherwise occur.

.....
Notary Public in and for the
City/County of
State of

SIGNATURE AND OATH

FORM D - INSTRUCTIONS FOR A § 38.2-1331 PRIOR NOTICE AND APPLICATION FOR APPROVAL OF CERTAIN TRANSACTIONS

Signature and oath shall be in the following form:

I. Regulation as to Use of Form D. -

SIGNATURE

Pursuant to the requirements of § 38.2-1324 of the Code of Virginia and Insurance Regulation No. 14 (revised), Registrant has caused this Form C Summary of Registration Statement to be duly signed on its behalf in the City/County of and State of on the day of, 19.....

(1) Form D shall be used by an insurer to provide written notice to the Commission and to apply for the Commission's approval of transactions subject to § 38.2-1331 of the Code. The subject transactions are material transactions that involve the insurer and an affiliate.

(SEAL)

"Material transaction" is defined in § 38.2-1322 of the Act.

.....
Name of Registrant

A "transaction between a domestic insurer and any of its affiliates" includes transactions between a domestic insurer and a nonaffiliate as are described in § 38.2-1331 of the Act.

By:
(Name) (Title)

(2) All material transactions between a domestic insurer and any of its affiliates, excepting an anticipated change of control or the declaration or payment of any dividend or distribution to shareholders, shall be reported using Form D if such transaction involves:

Attest:

.....
Signature of Officer)

(i) More than either three percent (3%) of the insurer's admitted assets or twenty-five percent (25%) of the insurer's surplus as of the immediately preceding December 31, *whichever is less*; and/or

Title:.....

OATH

The undersigned deposes and says that (s)he has duly executed the attached application dated, 19....., for and on behalf of

(ii) Any reinsurance treaty or risk-sharing arrangement, or modifications thereto, in which the reinsurance premium or anticipated change in the insurer's liabilities equals or exceeds five percent (5%) of the insurer's surplus to policyholders reported on the immediately preceding December 31.

.....;
(Name of Registrant)

that (s)he is the
(title of officer)

(3) Form D also shall be used by domestic insurers to report any investment in an affiliated company if the insurer knows or can reasonably anticipate that on the date of investment, the sum of its investments in affiliated companies exceeds or will exceed one or more of the following:

of such company; and that (s)he has the authority to execute and file such instrument. Deponent further says that (s)he is familiar with such instrument and the contents thereof, and that the facts therein set forth are true to the best of his(her) knowledge, information and belief.

(Signature)

(i) Fifty percent (50%) of the surplus to policyholders reported on the immediately preceding December 31,

(Type or print name beneath signature)

(ii) Ten percent (10%) of admitted assets reported on the immediately preceding December 31, or

Subscribed and sworn to before me this day of 19.....

(iii) Fifty percent (50%) of the surplus to policyholders at the time Form D is filed and application is made to the Commission for approval of the transaction.

(SEAL)

State Corporation Commission

As used herein, an insurer's "investment in affiliated companies" is the sum of the following:

- (i) The assets held by the insurer that represent securities issued by or, if not in security form, equity or debt interests in companies of the affiliate system;
- (ii) Loans or extensions of credit to any person who is not an affiliate, where the insurer makes such loans or extensions of credit with the agreement or understanding that the proceeds of such transactions, in whole or substantial part, are to be used to make loans or extensions of credit to, to purchase assets of, or to make investments in, any affiliate of the insurer making such loans or extensions of credit;
- (iii) The assets of the insurer that are pledged on behalf of companies in the holding company system; and
- (iv) The aggregate guarantees for loans or extensions of credit made to affiliates which result in an actual contingent exposure of the insurer's assets to liability.

To the extent not already provided in this paragraph, the sum shall include for all affiliated companies other than domestic and foreign insurance company subsidiaries and health maintenance organization subsidiaries, (i) total net moneys or other considerations expended and obligations assumed in the acquisition or formation of a subsidiary, including all organizational expenses and contributions to capital and surplus of such subsidiary whether or not represented by the purchase of capital stock or issuance of other securities and (ii) all amounts expended in acquiring additional common stock, preferred stock, debt obligations, and other securities and all contributions to capital or surplus of a subsidiary subsequent to its acquisition or formation.

(4) Form D shall not be used to give notice of or seek approval for any dividend or distribution to shareholders; notice of dividends and distributions to shareholders shall be given in the format of Form F.

(5) Form D shall not be used to give notice of or to seek approval for any change of control; such notice shall be given in the format of Form A, and where appropriate in the format of Form E.

(6) Material transactions not subject to reporting in the format of Forms A, D, E or F shall be filed in the format of Form B as amendments to the registrant's registration statement.

(7) An insurer may amend a Form D filing during its pendency by filing amended information in the format of Form D and including on the top cover "Amendment No. to...." The form used for the amendment shall indicate the date of the amendment and not the date of the original filing.

(8) Information required by § 38.2-1329 of the Act and filed in the format of Form D shall receive confidential treatment during the pendency of review by the Commission; however, this provision shall not restrict the ability of the Commission to share information with insurance departments in other states. Upon approval by the Commission and confirmation by the insurer that the transaction as approved has been consummated, information required by § 38.2-1329 of the Act and filed in the format of Form D shall receive confidential treatment pursuant to § 38.2-1333 of the Act.

II. Preparation of Application. - This form is not to be used as a blank form to be filled in but only as a guide in the preparation of the application. The application shall contain the numbers and captions of all items, but the text of the items may be omitted provided the answers thereto are prepared in such a manner as to indicate clearly the scope and coverage of the items. All instructions, whether appearing under the items of the form or elsewhere therein, are to be omitted. Unless expressly provided otherwise, if any item is inapplicable or the answer thereto is in the negative, an appropriate statement to that effect shall be made.

III. Number of Copies - Signatures. -

(1) Two copies of each application including exhibits and all other papers and documents filed as a part thereof, shall be filed with the Commission by personal delivery or mail addressed to: State Corporation Commission - Bureau of Insurance, ATTN: Financial Regulation Division, P. O. Box 1157, Richmond, VA 23209 (Tyler Building - 6th Floor, 1300 East Main Street, 23219).

(2) At least one copy of each application filed with the Commission shall be manually signed in the manner prescribed by this form. Unsigned copies shall be conformed.

(3) If the signature of any person is affixed pursuant to a power of attorney or other similar authority, a copy of such power of attorney or other authority shall also be filed with the application.

IV. Requirements as to Printing and Language. -

(1) Statements should be prepared on paper 8 1/2"x11" in size and preferably bound at the top or the top left-hand corner. Exhibits and financial statements, unless specifically prepared for the filing, may be submitted in their original size.

(2) All copies of any filed statements, papers or documents shall be clear, easily readable and suitable for photocopying. Debits in credit categories and credits in debit categories shall be designated so as to be clearly distinguishable as such on photocopies.

(3) Statements shall be in the English language and monetary values shall be stated in United States currency.

State Corporation Commission

If any exhibit or other paper or document filed with the statement is in a foreign language, it shall be accompanied by a translation into the English language and any monetary value shown in a foreign currency normally shall be converted into United States currency.

(4) Any amendments to the application that include the refiling of original documents in their entirety shall be "red-lined" or otherwise marked to reflect all changes made by the amendment.

V. Additional Information and Exhibits. -

(1) In addition to the information expressly required to be included in the application there shall be added such further material information, if any, as may be necessary to make the information contained therein not misleading.

(2) The applicant may file such exhibits as it may desire in addition to those expressly required by the statement. Such exhibits shall be so marked as to indicate clearly the subject matters to which they refer.

VI. Information Unknown or Not Available. - Information required need be given only insofar as it is known or reasonably available to the person filing the statement. If any required information is unknown and not reasonably available to the person filing, either because the obtaining thereof would involve unreasonable effort or expense, or because it rests peculiarly within the knowledge of another person not affiliated with the person filing, the information may be omitted, subject to the following conditions:

(1) The applicant shall give such information on the subject as it possesses or can acquire without unreasonable effort or expense, together with the sources thereof; and

(2) The applicant shall include a statement either showing that unreasonable effort or expense would be involved or indicating the absence of any affiliation with the person within whose knowledge the information rests and stating the result of a request made to such person for the information.

VII. Incorporation by Reference. -

(1) Information required by any item of this application may be incorporated by reference in answer or partial answer to any other item.

(2) Information contained in a statement filed pursuant to the Securities Act of 1933, the Securities Exchange Act of 1934 or disclosure and information contained in any financial statement, annual report, proxy statement, any other document filed with a governmental authority, or any other document may be incorporated by reference in answer or partial answer to any item of this application, provided such information substantially satisfies the requirements of this application and copies of all documents containing such information are attached as exhibits to this application. Excerpts of documents may be

filed as exhibits if the documents are extensive.

(3) Material incorporated by reference shall be clearly identified in the reference. An express statement that the specified matter is incorporated by reference shall be made at the particular place in the application where the information is required. Matter shall not be incorporated by reference in any case where such incorporation would render the statement incomplete, unclear or confusing.

(4) Documents incorporated by reference which are currently on file with the Commission and which were filed within three years need not be attached as exhibits unless the Commission specifically requests otherwise. References to information contained in exhibits or in documents already on file shall clearly identify the material and shall specifically indicate that such material is to be incorporated by reference in answer to the item. The Commission may at any time in its discretion require the filing of copies of any omitted documents.

VIII. Summaries or Outlines of Documents. - Where an item requires a summary or outline of the provisions of any document, only a brief statement shall be made as to the pertinent provisions of the document. In addition to such statement, the summary or outline may incorporate by reference particular parts of any exhibit or document currently on file with the Commission which was filed within three years and may be qualified in its entirety by such reference.

IX. Omission of Substantially Identical Documents. - In any case where two or more documents required to be filed as exhibits are substantially identical in all material respects except as to the parties thereto, the dates of execution, or other details, the person filing need file a copy of only one of such documents with a schedule identifying the omitted documents and setting forth the material details in which cited documents differ from filed documents. The Commission may at any time in its discretion require the filing of copies of any omitted documents.

X. Extension of Time for Furnishing Information. - If it is impractical to furnish any required information, document or report at the time it is required to be filed, the applicant may file with the Commission as a separate document an application (i) identifying the information, document or report in question, (ii) stating why the filing thereof at the time required is impractical, and (iii) requesting an extension of time for filing the information, document or report to a specified date. The request for extension shall be deemed granted unless the Commission, within thirty (30) days after receipt thereof enters an order denying the request.

XI. Approval of Form D Filings. - Pursuant to § 38.2-1331 of the Act, failure of the Commission to act within sixty days after notification by the insurer shall constitute approval of the transaction.

§ 38.2-1331 PRIOR NOTICE AND APPLICATION FOR

State Corporation Commission

APPROVAL OF CERTAIN TRANSACTIONS

filed with the

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION
Bureau of Insurance

DATE:

by

Name of Registrant NAIC No. Dom. State

On Behalf of the Following Insurance Companies

Name NAIC No. Dom. State

Name NAIC No. Dom. State

Name NAIC No. Dom. State

Name, Title, Address and Telephone Number of
Individual to Whom Notices and Correspondence
concerning this statement should be addressed:

.....
.....
.....

FORM D

ITEM 1. IDENTITY OF PARTIES TO TRANSACTION

Furnish the following information for each of the parties to the transaction:

- (a) Name.
- (b) Home office address.
- (c) Principal executive office address.
- (d) The organizational structure, i.e. corporation, partnership, individual, trust, etc.
- (e) A description of the nature of the party's business operations.
- (f) Relationship, if any, of other parties to the transaction to the insurer filing the notice, including any ownership or debtor/creditor interest by any other parties to the transaction in the insurer seeking approval, or by the insurer filing the notice in the affiliated parties.

(g) Where the transaction is with a non-affiliate, the name(s) of the affiliate(s) which will receive, in whole or in substantial part, the proceeds of the transaction.

ITEM 2. DESCRIPTION OF THE TRANSACTION

Furnish the following information for each transaction for which notice is being given:

- (a) A statement as to whether notice is being given under subsection A.1(i), A.1(ii) or A.2 of § 38.2-1331 of the Code. Where more than one subsection is applicable, identify all such subsections.
- (b) A statement as to which sub-classification in the definition of "material transaction" found in § 38.2-1322 of the Code most accurately describes the subject transaction.
- (c) A statement of the nature of the transaction.
- (d) The proposed effective date of the transaction.

ITEM 3. SALES, PURCHASES, EXCHANGES, LOANS, EXTENSIONS OF CREDIT, GUARANTEES OR INVESTMENTS

If the transaction is a sale, purchase, exchange, loan, extension of credit, guarantee, or investment: furnish a brief description of the amount and source of funds, securities, property or other consideration for the transaction. Also state whether any provision exists for purchase by the insurer filing notice, by any party to the transaction, or by any affiliate of the insurer filing notice, a description of the terms of any securities being received, if any, and a description of any other agreements relating to the transaction such as contracts or agreements for services, consulting agreements and the like. If the transaction involves other than cash, furnish a description of the consideration, its cost and its fair market value, together with an explanation of the basis for evaluation.

If the transaction involves a loan, extension of credit or a guarantee: furnish also a description of the maximum amount which the insurer will be obligated to make available under such loan, extension of credit or guarantee, the date on which the credit or guarantee will terminate, and any provisions for the accrual of or deferral of interest.

If the transaction involves an investment, guarantee or other arrangement: state also the time period during which the investment, guarantee or other arrangement will remain in effect, together with any provisions for extensions or renewals of such investments, guarantees or arrangements. Furnish a brief statement as to the effect of the transaction upon the insurer's surplus.

ITEM 4. LOANS OR EXTENSIONS OF CREDIT TO A NON-AFFILIATE

If the transaction involves a loan or extension of credit to

State Corporation Commission

any person who is not an affiliate: furnish a brief description of the agreement or understanding whereby the proceeds of the proposed transaction, in whole or in substantial part, are to be used to make loans or extensions of credit to, to purchase the assets of, or to make investments in, any affiliate of the insurer making such loans or extensions of credit, and specify in what manner the proceeds are to be used to loan to, extend credit to, purchase assets of or make investments in any affiliate. Describe the amount and source of funds, securities, property or other consideration for the loan or extension of credit and, if the transaction is one involving consideration other than cash, a description of its cost and its fair market value together with an explanation of the basis for evaluation. Furnish a brief statement as to the effect of the transaction upon the insurer's surplus.

ITEM 5. REINSURANCE

If the transaction involves a reinsurance treaty or risk-sharing arrangement, or modification thereto, in which the reinsurance premium or anticipated change in the insurer's liabilities equals or exceeds five percent of the insurer's surplus to policyholders reported on the immediately preceding December 31, furnish a description of the known and/or estimated amount of liability to be ceded and/or assumed in each calendar year, the period of time during which the agreement will be in effect, and a statement whether an agreement or understanding exists between the insurer and non-affiliate to the effect that any portion of the assets constituting the consideration for the agreement will be transferred to one or more of the insurer's affiliates. Furnish a brief description of the consideration involved in the transaction, and a brief statement as to the effect of the transaction upon the insurer's surplus.

ITEM 6. MANAGEMENT AGREEMENTS, SERVICE AGREEMENTS AND COST-SHARING ARRANGEMENTS

(a) For management and service contracts furnish: (i) a brief description of the managerial responsibilities, or services to be performed and (ii) a brief description of the agreement, including a statement of its duration, together with brief descriptions of the basis for compensation and the terms under which payment or compensation is to be made.

(b) For cost-sharing arrangements, furnish: (i) a brief description of the purpose of the agreement, (ii) a description of the period of time during which the agreement is to be in effect, (iii) a brief description of each party's expenses or costs covered by the agreement, and (iv) a brief description of the accounting basis to be used in calculating each party's costs under the agreement.

ITEM 7. CONTRACTS, AGREEMENTS AND OTHER DOCUMENTATION

At the request of the Commission, the applicant shall provide also a copy of the contract, agreement or other

document establishing the terms of the transaction for which prior approval is being requested.

ITEM 8. SIGNATURE AND OATH

Signature and oath shall be in the following form:

SIGNATURE

Pursuant to the requirements of § 38.2-1331 of the Code of Virginia and Insurance Regulation No. 14 (revised), (name of applicant) has caused this application to be duly signed on its behalf in the City/County of and State of on the day of

By: (Name) (Title)

Attest:

Title:

OATH

The undersigned deposes and says that (s)he has duly executed the attached application dated, 19, for and on behalf of

(name of applicant company)

that (s)he is the (title of officer)

of such company; and that (s)he has the authority to execute and file such instrument. Deponent further says that (s)he is familiar with such instrument and the contents thereof, and that the facts therein set forth are true to the best of his(her) knowledge, information and belief.

(Signature)

(Type or print name beneath signature)

Subscribed and sworn to before me this day of 19.

(SEAL)

Notary Public in and for the City/County of State of

FORM E - INSTRUCTIONS FOR AN ACQUISITION

State Corporation Commission

STATEMENT REPORTING COMPETITIVE IMPACT DATA

I. Regulation as to Use of Form E. -

(1) Form E shall be used by a person filing an acquisition statement with the Commission pursuant to subsection B of § 38.2-1323 of the Act and also by certain insurers subject to subsection A of § 38.2-1323. During the pendency of this filing, amendments may be filed provided such amendments are also filed in the Form E format and include on the top of the cover "Amendment No. to..." with an indication of both the date of the amendment and the date of the original filing.

(2) The Commission shall give confidential treatment to information required by and submitted in the format of Form E pursuant to the provisions of § 38.2-1306 of the Code of Virginia.

II. Preparation of Application. - This form is not to be used as a blank form to be filled in but only as a guide in the preparation of the Form E statement. The application shall contain the numbers and captions of all items, but the text of the items may be omitted provided the answers thereto are prepared in such a manner as to indicate clearly the scope and coverage of the items. All instructions, whether appearing under the items of the form or elsewhere therein, are to be omitted. Unless expressly provided otherwise, if any item is inapplicable or the answer thereto is in the negative, an appropriate statement to that effect shall be made.

III. Number of Copies - Signatures. -

(1) Two copies of each application including exhibits and all other papers and documents filed as a part thereof, shall be filed with the Commission by personal delivery or mail addressed to: State Corporation Commission - Bureau of Insurance, ATTN: Financial Regulation Division, P. O. Box 1157, Richmond, VA 23209 (Tyler Building - 6th Floor, 1300 East Main Street, 23219).

(2) At least one copy of each statement filed with the Commission shall be manually signed in the manner prescribed by this form. Unsigned copies shall be conformed. If the signature of any person is affixed pursuant to a power of attorney or other similar authority, a copy of such power of attorney or other authority shall also be filed with the statement.

IV. Requirements as to Printing and Language. -

(1) Statements should be prepared on paper 8-1/2"x11" in size and preferably bound at the top or the top left-hand corner. Exhibits and financial statements, unless specifically prepared for the filing, may be submitted in their original size.

(2) All copies of any statement, financial statements, or exhibits shall be clear, easily readable and suitable for

photocopying. Debits in credit categories and credits in debit categories shall be designated so as to be clearly distinguishable as such on photocopies.

(3) Statements shall be in the English language and monetary values shall be stated in United States currency. If any exhibit or other paper or document filed with the statement is in a foreign language, it shall be accompanied by a translation into the English language and any monetary value shown in a foreign currency normally shall be converted into United States currency.

(4) Any amendments to the statement that include the refiling of original documents in their entirety shall be "red-lined" or otherwise marked to reflect all changes made by the amendment.

V. Additional Information and Exhibits. -

(1) In addition to the information expressly required to be included in the statement, there shall be added such further material information, if any, as may be necessary to make the information contained therein not misleading.

(2) The person filing may file such exhibits as it may desire in addition to those expressly required by the statement. Such exhibits shall be so marked as to indicate clearly the subject matters to which they refer.

(3) The Commission may require, pursuant to § 38.2-1323.B, such additional information as it deems necessary to determine if the merger or acquisition causes or tends to cause a substantial lessening of competition in any line of insurance. The Commission may consider, among other things, competitive standards promulgated by the NAIC and also may require an opinion of an economist as to the competitive impact of the acquisition or merger in the Commonwealth. In such opinion shall be accompanied by a summary of the education and experience of such person indicating his or her ability to render an informed opinion.

VI. Information Unknown or Not Available. - Information required need be given only insofar as it is known or reasonably available to the person filing the statement. If any required information is unknown and not reasonably available to the person filing, either because the obtaining thereof would involve unreasonable effort or expense, or because it rests peculiarly within the knowledge of another person not affiliated with the person filing, the information may be omitted, subject to the following conditions:

(1) the person filing shall give such information on the subject as it possesses or can acquire without unreasonable effort or expense, together with the sources thereof; and

(2) the person filing shall include a statement either showing that unreasonable effort or expense would be involved or indicating the absence of any affiliation with the person within whose knowledge the information rests and stating the result of a request made to such person

State Corporation Commission

for the information.

VII. Incorporation by Reference. -

(1) Information required by any item of this application may be incorporated by reference in answer or partial answer to any other item.

(2) Information contained in a statement filed pursuant to the Securities Act of 1933, the Securities Exchange Act of 1934 or disclosure and information contained in any financial statement, annual report, proxy statement, or any other document may be incorporated by reference in answer or partial answer to any item of this statement, provided such information substantially satisfies the requirements of this application and copies of all documents containing such information are attached as exhibits to this statement.

(3) Material incorporated by reference shall be clearly identified in the reference. An express statement that the specified matter is incorporated by reference shall be made at the particular place in the application where the information is required. Matter shall not be incorporated by reference in any case where such incorporation would render the statement incomplete, unclear or confusing.

(4) Documents incorporated by reference which are currently on file with the Commission and which were filed within three years need not be attached as exhibits unless the Commission specifically requests otherwise. References to information contained in exhibits or in documents already on file shall clearly identify the material and shall specifically indicate that such material is to be incorporated by reference in answer to the item. The Commission may at any time in its discretion require the filing of copies of any omitted documents.

VIII. Summaries or Outlines of Documents. - Where an item requires a summary or outline of the provisions of any document, only a brief statement shall be made as to the pertinent provisions of the document. In addition to such statement, the summary or outline may incorporate by reference particular parts of any exhibit or document currently on file with the Commission which was filed within three years and may be qualified in its entirety by such reference.

IX. Omission of Substantially Identical Documents. - In any case where two or more documents required to be filed as exhibits are substantially identical in all material respects except as to the parties thereto, the dates of execution, or other details, the person filing need file a copy of only one of such documents with a schedule identifying the omitted documents and setting forth the material details in which cited documents differ from filed documents. The Commission may at any time in its discretion require the filing of copies of any omitted documents.

X. Extension of Time for Furnishing Information.- If it is impractical to furnish any required information, document

or report at the time it is required to be filed, there may be filed with the Commission as a separate document: a document (i) identifying the information, document or report in question, (ii) stating why the filing thereof at the time required is impractical, and (iii) requesting an extension of time for filing the information, document or report to a specified date. The request for extension shall be deemed granted unless the Commission, within thirty (30) days after receipt thereof notifies the applicant to the contrary and enters an order denying the request.

ACQUISITION STATEMENT REPORTING COMPETITIVE IMPACT DATA

filed with the

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION
Bureau of Insurance

DATE:

by

.....
Name of Person Making Filing NAIC No. Dom. State

Other Persons Involved in Merger or Acquisition,
including Involved Insurers
An "involved insurer" acquires or is acquired, is
affiliated with an acquirer or an acquiree, or is
the result of a merger.

.....
Name NAIC No. Dom. State

.....
Name NAIC No. Dom. State

.....
Name NAIC No. Dom. State

Name, Title, Address and Telephone Number of
Individual to Whom Notices and Correspondence
Concerning this Statement Should be Addressed:

.....
.....
.....

FORM E

ITEM 1. NAME AND ADDRESS

State the names and address of the persons who hereby provide notice of their involvement in a pending acquisition, merger, or change in corporate control.

ITEM 2. NAME AND ADDRESSES OF AFFILIATED

State Corporation Commission

COMPANIES

State the names and addresses of the companies affiliated with those listed in Item 1. Describe their affiliation.

ITEM 3. NATURE AND PURPOSE OF THE PROPOSED MERGER OR ACQUISITION.

State the nature and purpose of the proposed acquisition, merger, or change in control.

ITEM 4. NATURE OF BUSINESS

State the nature of the business performed by each of the parties identified in response to Item 1 and Item 2.

ITEM 5. MARKET AND MARKET SHARE

State specifically what market and market share in each relevant insurance market the persons identified in Item 1 and Item 2 currently enjoy in this state. Provide historical market and market share data for each person identified in Item 1 and Item 2 for the past five years and identify the source of such data. For purposes of this question, "market" means direct written insurance premium in this Commonwealth for a line of business as contained in the annual statement required to be filed by insurers licensed to do business in this Commonwealth.

ITEM 6. SUMMARY

Summarize the effect that the merger, acquisition or change of control has or will have on competition in insurance in this Commonwealth. Describe the general competitive standard by which the applicant feels the merits of the acquisition or merger are to be evaluated. Relevant data include, but are not limited to the following: market shares, volatility of ranking of market leaders, number of competitors, concentration, trend of concentration in the industry, and ease of entry and exit into the market. With regard to and in addition to each of these factors, consideration should be given to, among other things, the definitions or guidelines, if any, promulgated by the National Association of Insurance Commissioners, particularly such guidelines or standards embodied in any model holding company act or model holding company regulation adopted by the NAIC.

ITEM 7. SIGNATURE AND OATH

Signature and oath shall be in the following form:

SIGNATURE

Pursuant to the requirements of §§ 38.2-1323 and 38.2-1324 of the Code of Virginia and Insurance Regulation No. 14 (revised), (name of person filing) has caused this statement to be duly signed on its behalf in the City/County of and State of on the day of

(SEAL)

.....
Name of Person Making Filing

By:
(Name) (Title)

Attest:

.....
(Signature of Officer)

Title:.....

OATH

The undersigned deposes and says that (s)he has duly executed the attached statement dated, 19....., for and on behalf of

.....
(name of person making filing)

that (s)he is the
(title of officer)

of such company; and that (s)he has authority to execute and file such instrument. Deponent further says that (s)he is familiar with such instrument and the contents thereof and that the facts therein set forth are true to the best of his/her knowledge, information and belief.

(Signature)

.....
(Type or print name beneath signature)

Subscribed and sworn to before me this day of 19.....

(SEAL)

.....
Notary Public in and for the
City/County of
State of

FORM F - INSTRUCTIONS FOR NOTICE OF DIVIDENDS AND DISTRIBUTIONS TO SHAREHOLDERS PURSUANT TO §§ 38.2-1329.E AND 38.2-1330.C

I. Regulation as to Use of Form F. - Form F shall be used by all domestic insurers and registrants to report dividends and distributions to shareholders pursuant to the following provisions of the Code:

§ 38.2-1329.E Requiring that each insurer subject to registration under § 38.2-1329 report to the Commission all dividends and other distributions to shareholders within two (2) business days followin

their declaration.

§ 38.2-1330.C Providing that no insurer subject to registration under § 38.2-1329 shall pay any extraordinary dividend or make any extraordinary distribution to shareholders or confer any rights on its shareholders regarding the dividend or distribution until the payment and creation of right is approved by the Commission.

Subsequent amendments shall also be filed on Form F, but shall include on the top of the cover "Amendment No. to..." and shall indicate as its "Date," the date of the amendment and not the date of the original filing.

II. Preparation of Application. - This form is not to be used as a blank form to be filled in but only as a guide in the preparation of the application. The application shall contain the numbers and captions of all items, but the text of the items may be omitted provided the answers thereto are prepared in such a manner as to indicate clearly the scope and coverage of the items. All instructions, whether appearing under the items of the form or elsewhere therein, are to be omitted. Unless expressly provided otherwise, if any item is inapplicable or the answer thereto is in the negative, an appropriate statement to that effect shall be made.

III. Number of Copies - Signatures. -

(1) Two copies of each statement notice, including exhibits and all other papers and documents filed as a part thereof, shall be filed with the Commission by personal delivery or mail addressed to: State Corporation Commission, Bureau of Insurance, ATTN: Financial Regulation Division, P. O. Box 1157, Richmond, VA 23209 (Tyler Building - 6th Floor, 1300 East Main Street, 23219).

(2) At least one copy of each application filed with the Commission shall be manually signed in the manner prescribed by this form. Unsigned copies shall be conformed.

(3) If the signature of any person is affixed pursuant to a power of attorney or other similar authority, a copy of such power of attorney or other authority shall also be filed with the notice.

IV. Requirements as to Printing and Language. -

(1) Statements should be prepared on paper 8 1/2"x11" in size and preferably bound at the top or the top left-hand corner. All pages should be sequentially numbered. Exhibits and financial statements, unless specifically prepared for the filing, may be submitted in their original size.

(2) All copies of any statements, papers or documents shall be clear, easily readable and suitable for photocopying. Debits in credit categories and credits in debit categories shall be designated so as to be clearly

distinguishable as such on photocopies.

(3) Statements shall be in the English language and monetary values shall be stated in United States currency. If any exhibit or other paper or document filed with the statement is in a foreign language, it shall be accompanied by a translation into the English language and any monetary value shown in a foreign currency normally shall be converted into United States currency.

(4) Any amendments to the application that include the re-filing of original documents in their entirety shall be "red-lined" or otherwise marked to reflect all changes made by the amendment.

V. Additional Information and Exhibits. -

(1) In addition, there shall be added such further material information, if any, as may be necessary to make the information contained therein not misleading.

(2) The applicant may file such exhibits as it may desire in addition to those expressly required by the statement. Such exhibits shall be so marked as to indicate clearly the subject matters to which they refer.

VI. Information Unknown or Not Available. - Information required need be given only insofar as it is known or reasonably available to the person filing the statement. If any required information is unknown and not reasonably available to the person filing, either because the obtaining thereof would involve unreasonable effort or expense, or because it rests peculiarly within the knowledge of another person not affiliated with the person filing, the information may be omitted, subject to the following conditions:

(1) the person filing shall give such information on the subject as it possesses or can acquire without unreasonable effort or expense, together with the sources thereof; and

(2) the person filing shall include a statement either showing that unreasonable effort or expense would be involved or indicating the absence of any affiliation with the person within whose knowledge the information rests and stating the result of a request made to such person for the information.

VII. Incorporation by Reference. -

(1) Matters required by any item of this form may be incorporated by reference in answer or partial answer to any other item.

(2) Information contained in a statement filed pursuant to the Securities Act of 1933, the Securities Exchange Act of 1934 or disclosure and information contained in any financial statement, annual report, proxy statement filed with any other governmental authority, or other document may be incorporated by reference in answer or partial answer to any item of this form, provided such information substantially satisfies the requirements of this

State Corporation Commission

application and copies of all documents containing such information are attached as exhibits to this form.

(3) Material incorporated by reference shall be clearly identified in the reference. An express statement that the specified matter is incorporated by reference shall be made at the particular place in the application where the information is required. Matter shall not be incorporated by reference in any case where such incorporation would render the statement incomplete, unclear or confusing.

(4) Documents incorporated by reference which are currently on file with the Commission and which were filed within three years need not be attached as exhibits unless the Commission specifically requests otherwise. References to information contained in exhibits or in documents already on file shall clearly identify the material and shall specifically indicate that such material is to be incorporated by reference in answer to the item. The Commission may at any time in its discretion require the filing of copies of any omitted documents.

VIII. Summaries or Outlines of Documents. - Where an item requires a summary or outline of the provisions of any document, only a brief statement shall be made as to the pertinent provisions of the document. In addition to such statement, the summary or outline may incorporate by reference particular parts of any exhibit or document currently on file with the Commission which was filed within three years and may be qualified in its entirety by such reference.

IX. Omission of Substantially Identical Documents. - In any case where two or more documents required to be filed as exhibits are substantially identical in all material respects except as to the parties thereto, the dates of execution, or other details, the person filing need file a copy of only one of such documents need be filed with a schedule identifying the omitted documents and setting forth the material details in which cited documents differ from filed documents. The Commission may at any time in its discretion require the filing of copies of any omitted documents.

X. Extension of Time for Furnishing Information. - If it is impractical to furnish any required information, document or report at the time it is required to be filed, the applicant may file with the Commission as a separate document an application (i) identifying the information, document or report in question, (ii) stating why the filing thereof at the time required is impractical, and (iii) requesting an extension of time for filing the information, document or report to a specified date. The request for extension shall be deemed granted unless the Commission, within thirty (30) days after receipt thereof enters an order denying the request.

NOTICE OF DIVIDENDS AND DISTRIBUTIONS TO
SHAREHOLDERS
PURSUANT TO §§ 38.2-1329:E AND 38.2-1330:C

filed with the

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION
Bureau of Insurance

DATE:

by

.....
Name of Registrant

On Behalf of the Following Insurance Companies

.....
Name NAIC No. Dom. State

.....
Name NAIC No. Dom. State

.....
Name NAIC No. Dom. State

Name, Title, Address and Telephone Number of
Individual to Whom Notices and Correspondence
Concerning this Statement Should be Addressed:

.....
.....
.....

FORM F

ITEM 1. IDENTITY OF PARTIES TO TRANSACTION

Furnish the following information for each of the parties to the transaction:

- (a) Name.
- (b) Home office address.
- (c) Principal executive office address.
- (d) The organizational structure; i.e., corporation, partnership, individual, trust, etc.
- (e) Description of the nature of the party's business operations.
- (f) Relationship, if any, of other parties to the transaction to the insurer filing the notice, including any ownership or debtor/creditor interest by any other parties to the transaction in the insurer seeking approval, or by the insurer filing the notice in the affiliated parties.
- (g) Where the transaction is with a non-affiliate, the name(s) of the affiliate(s) which will receive, in whole or

in substantial part, the proceeds of the transaction.

ITEM 2. DESCRIPTION OF THE TRANSACTION

Furnish the following information for each transaction for which notice is being given:

(a) A statement as to whether notice is being given under § 38.2-1329.E, or § 38.2-1330.C, or both § 38.2-1329.E and § 38.2-1330.C of the Act;

(b) A brief description of the nature of the transaction, including a statement stating whether the dividend or distribution is or may be extraordinary;

(c) The proposed effective date of the transaction; and

(d) The date(s) on which regulatory approvals, if any, were received or are anticipated.

ITEM 3. DIVIDENDS AND DISTRIBUTIONS TO SHAREHOLDERS

(a) For dividends and other distributions to affiliates which are not extraordinary dividends or other extraordinary distributions to shareholders furnish the following:

(i) The amount of the proposed dividend;

(ii) The date of declaration, date of record and date established for payment of the dividend;

(iii) A statement as to whether the dividend is to be in cash or other property and, if in property, a description thereof, its cost, and its fair market value together with an explanation of the basis for valuation;

(iv) The amounts, dates and form of payment of all dividends or distributions (including regular dividends but excluding distributions of the insurers own securities) paid within the period of twelve (12) consecutive months ending on the date fixed for payment of the proposed dividend for which approval is sought and commencing on the day after the same day of the same month in the last preceding year.

(v) A brief statement as to the effect of the proposed dividend upon the insurer's surplus and the reasonableness of surplus in relation to the insurer's outstanding liabilities and the adequacy of surplus relative to the insurer's financial needs.

(b) If the transaction involves an extraordinary dividend or any other extraordinary distribution to shareholders furnish all data listed above and also the following:

(i) Statements of financial condition and earnings for the period intervening from the last annual statement filed with the Commission and the end of the month preceding the month in which the request for dividend

approval is submitted; and, if the date of payment or distribution is more than sixty (60) days removed from the date of the most current financial statement submitted by the insurer, the insurer shall include also a pro forma statement as of the day after the distribution or payment of the dividend showing its effect and other known and reasonably projected adjustments to the financial condition and earnings of the insurer; and

(ii) A copy of the calculations determining that the proposed dividend is extraordinary. The work paper shall include the following information:

(aa) The amounts, dates and form of payment of all dividends or distributions (*including regular dividends but excluding distributions of the insurer's own securities*) paid within the period of twelve (12) consecutive months ending on the date fixed for payment of the proposed dividend for which approval is sought, and commencing on the day after the same day of the same month in the last preceding year.

(ab) Surplus to policyholders (total capital and surplus) as of the 31st day of December next preceding;

(ac) If the insurer is a life insurer, the net gain from operations for the 12-month period ending the 31st day of December next preceding;

(ad) If the insurer is not a life insurer, the net income, less realized capital gains, for the 12-month period ending the 31st day of December next preceding and the two preceding 12-month periods; and

(ae) If the insurer is not a life insurer, the dividends paid to stockholders, excluding distributions of the insurer's own securities, in the preceding two calendar years.

(iii) Statements on each factor set forth in § 38.2-1330.B of the Code must be submitted in support of the request for approval of an extraordinary dividend or distribution, although these factors are not intended to be an exhaustive list.

In determining the adequacy and reasonableness of an insurer's surplus to policyholders, no single factor is controlling. The Commission, instead, will consider the net effect of all factors set forth in § 38.2-1330.B of the Code plus other factors bearing on the financial condition of the insurer.

In comparing the surplus to policyholders maintained by other insurers, the Commission will consider the extent to which each of the factors varies from company to company.

State Corporation Commission

In determining the quality and liquidity of investments in subsidiaries, the Commission will consider the individual subsidiary. The Commission in its judgment may classify any investment in the subsidiary as a nonadmitted asset for the purpose of determining the adequacy of surplus to policyholders and, in so doing, may discount or disallow the subsidiary's valuation to the extent that the individual investments so warrant.

(iv) In addition, in order to determine the possibility of any financial effect on the insurer, the Commission may request the means of funding and the purpose of the extraordinary dividend or distribution.

ITEM 4. SIGNATURE AND OATH

Signature and oath shall be in the following form:

SIGNATURE

Pursuant to the requirements of § 38.2-1329.E and/or § 38.2-1330.C of Code of Virginia and Insurance Regulation No. 14 (revised), _____
(name of applicant registrant)

has caused this application /notice to be duly signed on its behalf in the City/County of _____ and State of _____ on the _____ day of 19.....

By: _____
(Name) (Title)

Attest:

Title:_____

OATH

The undersigned deposes and says that (s)he has duly executed the attached application /notice dated _____, 19....., for and on behalf of

(name of applicant company registrant)

that (s)he is the _____
(title of officer)

of such company; and that (s)he has the authority to execute and file such instrument. Deponent further says that (s)he is familiar with such instrument and the contents thereof, and that the facts therein set forth are true to the best of his(her) knowledge, information and belief.

(Signature) _____

(Type or print name beneath signature)

Subscribed and sworn to before me this day of 19.....

(SEAL)

Notary Public in and for the
City/County of _____
State of _____

VA.R. Doc. No. R95-171; Filed December 6, 1994, 10:55 a.m.

* * * * *

BUREAU OF INSURANCE

December 1, 1994

ADMINISTRATIVE LETTER 1994-10

TO: ALL PROPERTY AND CASUALTY INSURERS AND RATE SERVICE ORGANIZATIONS LICENSED IN VIRGINIA

RE: DELAYED EFFECT OF RATE FILINGS FOR CERTAIN LINES AND SUBCLASSIFICATIONS OF COMMERCIAL LIABILITY INSURANCE

Pursuant to the order entered in Case No. INS940104, effective November 7, 1994, the lines and subclassifications of commercial liability insurance subject to the delayed-effect provisions of Section 38.2-1912 of the Code of Virginia are as follows:

- Insurance Agents Professional Liability
- Lawyers Professional Liability
- Medical Professional Liability
- Real Estate Agents Professional Liability
- Volunteer Fire Departments and Rescue Squads Liability

The order entered in Case No. INS940104 exempted the following lines of commercial liability insurance from the rate-filing requirements of Chapter 19 of Title 38.2 because rates for these lines cannot practicably be filed prior to use:

- Architects and Engineers Liability
- Landfill Liability
- Environmental Liability (including underground tanks)

Other lines and subclassifications previously exempted

from rate filing requirements continue to be exempt.

All of the rule and rate filing procedures described in Administrative Letters 1988-17 and 1990-3 remain in effect. Please pay particular attention to the instructions regarding incomplete filings and policy effective dates.

Administrative Letters 1989-10 and 1990-10 also deal with issues related to the filing of rates subject to the delayed-effect provisions of § 38.2-1912; therefore, you may find it helpful to review them prior to submitting such filings.

/s/ Steven T. Foster
Commissioner of Insurance

V.A.R. Doc. No. R95-172; Filed December 6, 1994, 10:55 a.m.

MARINE RESOURCES COMMISSION

MARINE RESOURCES COMMISSION

NOTE: Effective July 1, 1984, the Marine Resources Commission was exempted from the Administrative Process Act for the purposes of promulgating regulations. However, they are required to publish the full text of final regulations.

Title of Regulation: VR 450-01-0007. Regulations Pertaining to Crab Catch Limits.

Statutory Authority: §§ 28.2-201, 28.2-707 and 28.2-713 of the Code of Virginia.

Effective Date: December 1, 1994.

Preamble:

This regulation establishes a daily catch limit and maximum dredge size for the winter crab dredge fishery in Virginia tidal waters. This regulation is promulgated pursuant to the authority contained in §§ 28.2-201, 28.2-707, and 28.2-713 of the Code of Virginia, and amends previous VR 450-01-0007 which was promulgated by the Marine Resources Commission and made effective October 23, 1984. The effective date of this regulation is December 1, 1994.

VR 450-01-0007. Regulations Pertaining to Crab Catch Limits.

§ 1. Authority, Prior Regulations, Effective Date:

1. This Regulation is promulgated pursuant to the authority contained in §§ 28.1-23 and 28.1-168 of the Code of Virginia.

2. This Regulation amends previous Regulation VII, Pertaining to Crab Catch Limits, which was promulgated by the Marine Resources Commission and made effective December 28, 1976.

3. The effective date of this Regulation is October 23, 1984.

§ 1. Purpose.

The purpose of this regulation is to provide for the long-term conservation of the blue crab resource.

§ 2. Catch limit :

During the lawful crab dredge season starting December 1, and ending March 31, no one boat shall take or catch more than ~~twenty-five (25)~~ 20 barrels of crabs in any one day. Each barrel shall be a regular crab barrel not more than level full.

§ 3. Records:

Any person, firm, or corporation licensed for the

harvesting of crabs for commercial purposes and every licensed crab buyer not voluntarily providing crab catch and effort information satisfactory to the Commission may be required to report such information, on not greater than a monthly basis, to the Commission. Forms for such reports shall be furnished by the Commission.

§ 3. Dredge size.

For the 1994-1995 season, it shall be unlawful for any person to use any single crab dredge that exceeds eight feet in width across the inside mouth of the dredge.

§ 4. Penalty :

A. Possession of crabs in excess of the amounts provided by this regulation shall be prima facie evidence of violation provided, however, that the catch limit imposed by this regulation shall not apply to crab buy boats.

B. Section ~~28.1-23~~ As provided by § 28.2-713 of the Code of Virginia, provides that any person, firm, or corporation violating any the provisions of § 2 of this regulation of the Marine Resources Commission shall be guilty of a Class I misdemeanor.

/s/ William A. Pruitt
Commissioner

VA.R. Doc. No. R95-163; Filed December 1, 1994, 2:31 p.m.

* * * * *

Title of Regulation: VR 450-01-0012. Pertaining to Dredging for Crabs.

Statutory Authority: § 28.2-201 of the Code of Virginia.

Effective Date: December 1, 1994.

Preamble:

This regulation establishes areas of the Chesapeake Bay where crab dredging activities are prohibited. This regulation is promulgated pursuant to the authority contained in § 28.2-201 of the Code of Virginia. This regulation amends VR 450-01-0012 (Regulation XII) which was promulgated by the Marine Resources Commission and made effective July 22, 1975, and supersedes Virginia Marine Resources Commission Order Number 82-6 made effective November 23, 1982. The effective date of this regulation is December 1, 1994.

VR 450-01-0012. Pertaining to Dredging for Crabs.

§ 1. Prohibited area:

A. No dredging for crabs shall be permitted in the area inshore and up rivers of a line beginning at buoy No. 1'

on the Norfolk Harbor Reach of the Norfolk Channel thence S. 77° 20' W. 0.80 miles to black and white buoy N "H1" off the northeast corner of the levee around the Craney Island land fill thence parallel to the levee N 88° 30' W. 1.8 miles to black and white buoy No. N "H5," thence N 26° 30' W. 2.35 miles to Newport News Point on the lower side of entrance to the Little Boat Harbor in line with the WGH tower; thence in northeast and easterly direction with the low water line and crossing the mouths of Hampton Creek and Mill Creek to Old Point Comfort and following the mean low water line to the ruins of Old Back River Light; thence, in a straight line 336° true 8.2 miles to buoy number 4 marking the Poquoson River; thence, 304° true 2.7 miles to Tue Point Light House; thence, 37° true 3 miles to the East tip of Guinea Marshes; thence, 26° true 3.15 miles to lighted buoy number 6 Southwest of Dutchman Point; thence, 121° true 2.4 miles to New Point Comfort abandoned light house; thence, 16° true 5 miles to the mean low water line; East of Winter Harbor; thence, along the mean low water line northerly to the South Point of Rigby Island; thence 61° true 2.2 miles to lighted buoy number 3 off Milford Haven Spit; thence, 22° true 3.2 miles to the black and white spar number C 59 located approximately 5 miles East of Gwynns Island; thence 333° true 3.8 miles to a black and white spar number R 1 marking the Southern side of the Piankatank River entrance channel; thence, 345° true 0.4 of a mile to the black and white spar marked R 3 marking the Northern side of the Piankatank channel and the Southern side of the Rappahannock River entrance channel; thence, 318°, 1.2 miles to the black and white spar R 2 which is located approximately 1 mile South of Windmill Point Light House; thence, 319° true 2.8 miles to Windmill Point; thence, 346° true 4.7 miles to Bluff Point; thence, 14#0 true 7 miles to the Great Wicomico River Light; thence, 24° true 2 miles to the low water mark on the point between Taskmarkers Creek and Chesapeake Beach; thence, along the mean low water line to Smiths Point.

B. No dredging for crabs shall be permitted in the areas above a line beginning at mean low water at the south end of sand spit at Tangier Island, thence 164° true to Tangier light house, thence 230° true to can buoy number 3, thence 120° true to bell buoy number R 2A, thence 95° true to nun buoy number 2, thence 136° true to mean low water northwest end of Thicket Point.

C. No dredging for crabs shall be permitted in the area inshore of a line on the easterly side of Chesapeake Bay following the shore line from Chesconessex Creek to Fisherman Island off Cape Charles, excluding all creeks and inlets; and the mouths of said creeks and inlets shall be designated by a line drawn from headland to headland of said creek or inlet.

§ 1. Purpose.

The purpose of this regulation is to establish distinct boundaries on crab dredge harvesting areas within the Chesapeake Bay.

§ 2. Prohibited areas.

A. Except for the provisions listed under subsection B of this section, no dredging for crabs shall be permitted in the areas inshore of a boundary line beginning at the mean low water line at the north end of the westbound span of the Hampton Roads Bridge Tunnel; continuing in an easterly direction along the mean low water line and crossing the mouth of Mill Creek; thence continuing to Old Point Comfort; thence, still following the mean low water line, continuing to Northend Point; thence to Plum Tree Point; thence to buoy "4" at Poquoson River Channel; thence continuing to Tue Marshes Light; thence extending to New Point Comfort Abandoned Light House; thence continuing NNE and crossing the mouth of Horn Harbor to the mean low water line at Beach Point; thence continuing along the mean low water line, crossing the mouth of Winter Harbor; thence continuing to the south point of Rigby Island; thence continuing in an easterly direction to buoy G"1MH"; thence continuing in a northerly direction to "41A"; thence continuing from "41A" to G"1R"; thence continuing to Windmill Point Light; thence to the SE tip of Bluff Point; thence to Great Wicomico Light; thence in a northeasterly direction to buoy "63A"; thence northerly to Smith Point Light; thence continuing to the Maryland/Virginia border on a heading of 337° true.

B. Within the area inshore of the boundary line beginning at Great Wicomico Light and extending in a northeasterly direction to buoy "63A," thence continuing north to Smith Point Light and terminating at the Maryland/Virginia border on a heading of 337° true, crab dredging shall be permitted where mean low water depth is 35 feet or greater.

C. No dredging for crabs shall be permitted in the areas above a line beginning at mean low water at the south end of sand spit at Tangier Island, thence 164° true to Tangier light house, thence 230° true to C"1," thence 120° true to bell buoy number R"2," thence 095° true to day marker "2," thence 136° true to the mean low water line Northwest end of Thicket Point.

D. No dredging for crabs shall be permitted in the area inshore of a line on the easterly side of Chesapeake Bay following the mean low water line from Chesconessex Creek to Fisherman Island off Cape Charles, excluding all creeks and inlets; and the mouths of said creeks and inlets shall be designated by a line drawn from headland to headland of said creek or inlet.

§ 3. Penalty.

Pursuant to § 28.2-903 of the Code of Virginia, any person violating any provision of this regulation shall be guilty of a Class 3 misdemeanor, and a second subsequent violation of any provision of this regulation committed by the same person within 12 months of a prior violation is a Class 1 misdemeanor.

/s/ William A. Pruitt

Marine Resources Commission

Commissioner

VA.R. Doc. No. R95-165; Filed December 1, 1994, 2:31 p.m.

* * * * *

Title of Regulation: VR 450-01-0036. Pertaining to Time Restrictions on Commercial Crabbing.

Statutory Authority: § 28.2-201 of the Code of Virginia.

Effective Date: January 1, 1995.

Preamble:

This regulation establishes time, season and peeler pot limits for commercial crabbing in Virginia and is promulgated pursuant to authority contained in § 28.2-201 of the Code of Virginia. This regulation amends previous VR 450-01-0036 which was promulgated and made effective on July 1, 1989. The effective date of this regulation is January 1, 1995.

VR 450-01-0036. Pertaining to Time Restrictions on Commercial Crabbing.

§ 1. Authority, prior regulations, effective date.

A. This regulation is promulgated pursuant to authority contained in § 28.2-201 of the Code of Virginia.

B. Sections 3 and 4 of this regulation were added and made effective by Commission action on May 23, 1988; the original regulation was promulgated on November 26, 1985. The effective date of this regulation as amended is July 1, 1989.

§ 1. Purpose.

The purpose of this regulation is to allow for the conservation of crabs and to improve the enforceability of other laws pertaining to crabbing.

§ 2. Sunday prohibition.

It shall be unlawful to take or catch crabs for commercial purposes on Sunday. This section shall not apply to the harvest of peeler crabs by crab traps or peeler pots or to the working of floats, pens, or onshore facilities for soft crab shedding operations.

§ 3. Daily time limits.

It shall be unlawful to take or catch crabs for commercial purposes between sunset and three hours before sunrise, provided; however, it shall be unlawful to take crabs by crab dredge ; as defined in § 28.2-707 of the Code of Virginia, between sunset and sunrise.

§ 4. Season limits.

It shall be unlawful for any person to place, set or fish any hard crab pot or peeler crab pot from December 1 through March 31.

§ 5. Peeler crab pot limits.

A. From April 1 through June 30, it shall be unlawful for any person to place, set or fish more than 400 peeler crab pots per vessel.

B. From July 1 through November 30, it shall be unlawful for any person to place, set or fish more than 400 peeler pots and it shall be unlawful for more than two peeler pot licensees to place, set or fish peeler pots from the same vessel.

§ 4. § 6. Penalty.

As set forth in Pursuant to § 28.2-903 of the Code of Virginia, any person ; firm, or corporation violating any provision of this regulation shall be guilty of a Class 3 misdemeanor , and a second or subsequent violation of any provision of this regulation committed by the same person within 12 months of a prior violation is a Class 1 misdemeanor .

VA.R. Doc. No. R95-162; Filed December 1, 1994, 2:31 p.m.

* * * * *

Title of Regulation: VR 450-01-0041. Pertaining to Crab Catch Limits.

Statutory Authority: §§ 28.2-201 and 28.2-713 of the Code of Virginia.

Effective Date: January 1, 1995.

Preamble:

This regulation establishes a daily catch limit for the spring crab pot fishery in Virginia tidal waters and is promulgated pursuant to the authority contained in §§ 28.2-201 and 28.2-713 of the Code of Virginia. This regulation amends previous VR 450-01-0041 which was promulgated and made effective on March 15, 1987. The effective date of this regulation is January 1, 1995.

VR 450-01-0041. Pertaining to Crab Catch Limits.

§ 1. Authority, prior regulations, effective date.

A. This regulation is promulgated pursuant to the authority contained in §§ 28.2-201 and 28.2-713 of the Code of Virginia.

B. VR 450-01-0007, which also pertains to crab catch limits, establishes a 20 barrel limit for crab dredge boats for the period December 1 to March 31, of each year.

Marine Resources Commission

§ 1. Purpose.

The provisions of this regulation are in response to increased fishing pressure on the crab resource and are in the interest of conservation and the crab industry.

§ 2. Catch limit and season.

A. During the period ~~March 15 to April 1~~ through May 31, inclusive, no boat or vessel shall take or catch by crab pot, or have in possession more than 51 bushels or 17 barrels of crabs in any one day.

B. In examining a particular boat's catch, if the marine patrol officer finds crabs in excess of the 51 bushel or 17 barrel limit, the quantity of crabs in excess shall be immediately returned to the water by the person who possessed such crabs. The refusal to return the crabs to the water shall constitute a separate violation of this regulation.

§ 3. Penalty.

As set forth in ~~§ 28.2-713~~ Pursuant to § 28.2-713 of the Code of Virginia, any person, firm, or corporation violating any provision of this regulation shall be guilty of a Class 1 misdemeanor.

/s/ William A. Pruitt
Commissioner

V.A.R. Doc. No. R95-164; Filed December 1, 1994, 2:31 p.m.

* * * * *

Title of Regulation: VR 450-01-0050. Pertaining to Grey Trout (Weakfish).

Statutory Authority: § 28.2-201 of the Code of Virginia.

Effective Date: December 1, 1994, except § 5 G which is effective from November 22, 1994, to December 22, 1994.

Preamble:

This regulation establishes limitations on the commercial and recreational harvest of weakfish in order to reduce the fishing mortality rate and to rebuild the severely depleted stock of weakfish. The limitations include minimum size limits, gear restrictions and season limits for the commercial fishery and minimum size and bag limits for the recreational fishery. This regulation is promulgated pursuant to the authority contained in § 28.2-201 of the Code of Virginia and amends previous VR 450-01-0050 which was promulgated by the Marine Resources Commission and made effective October 4, 1994.

VR 450-01-0050. Pertaining to Grey Trout (Weakfish).

§ 1. Purpose.

The purpose of this regulation is to achieve a 25% reduction in the weakfish fishing mortality rate during the April 1, 1994, through March 31, 1995, period, thereby reducing the probability of recruitment failure and stock collapse and to allow for a rebuilding of the spawning stock. This regulation responds to the mandatory requirements of the Atlantic Coastal Fisheries Cooperative Management Act (Public Law 103-206), in accordance with the Interstate Weakfish Fishery Management Plan of the Atlantic States Marine Fisheries Commission.

§ 2. Definition.

"Weakfish (Grey Trout)" shall include any fish of the species *Cynoscion regalis*.

§ 3. Minimum size limits.

A. It shall be unlawful for any person fishing with pound net or haul seine to possess any grey trout less than nine inches in length.

B. It shall be unlawful for any person fishing with gill nets to possess any grey trout less than 12 inches in length.

C. It shall be unlawful for any trawl boat to land any grey trout in Virginia that are less than 12 inches in length.

D. It shall be unlawful for any person fishing with hook-and-line, rod-and-reel, or hand line to possess any grey trout less than 14 inches in length.

E. It shall be unlawful for any person using any gear type not specified in subsection A, B, C or D of this section to possess any grey trout less than nine inches in length.

F. Length is measured in a straight line from the tip of the nose to the tip of the tail.

§ 4. Gear restrictions.

It shall be unlawful for any trawl boat to land grey trout in Virginia while possessing on board any trawl net having a cod-end mesh less than three inches, stretched measure.

§ 5. Commercial fishing season.

A. It shall be unlawful for any person fishing with pound net to possess any grey trout from August 28 through October 31, 1994, except as provided in subsection B of this section.

B. Any pound net fisherman who held 2, 3 or 4 pound net licenses as of July 31, 1994, and forfeits one of those licenses shall be eligible to possess grey trout during the

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August 28 through October 31, 1994, period. Any pound net fisherman who held 5, 6 or 7 pound net licenses as of July 31, 1994, and forfeits two of those licenses shall be eligible to possess grey trout during the August 28 through October 31, 1994, period. Any pound net fisherman who held 8, 9 or 10 pound net licenses as of July 31, 1994, and forfeits three of those licenses shall be eligible to possess grey trout during the August 28 through October 31, 1994, period. In addition, any pound net fisherman who holds licenses purchased after July 31, 1994, must forfeit all such licenses in order to possess grey trout during the August 28 through October 31, 1994, period. Forfeiture shall be through March 31, 1995.

C. Any pound net licensee who forfeits licenses pursuant to subsection B of this section shall retain his priority rights to such locations for future licensing until April 1, 1995. Any pound net fisherman holding a license as of July 31, 1994, may transfer the right to use that license to a person who held only one pound net license as of July 31, 1994.

D. It shall be unlawful for any person fishing with gill net to possess any grey trout from August 1 through October 18, 1994, and December 9, 1994, through March 31, 1995.

E. It shall be unlawful for any person fishing with haul seine to possess any grey trout from August 25, 1994, through March 31, 1995.

F. It shall be unlawful for any trawl boat to land any grey trout in Virginia from October 12 through November 30, 1994.

G. *The provisions of subsection D of this section notwithstanding, persons fishing with gill nets on the seaside of Accomack and Northampton Counties may possess grey trout from December 9, 1994, through December 15, 1994.*

Pursuant to § 28.2-210 of the Code of Virginia, the provisions of this subsection were approved by the Marine Resources Commission as an emergency regulation on November 22, 1994, and are effective immediately for a period of 30 days.

§ 6. Daily bag limit.

A. It shall be unlawful for any person fishing with hook-and-line, rod-and-reel, or hand line to possess more than 10 grey trout. Any grey trout taken after the bag limit of 10 fish has been reached shall be returned to the water immediately.

B. The daily bag limit of grey trout when fishing from a boat shall be equal to the number of legally eligible persons on board multiplied by 10.

C. Charter, party and head boat captains are ultimately responsible for the retention of the legal number of grey trout aboard their vessels.

§ 7. Penalty.

As set forth in § 28.2-903 of the Code of Virginia, any person, firm or corporation violating any provision of this regulation shall be guilty of a Class 3 misdemeanor.

/s/ William A. Pruitt
Commissioner

V.A.R. Doc. No. R95-166; Filed December 1, 1994, 2:32 p.m.

* * * * *

Title of Regulation: VR 450-01-0060. Pertaining to the Use of Crab Traps and Pounds.

Statutory Authority: §§ 28.2-201 and 28.2-701 of the Code of Virginia.

Effective Date: January 1, 1995.

Preamble:

This regulation establishes requirements regarding proximity to other crab traps or pounds, removal of gear and poles, mesh size, and cull rings. This regulation is promulgated pursuant to the authority contained in §§ 28.2-201 and 28.2-701 of the Code of Virginia. Section 28.2-701 specifies that the Virginia Marine Resources Commission shall promulgate regulations governing the use, placement, and maintenance of crab traps and crab pounds. This regulation amends previous VR 450-01-0060, "Pertaining to the Use of Crab Traps and Pounds," which was promulgated by the Marine Resources Commission and made effective July 1, 1990. The effective date of this regulation is January 1, 1995.

VR 450-01-0060. Pertaining to the Use of Crab Traps and Pounds.

~~§ 1. Authority, prior regulation, effective date.~~

~~A. This regulation is promulgated pursuant to the authority contained in §§ 28.2-201 and 28.2-701 of the Code of Virginia.~~

~~B. The effective date of this regulation is July 1, 1990.~~

§ 1. Purpose.

The purpose of this regulation is to comply with the requirements of § 28.2-701 of the Code of Virginia by establishing regulations that govern the use, placement, and maintenance of crab traps and pounds; to promote conservation of the blue crab resource; and to maintain navigable waterways.

§ 2. Placement of crab traps and crab pounds.

It shall be unlawful to place, set, or use crab traps

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crab pounds within 100 yards of any other crab trap or crab pound without respect to whether or not the other crab trap or pound is owned by the same or some other person ; firm, corporation or association .

§ 3. Removal of traps, leads, poles, gear.

A. Every owner or user of a crab trap or crab pound shall completely remove traps, leads, wire, poles, and all other related gear from the water not later than December 31 of each year, except that they may leave two poles at each crab trap or crab pound site to facilitate relocation of the traps, lead and poles in the upcoming crab season, except as provided in subsection B below. If the trap site is not licensed and used in any subsequent year the trap owner shall be required to remove all poles from the site.

B. In the Tangier Island vicinity (from the southern tip of Tangier Island north to the Maryland line), it shall be lawful for every owner or user of a crab trap or crab pound to leave poles at crab trap or crab pound stands; provided such poles will be used at said location the following season and not be abandoned.

§ 4. Minimum mesh size.

It shall be unlawful to use a crab trap or crab pound with a head or retention box with a mesh size of less than one inch.

§ 5. Cull rings.

It shall be unlawful for any person to place, set or use any peeler crab trap or pound that does not contain at least four unobstructed cull rings or at least 1-1/2 inches inside diameter. Two such rings shall be located under water at all times in the lower portion of each side panel that is perpendicular to the shoreline and on opposite sides of the head or retention box.

§ 5- 6. Penalty.

A. As set forth in § 28.2-701 of the Code of Virginia, any person, firm, or corporation violating any provision of this regulation shall be guilty of a Class 3 misdemeanor.

B. No licenses for crab traps or crab pounds for a subsequent year shall be issued to any person ; ~~corporation or association~~ failing to accomplish such removal as stipulated in § 3 above until the same has been accomplished.

/s/ William R. Pruitt
Commissioner

V.A.R. Doc. No. R95-167; Filed December 1, 1994, 2:32 p.m.

* * * * *

Title of Regulation: VR 450-01-0093. Pertaining to Crab Pots.

Statutory Authority: § 28.2-201 of the Code of Virginia.

Effective Date: January 1, 1995.

Preamble:

This regulation establishes a requirement for the use of cull rings in crab pots, and is promulgated pursuant to the authority contained in § 28.2-201 of the Code of Virginia. This regulation amends previous VR 450-01-0093, "Pertaining to Crab Pots," which was promulgated and made effective January 1, 1994. The effective date of this regulation is January 1, 1995.

VR 450-01-0093. Pertaining to Crab Pots.

§ 1. Authority, prior regulation, effective date.

A. This regulation is promulgated pursuant to the authority contained in § 28.2-201 of the Code of Virginia.

B. Other restrictions on crab potting can be found in Title 28.2, Chapter 7 of the Code of Virginia and in VR 450-01-0007, VR 450-01-0009, VR 450-01-0033, VR 450-01-0036, VR 450-01-0041, and VR 450-01-0049.

C. The effective date of this regulation is January 1, 1994.

§ 2. § 1. Purpose.

The purpose of this regulation is to conserve the blue crab resource by promoting the escape of small crabs from crab pots through the use of cull rings.

§ 3. § 2. Cull ring requirements.

A. It shall be unlawful for any person to place, set or fish any crab pot in Virginia's tidal waters which does not contain at least one unobstructed cull ring of at least 2-5/16 inches, inside diameter, in an exterior panel of the upper chamber of the pot. two unobstructed cull rings of size and location within the pot as hereinafter described, except as provided in subsection B of this section. One cull ring shall be at least 2-5/16 inches inside diameter, and the other cull ring shall be at least 2-3/16 inches inside diameter. These cull rings shall be located one each in opposite exterior side panels of the upper chamber of the pot.

B. The required 2-5/16 inches inside diameter cull ring may be obstructed in crab pots set within the crab dredge areas as set forth in VR 450-01-0012, or within Pocomoke or Tangier Sounds.

C. Peeler pots with a mesh size less than 1-1/2 inches shall be exempt from the cull ring requirement.

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C. The Commissioner of the Virginia Marine Resources Commission is hereby authorized to allow crab pot cull rings to be closed off for specific times and in specific areas upon receipt of request which in his sole discretion is sufficient to demonstrate that such action is necessary to avoid significant economic hardship to the requester and that approval of the request will not have a significant detrimental impact on the blue crab resource.

§ 4. § 3. Penalty.

As set forth in Pursuant to § 28.2-903 of the Code of Virginia, any person violating any provision of this regulation shall be guilty of a Class 3 misdemeanor, and a second or subsequent violation of any provision of this regulation committed by the same person within 12 months of a prior violation is a Class 1 misdemeanor.

/s/ William A. Pruitt
Commissioner

V.A.R. Doc. No. R95-160; Filed December 1, 1994, 2:32 p.m.

* * * * *

Title of Regulation: VR 450-01-0095. Restrictions on Oyster Harvest.

Statutory Authority: §§ 28.2-201 and 28.2-507 of the Code of Virginia.

Effective Date: December 1, 1994, except § 8 which has an effective date of November 28, 1994, to December 28, 1994.

Preamble:

This regulation establishes restrictions on the harvest of oysters from all public oyster grounds in the Chesapeake Bay and its tributaries and on all oyster grounds on the seaside of Eastern Shore. This regulation is promulgated pursuant to the authority contained in §§ 28.2-201 and 28.2-507 of the Code of Virginia. This regulation replaces previous VR 450-01-0095 which was promulgated by the Marine Resources Commission and made effective October 5, 1994.

VR 450-01-0095. Restrictions on Oyster Harvest.

§ 1. Other regulations.

Other restrictions on oyster harvesting may be found in Chapter 5 (§ 28.2-500 et seq.) of Title 28.2 of the Code of Virginia and in VR 450-01-0008, VR 450-01-0022, VR 450-01-0026, VR 450-01-0027, VR 450-01-0035, VR 450-01-0038, VR 450-01-0084, VR 450-01-0085, and VR 450-01-0086.

§ 2. § 1. Purpose.

The purpose of this regulation is to protect and conserve Virginia's oyster resource, which has been depleted by disease, harvesting, and natural disasters.

§ 3. § 2. Open season and areas.

The lawful seasons and areas for the harvest of oysters from the public oyster rocks, beds and shoals are as follows:

1. James River Seed Area: October 31, 1994, through April 30, 1995.
2. Jail Island and Point of Shoals Clean Cull Areas: October 1, 1994, through April 30, 1995.
3. Seaside of Eastern Shore: October 1, 1994, through December 31, 1994. Seed harvest shall require a permit from the commission as set forth in § 8 7 of this regulation.

§ 4. § 3. Closed harvest season and areas.

It shall be unlawful for any person to harvest oysters from the following areas during the specified periods:

1. All public oyster grounds in the Chesapeake Bay and its tributaries, except the James River Seed Area and the Jail Island and Point of Shoals Clean Cull Areas: October 1, 1994, through September 30, 1995.
2. James River Seed Area and Jail Island and Point of Shoals Clean Cull Areas: May 1, 1995, through September 30, 1995.
3. All oyster grounds on the Seaside of Eastern Shore: January 1, 1995, through September 30, 1995. Oyster harvest from leased oyster ground and fee simple oyster ground shall require a permit from the commission as set forth in § 8 7 of this regulation.

§ 5. § 4. Time limit.

Harvest on public grounds in the James River Seed Area and the Jail Island and Point of Shoals Clean Cull Areas shall be from sunrise to noon, daily, except during the months of January and February when it shall be from sunrise to 2 p.m., daily. It shall be unlawful for any person to harvest oysters from the public grounds in the James River Seed Area or the Jail Island and Point of Shoals Clean Cull Areas prior to sunrise or after noon, daily, or after 2 p.m., daily, during the months of January and February, 1995.

§ 6. § 5. Gear restrictions.

It shall be unlawful for any person to harvest oysters from public oyster grounds with shaft tongs longer than 18 feet in total overall length.

§ 7. § 6. Quotas.

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In the James River Seed Areas there shall be an oyster harvest quota of 80,000 bushels of seed oysters. It shall be unlawful for any person to harvest seed oysters from the James River Seed Area after the 80,000 bushel quota has been reached.

§ 8. § 7. Harvest permit required.

A. It shall be unlawful for any person to harvest or attempt to harvest seed oysters from the public oyster grounds, leased oyster grounds, or for fee simple grounds on the Seaside of Eastern Shore during the open season without first obtaining a permit from the Marine Resources Commission.

B. It shall be unlawful for any person to harvest, or attempt to harvest, oysters from leased oyster grounds or fee simple ground on the Seaside of Eastern Shore without first obtaining a permit from the Marine Resources Commission.

C. Applicants for the permit shall have paid all rent fees and shall specify the location of the lease of fee simple ground to be harvested and shall verify that the ground is properly marked as specified by VR 450-01-0038.

D. No person shall hold more than two permits at any time.

§ 8. Seed oyster planting procedures.

Pursuant to the authority contained in § 28.2-210 of the Code of Virginia, the provisions in this section were approved by the Marine Resources Commission as an emergency regulation on November 22, 1994, and are effective on November 28, 1994, for a period of 30 days unless subsequently adopted as a permanent regulation.

A. The marine patrol officer at the point of seed harvest may require that an officer be present during the seed planting. When this is required, it will be specified on the seed transfer permit. If an officer is required to be present at planting, the planter shall notify the law-enforcement officer in the area prior to planting. It shall be unlawful for the permittee or planter to plant the oysters without a marine patrol officer being present.

B. The planting of seed oysters shall consist of spreading the oysters loosely on the bottom of the planting area. It shall be unlawful to plant seed oysters in any manner except by planting the oysters loosely on the bottom.

§ 9. Penalty.

As set forth in § 28.2-903 of the Code of Virginia, any person violating any provision of this regulation shall be guilty of a Class 3 misdemeanor and a second or subsequent violation of any provision of the regulation committed by the same person within 12 months of a prior violation is a Class 1 misdemeanor. In addition to the penalties prescribed by law, any person violating the

provisions of this regulation shall return all oysters harvested to the water, shall cease harvesting on that day, and all harvesting apparatus shall be subject to seizure.

/s/ William A. Pruitt
Commissioner

V.A.R. Doc. No. R95-159; Filed December 1, 1994, 12:07 p.m.

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Title of Regulation: **VR 450-01-0100. Pertaining to the Hampton Roads and Bayside Eastern Shore Blue Crab Management Areas.**

Statutory Authority: § 28.2-201 of the Code of Virginia.

Effective Date: December 1, 1994.

Preamble:

This regulation establishes the Hampton Roads and Bayside Eastern Shore Blue Crab Management Areas and provisions to control the harvest of crabs from these areas. This regulation is promulgated pursuant to the authority contained in § 28.2-201 of the Code of Virginia. The effective date of this regulation is December 1, 1994.

VR 450-01-0100. Pertaining to the Hampton Roads and Bayside Eastern Shore Blue Crab Management Areas.

§ 1. Purpose.

The provisions of this regulation are in response to reduced abundance in the blue crab stock and increased fishing pressure on this resource. This regulation promotes conservation of the blue crab resource within the below designated areas of the Chesapeake Bay system.

§ 2. Blue crab management areas defined.

A. The Hampton Roads Blue Crab Management Area shall consist of all tidal waters inshore and upstream of a line formed by the extreme south and north ends of the westbound span of the Hampton Roads Bridge Tunnel.

B. The Bayside Eastern Shore Blue Crab Management Area shall consist of all tidal waters within a line beginning at buoy R"14" on the eastern side of the Chesapeake Channel at the Chesapeake Bay Bridge Tunnel, thence continuing northwesterly along the eastern side of Chesapeake Channel following the buoy line to buoy R"22," thence continuing in a northeasterly direction and extending through Flashing Light "2" (SW of Old Plantation Creek) to the mean low water line, thence continuing southerly following the mean low water line to its intersection with the Chesapeake Bay Bridge Tunnel, thence following the north side of the Chesapeake Bay Bridge Tunnel to buoy R"14," the point of beginning.

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§ 3. Harvest restrictions.

A. It shall be unlawful for any person to dredge for crabs within the Hampton Roads Blue Crab Management Area at any time.

B. It shall be unlawful for any person to conduct commercial crabbing or recreational crab potting within the Bayside Eastern Shore Management Area from June 1 through September 15.

§ 4. Penalty.

Pursuant to § 28.2-903 of the Code of Virginia, any person violating any section of this regulation shall be guilty of a Class 3 misdemeanor, and a second or subsequent violation of any provision of this regulation committed by the same person within 12 months of a prior violation is a Class 1 misdemeanor.

/s/ William A. Pruitt
Commissioner

GOVERNOR

EXECUTIVE ORDER NUMBER THIRTY-EIGHT (94)

WORKFORCE REDUCTION

By virtue of the authority vested in me under Article V of the Constitution of Virginia and under the laws of the Commonwealth, including but not limited to Sections 2.1-41.1, 2.1-51.8:1, 2.1-51.14, 2.1-51.17, 2.1-51-20, 2.1-51.26, 2.1-51.33, 2.1-51.39, 2.1-51.42, 2.1-113, 2.1-114.2, and 2.1-114.7 of the Code of Virginia, and Section 4-7.01c of Chapter 966 of the 1994 Va. Acts of Assembly (Appropriation Act for the 1994-1996 biennium), and subject always to my continuing and ultimate authority to act in such matters, I hereby establish the policy of the Commonwealth with regard to reduction of the state employee workforce and issue the directives stated below in furtherance thereof.

POLICY

A. It shall be the policy of the Commonwealth to achieve efficiency and economy throughout state government by restricting and reducing the size of the state employee workforce wherever such restrictions and reductions may be achieved without adversely affecting programs approved by the General Assembly and without impairing important governmental functions.

B. Where permitted by law and consistent with the objectives of efficiency and economy, it shall be the policy of the Commonwealth to reduce the size of the state employee workforce by contracting for services with, and transferring governmental functions to, entities in the private sector.

C. Executive Branch workforce reductions shall also be achieved through the following methods: hiring freeze and attrition; incentives for voluntary separation; and, if necessary, layoffs.

DIRECTIVES

To implement the policy outlined above, I am issuing the following specific directives:

I. Hiring Freeze

Effective immediately, no part-time or full-time position in the Executive Branch that is vacant or hereafter becomes vacant shall be filled. This directive shall be subject to the following limitations and exceptions:

1. Critical Public Health, Safety, and Other Needs. Upon application by the director of an agency, the Governor's Secretary with supervisory responsibility for that agency shall determine whether the interest of public health or safety or the performance of another critical governmental function clearly necessitates employment of a person whose employment would be otherwise proscribed by the directive contained in this section. If the Secretary

determines that such clear necessity has been demonstrated and the Director of the Department of Planning and Budget concurs, the Secretary shall authorize the agency director to proceed to fill such position;

2. Seasonal or Episodic Employment. Certain employment in state government, especially in temporary and wage positions, has historically been seasonal or episodic. Accordingly, upon application by the director of an agency, the Governor's Secretary with supervisory responsibility for that agency shall determine whether the operational needs of the agency justify such seasonal or episodic employment. If the Secretary determines that an adequate justification has been shown and the Director of the Department of Planning and Budget concurs, the Secretary shall authorize the agency director to employ persons as needed, up to a specified level, for seasonal or episodic employment;

3. Pre-Existing Employment Agreements. The directive in this section shall not apply to a person who, although not currently employed by the Executive Branch, has, prior to the signing of this Executive Order, accepted an offer of Executive Branch employment to commence in the future, provided the agency director so certifies to the responsible Governor's Secretary;

4. Reservation of Authority. This Executive Order is subject to my continuing and ultimate authority and responsibility to reserve powers. Accordingly, the directive contained in this section and the limitations thereto may be amended by a subsequent written directive of the Governor.

II. Incentives for Voluntary Separation

The Director of the Department of Personnel and Training shall develop and administer an incentive-based voluntary separation program for classified employees ("Incentive Plan"). The Director shall have the authority and responsibility to define the provisions, procedures, conditions and limitations of this program, subject to the following specific provisions:

1. Incentive and Payment. Employees accepted for participation in the Incentive Plan shall receive compensation equivalent to one week's pay for every full year of continuous service in state government, not to exceed a maximum of 26 weeks. Such compensation shall be payable in full within two weeks following departure from employment, unless the employee opts to receive such compensation in three equal payments on each of May 1, June 1, and July 1, 1995.

2. Application Window. Employees wishing to participate in the Incentive Plan shall submit a signed application to their agency head between January 1,

1995, and February 28, 1995, on a standard form supplied by the Department of Personnel and Training. Once submitted by the employee-applicant, an application may not be withdrawn.

3. Notification and Effective Dates. Employees accepted for participation in the Incentive Plan shall be notified of their acceptance by April 1, 1995, via written communication; departure from employment pursuant to the Incentive plan shall be effective April 15, 1995, unless a specific exception to the departure date is authorized by the Director of the Department of Personnel and Training.

4. Acceptance Discretionary. Applications for participation in the Incentive Plan may be accepted or rejected, as set forth below. Other than the right to participate in the Incentive Plan if accepted and to be exempt from layoff as provided in paragraph 7 below, nothing contained in this Executive Order, nor in the provisions, procedures, conditions and limitations prescribed by the Director of the Department of Personnel and Training pursuant hereto, nor any other action taken pursuant hereto, shall create any right, claim, or entitlement on behalf of any applicant or any employee of state government against the Commonwealth of Virginia or any agency, department, officer, or employee thereof.

5. Acceptance Criteria and Procedures. Notwithstanding that selection for participation in the Incentive Plan is discretionary, the Director of the Department of Personnel and Training shall prescribe fair and objective criteria and procedures to be followed by agency directors and the Governor's Secretaries in determining whether to accept or reject application for participation in the Incentive Plan. The decision to accept an application shall be made by the director of the agency in which the applicant is employed; however, the director of the agency may refuse to accept (i.e., may reject) an application only with the approval of the responsible Governor's Secretary and the concurrence of the Director of the Department of Planning and Budget.

6. Advance Notice of Non-Participation. Where the director of an agency determines prior to the commencement of the Application Window identified in paragraph 2 above that applications for participation in the Incentive Plan by persons holding particular positions within the agency will not be accepted based on the fair and objective criteria established as provided in paragraph 5 above, the agency director shall notify the responsible Governor's Secretary of the determination. With the approval of the responsible Governor's Secretary and the concurrence of the Director of the Department of Planning and Budget, the agency director may proceed to provide advance notice to the holders of the affected positions that they should not participate in the application process for the incentive plan because

their applications, if submitted, would not be accepted. Agency directors are not required to provide this advance notice, but shall exercise their discretion to do so where it will contribute to the orderly operations of the agency.

7. Exemption from Layoffs. The following persons shall be exempt from any layoff during calendar year 1995: (a) employees who apply for participation in the Incentive Plan in accordance with the procedures prescribed by the Director of the Department of Personnel and Training, but whose applications are pending or are not accepted; and (b) employees who receive advance notice of non-participation in the Incentive Plan pursuant to paragraph 6 above. However, nothing herein shall adversely affect the ability of any agency to take proper disciplinary action against a state employee at any time.

8. Waiver of Re-Employment. To be eligible for consideration for participation in the Incentive Plan, an employee-applicant must enter a binding agreement not to re-enter state service as a full-time or part-time employee or paid consultant for any Executive Branch agency for a period of two years after termination of employment pursuant to the Incentive Plan.

Effective immediately and continuing through March 1, 1995, no employee shall be the subject of a layoff without the express approval of the Chief of Staff to the Governor. While layoffs may become necessary later, as discussed below, it is anticipated that no layoffs will occur until after all state employees have had an opportunity to determine whether they wish to apply for participation in the Incentive Plan.

III. Layoffs

It is the objective of this Executive Order to maximize the number of voluntary separations from state government service, and thereby to minimize or eliminate the need for layoffs. Nevertheless, some layoffs are likely to be necessary.

On or before April 15, 1995, the Department of Personnel and Training and the Department of Planning and Budget shall determine the net reduction in Executive Branch full-time employees and full-time equivalents since January 1, 1994, which shall have resulted from the combined effects of the hiring freeze, employee attrition, workforce reductions accomplished prior to the effective date of this Executive Order, and workforce reductions accomplished pursuant to incentive-based voluntary separation, together with any workforce reductions budgeted for the 1994-1996 biennium. If the net reduction constitutes inadequate progress in implementing the policies set forth in this Executive Order, then the Director of the Department of Planning and Budget shall advise the Governor of the need for additional workforce reductions through layoffs.

This Executive Order shall be effective upon its signing, and shall remain in full force and effect until June 30, 1998, unless amended or rescinded by further executive order.

Given under my hand and under the Seal of the Commonwealth of Virginia, this 1st day of December, 1994.

/s/ George Allen
Governor

V.A.R. Doc. No. R95-177; Filed December 6, 1994, 10:32 a.m.

GOVERNOR'S COMMENTS ON PROPOSED REGULATIONS

(Required by § 9-6.12:9.1 of the Code of Virginia)

BOARD FOR BARBERS

Title of Regulation: VR 170-01-1:1. Board for Barbers Regulations.

Governor's Comment:

I have reviewed this proposed regulation on a preliminary basis. While I reserve the right to take action authorized by the Administrative Process Act during the final adoption period, I have no objection to the proposed regulation based on the information and public comment currently available.

/s/ George Allen
Governor
Date: December 5, 1994

V.A.R. Doc. No. R95-175; Filed December 6, 1994, 10:01 a.m.

DEPARTMENT OF CORRECTIONS (STATE BOARD OF)

Title of Regulation: VR 230-01-005. Regulations for Public/Private Joint Venture Work Programs Operated in a State Correctional Facility.

Governor's Comment:

The proposed regulation is required by state law. The Department of Corrections, though, needs to delineate better the application process for businesses interested in a joint-venture with the Department and provide a definition for "prevailing wages."

/s/ George Allen
Governor
Date: November 25, 1994

V.A.R. Doc. No. R95-155; Filed November 30, 1994, 12:57 p.m.

DEPARTMENT OF HEALTH (STATE BOARD OF)

Title of Regulation: VR 355-29-100. Board of Health Regulations Governing Vital Records.

Governor's Comment:

I have reviewed this proposed regulation on a preliminary basis. While I reserve the right to take action authorized by the Administrative Process Act during the final adoption period, I have no objection to the proposed regulation based on the information and public comment currently available.

/s/ George Allen
Governor
Date: November 12, 1994

V.A.R. Doc. No. R95-153; Filed November 28, 1994, 4:26 p.m.

* * * * *

Title of Regulation: VR 355-33-500. Rules and Regulations for the Licensure of Hospitals in Virginia (§§ 103.2 and 106.0 Organ Donation).

Governor's Comment:

I have reviewed this proposed regulation on a preliminary basis. While I reserve the right to take action authorized by the Administrative Process Act during the final adoption period, I have no objection to the proposed regulation based on the information and public comment currently available.

/s/ George Allen
Governor
Date: November 25, 1994

V.A.R. Doc. No. R95-154; Filed November 30, 1994, 12:57 p.m.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

Title of Regulations: State Plan for Medical Assistance Relating to OBRA '93 Estate Recoveries.

- VR 460-01-53. Liens and Recoveries (§ 4.17 (a) and (b)).
- VR 460-01-53.1. Liens and Recoveries (§ 4.17 (c)).
- VR 460-01-53.2. Liens and Recoveries (§ 4.17 (d) and (e)).
- VR 460-02-4.1730. Estate Recoveries (Attachment 4.17 C).

Governor's Comment:

I have reviewed this proposed regulation on a preliminary basis. While I reserve the right to take action authorized by the Administrative Process Act during the final adoption period, I have no objection to the proposed regulation based on the information and public comment currently available.

/s/ George Allen

Governor

Governor

Date: November 22, 1994

V.A.R. Doc. No. R95-156; Filed November 30, 1994, 12:56 p.m.

DEPARTMENT OF SOCIAL SERVICES (STATE BOARD OF)

Title of Regulation: **VR 615-01-01. Public Participation
Guidelines (REPEALING).**

Title of Regulation: **VR 615-01-01:1. Public Participation
Guidelines .**

Governor's Comment:

I have reviewed this proposed regulation on a preliminary basis. While I reserve the right to take action authorized by the Administrative Process Act during the final adoption period, I have no objection to the proposed regulation based on the information and public comment currently available.

/s/ George Allen

Governor

Date: November 25, 1994

V.A.R. Doc. No. R95-157; Filed November 30, 1994, 12:57 p.m.

SCHEDULES FOR COMPREHENSIVE REVIEW OF REGULATIONS

Governor George Allen issued and made effective Executive Order Number Fifteen (94) on June 21, 1994. This Executive Order was published in The Virginia Register of Regulations on July 11, 1994 (10:21 VA.R. 5457-5461 July 11, 1994). The Executive Order directs state agencies to conduct a comprehensive review of all existing regulations to be completed by January 1, 1997, and requires a schedule for the review of regulations to be developed by the agency and published in The Virginia Register of Regulations. This section of The Virginia Register has been reserved for the publication of agencies' review schedules. Agencies will receive public comment on the following regulations listed for review.

DEPARTMENT OF SOCIAL SERVICES

Notice of Review of Existing Regulations in the Energy Assistance Program

Pursuant to Executive Order Number Fifteen (94), the Department of Social Services is publishing this notice to inform the public that the Energy Assistance Program regulation listed below will be reviewed to determine if it should be continued, amended or repealed.

Regulation

VR 615-08-1. Virginia Energy Assistance Program.

Procedures for Submitting Comments

Written comments on the above regulation must be received no later than January 27, 1995, to be considered in the regulation review. Comments should begin by identifying the regulation by VR number and regulation title.

Please mail comments to Charlene H. Chapman, Program Manager, Division of Benefit Programs, Department of Social Services, 730 East Broad Street, Richmond, VA 23219-1849. Comments may also be submitted by facsimile transmission (FAX number: (804) 692-1704).

Contact: Cathy N. Olivis, Energy Program Specialist, Division of Benefit Programs, Department of Social Services, 730 East Broad Street, Richmond, VA 23219-1849, telephone: (804) 692-1750.

GENERAL NOTICES/ERRATA

<p style="text-align: center;">Symbol Key †</p>
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<p style="text-align: center;">† Indicates entries since last publication of the Virginia Register</p>
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GENERAL NOTICES

DEPARTMENT OF CRIMINAL JUSTICE SERVICES

† Notice to the Public

In accord with the Anti-Drug Abuse Act of 1988 (Public Law 100-690, Title VI, Subtitle C), as amended, 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 January 15, 1995, and will request \$10,748,000, which is Virginia's allocation for federal fiscal 1995 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 anti-crime 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 federal funds will be used to address the needs and priorities.

Public review and comment are invited. Single copies of the application may be obtained by contacting Joe Marshall, Department of Criminal Justice Services, 805 East Broad Street, Richmond, Virginia 23219, telephone (804) 786-1577.

DEPARTMENT OF EDUCATION

† State Special Education Plan for Fiscal Year 1996-98

Under the provisions of the Individuals with Disabilities Education Act (IDEA), all states are required to develop a State Special Education Plan and Preschool Grant Application in order to be eligible for federal funds. In accordance with these requirements, the State Board of Education and the Department of Education have made the State Plan and Preschool Application available for public review from Monday, December 5, 1994, to Monday, February 6, 1995. Copies of the plan are available for review at local libraries and at local school board offices

during normal business hours.

During this period, interested parties may submit written comments regarding the state plan and the preschool grant application to the Department of Education. Written comments regarding the state plan and preschool grant application should be received no later than Monday, February 6, 1995.

During the public comment period, the Board of Education and the Department of Education will hold two public hearings. One will be on **Tuesday, January 4, 1995, 7 p.m., at the General Assembly Building, House Room C, 910 Capitol Street, Richmond, Virginia.** The second hearing will be on **Wednesday, January 5, 1995, 7 p.m., at Northside High School, Auditorium, 6758 Northside High School Road, Roanoke, Virginia.**

Written comments and inquiries regarding the hearings or matters related to the State Plan and the Preschool Grant Application may be directed to Ms. Suzanne Creasey, Office of Special Education Services, Department of Education, P.O. Box 2120, Richmond, Virginia 23216-2120 telephone (804) 225-2675.

COMMISSION ON LOCAL GOVERNMENT

Approved Modifications of Schedule of Local Mandate Assessments

Pursuant to the provisions of §§ 2.1-7.1 and 15.1-945.3(6) of the Code of Virginia and to Paragraph 7 of Executive Memorandum 5-94, notice is hereby given that the following modifications of the schedule of local mandate assessments have been approved by the Governor and Secretary of Administration, effective September 22, 1994:

- The completion date for submission of the assessment of the Department of Social Services mandate summarized as "Neglected, abandoned children: Department of Social Services notification required where parent receives or has been approved for State, Federal aid" has been changed to 10-1-94.
- The completion date for submission of the assessment of the Department of Social Services mandate summarized as "Administrative Staff: compliance with merit system of personnel administration required" has been changed to 12-31-94.
- The Department of Agriculture and Consumer Services mandate summarized as "Gypsy Moth Appalachian Integrated Pest Management Projec

participation: specified personnel, procurement of supplies and equipment required" is no longer subject to review. The program has been discontinued.

- The Virginia Retirement System mandate summarized as "Localities greater than 5,000: employee retirement system and annual report required" is no longer subject to review, since the Virginia Retirement System has become an independent agency.

- The completion date for submission of the assessment of the Department of Mental Health, Mental Retardation and Substance Abuse Services mandate summarized as "Community services board plan and budget: local approval required for State grant eligibility; matching funds required" has been changed to January 1, 1995.

- The entity responsible for assessing the mandate formerly assigned to the Department of Mental Health, Mental Retardation and Substance Abuse Services and summarized as "Comprehensive Services Act for At Risk Youth and Families (1992): coordination of services, certification for access to State Pool Funds required" has been changed to the State Executive Council.

- The completion date for submission of the assessment of the Department of Rehabilitative Services mandate summarized as "Persons with physical or sensory disabilities: boards required to assess and plan for needs" has been changed to February 15, 1995.

The original schedule for the assessments of state and federal mandates on local governments was established by the Commission on Local Government and approved by Governor Allen. In conducting assessments, agencies will follow the process established by Executive Memorandum 5-94, which became effective April 22, 1994. For further information, call Adele MacLean, Policy Analyst, Commission on Local Government at 786-6508.

DEPARTMENT OF REHABILITATIVE SERVICES

† Department of Rehabilitative Services Mailing List Update

Any individuals, groups, and organizations who are interested in (i) advising the department in developing or amending existing state regulations, (ii) participating in developing or amending the department's strategic plans and state plans for vocational rehabilitation, supported employment, and independent living services, and (iii) receiving notice of the department's public hearings, should contact the department to be added to the mailing list. Please include your name (and organization's name and your title), and mailing address. The deadline is January 31, 1995. Write to Ms. Dale Riley, Department of

Rehabilitative Services, P.O. Box K300, Richmond, Virginia 23288-0300; or call 1-800-552-5019, ext. 7611, FAX (804) 662-9532.

VIRGINIA CODE COMMISSION

NOTICE TO STATE AGENCIES

Mailing Address: Our mailing address is: Virginia Code Commission, 910 Capitol Street, General Assembly Building, 2nd Floor, Richmond, VA 23219. You may FAX in your notice; however, we ask that you FAX two copies and do not follow up with a mailed copy. Our FAX number is: 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 OBJECTIONS - RR08

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 22, 1995 - 2:30 p.m. - Open Meeting
January 23, 1995 - 10 a.m. - Open Meeting
January 24, 1995 - 8 a.m. - Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, 4th Floor, Richmond, Virginia. ☒

The following committees will meet on Sunday, January 22, 1995, on matters requiring committee action: Regulatory Review Committee - 2:30 p.m., CPE Committee - 4 p.m. A public hearing on proposed fees and education will be held, followed by a regular board meeting to review correspondence, applications, review and disposition of enforcement files and other routine board business. The Enforcement Committee will meet at 4 p.m. on Monday, January 23, 1995. A public comment period will be scheduled during the meeting. No public comment will be accepted after that period. However, the meeting is open to the public. Persons desiring to participate in the public hearing or meetings and requiring special accommodations or interpreter services should contact Nancy Taylor Feldman, Assistant Director, or Les Newton, Administrative Assistant, at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: Nancy Taylor Feldman, Assistant Director, Board for Accountancy, 3600 W. Broad St., Richmond, VA

23230-4917, telephone (804) 367-8590.

GOVERNOR'S ADVISORY BOARD OF AGING

† January 17, 1995 - 1 p.m. - Open Meeting
† January 18, 1995 - 8:30 a.m. - Open Meeting
Radisson Hotel, 555 East Canal Street, Richmond, Virginia.
☒ (Interpreter for the deaf provided upon request)

The board's regular quarterly business meeting including a discussion of the restructure of aging and long-term care.

Contact: Bill Peterson, Department for the Aging, 700 E. Franklin St., 10th Floor, Richmond, VA 23219, telephone (804) 225-2803, toll-free 1-800-552-3402 or (804) 225-2271/TDD ☎

VIRGINIA AGRICULTURAL COUNCIL

† January 24, 1995 - 9:30 a.m. - Open Meeting
Washington Building, 1100 Bank Street, 2nd Floor Board Room, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A one-day orientation session for newly-appointed board members. The board will not entertain public comments at this session. Any person who needs special accommodations during the meeting should contact Thomas R. Yates at least 10 days before the meeting date so that suitable arrangements can be made.

Contact: Thomas R. Yates, Assistant Secretary, Virginia Agricultural Council, 1100 Bank St., Richmond, VA 23219, telephone (804) 786-6060.

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES (BOARD OF)

January 11, 1995 - 1 p.m. - Open Meeting
Fairgrounds on Strawberry Hill, 600 East Laburnum Avenue, Exhibition Hall, Washington Room, Richmond, Virginia. ☒

At this regular meeting, the board plans to discuss regulations and fiscal matters and will receive reports from the staff of the Department of Agriculture and Consumer Services. The board may consider other matters relating to its responsibilities. At the conclusion of the other business, the board will review

public comments for a period not to exceed 30 minutes. Any person who needs any accommodation in order to participate at the meeting should contact Roy E. Seward at least five days before the meeting date so that suitable arrangements can be made.

Contact: Roy E. Seward, Secretary to the Board, Department of Agriculture and Consumer Services, Washington Bldg., 1100 Bank St., Room 211, Richmond, VA 23219, telephone (804) 786-3535 or (804) 371-6344/TDD ☎

Virginia Corn Board

February 15, 1995 - 9 a.m. – Open Meeting
February 16, 1995 - 9 a.m. – Open Meeting
Williamsburg Hilton and Conference Center, 50 Kingsmill Road, Williamsburg, Virginia. ☎

A meeting to review projects currently underway and to consider projects for FY 95-96. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs any accommodation in order to participate in the meeting should contact Rosser Cobb at least five days before the meeting date so that suitable arrangements can be made.

Contact: Rosser Cobb, Program Director, P.O. Box 26, Warsaw, VA 22572, telephone (804) 333-3710.

Pesticide Control Board

January 12, 1995 - 10 a.m. – Open Meeting
Department of Agriculture and Consumer Services, 1100 Bank Street, Richmond, Virginia. ☎

Pesticide Control Board committee meetings. At 6 p.m. the 24th Annual Virginia Agribusiness Appreciation Banquet at the State Fairgrounds on Strawberry Hill, 600 East Laburnum Avenue, Richmond, Virginia, will be held. Any person who needs any accommodation in order to participate at the meeting should contact Dr. Marvin A. Lawson at least 10 days before the meeting date so that suitable arrangements can be made.

Contact: Dr. Marvin L. Lawson, Program Manager, Office of Pesticide Management, Department of Agriculture and Consumer Services, P.O. Box 1163, 1100 Bank St., Room 401, Richmond, VA 23209, telephone (804) 371-6558.

January 13, 1995 - 9 a.m. – Open Meeting
Department of Agriculture and Consumer Services, 1100 Bank Street, Richmond, Virginia. ☎

A general business meeting. 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 board's agenda at 9:30 a.m. Any person who needs any accommodation in order to participate at the meeting should contact Dr. Marvin A. Lawson at least

10 days before the meeting date so that suitable arrangements can be made.

Contact: Dr. Marvin A. Lawson, Program Manager, Office of Pesticide Management, Department of Agriculture and Consumer Services, P.O. Box 1163, 1100 Bank St., Room 401, Richmond, VA 23209, telephone (804) 371-6558.

Virginia Pork Industry Board

January 13, 1995 - 2 p.m. – Open Meeting
Virginia State Fairgrounds, 600 East Laburnum Avenue, Washington Room, Richmond, Virginia. ☎

A regular meeting. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs any accommodation in order to participate at the meeting should contact John H. Parker at least five days before the meeting date so that suitable arrangements can be made.

Contact: John H. Parker, Executive Director, Virginia Pork Industry Board, 1012 Washington Bldg., 1100 Bank St., Richmond, VA 23219, telephone (804) 786-7092.

Virginia Winegrower's Advisory Board

† January 11, 1995 - 10 a.m. – Open Meeting
Washington Building, 1100 Bank Street, 9th Floor Conference Room, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

The board will hear committee and project monitor reports and review old and new business. Public comment is welcome following the conclusion of board business. Any person who needs any accommodation in order to participate in the meeting should contact Mary Davis-Barton, identified in this notice at least 14 days before the meeting date so that suitable arrangements can be made.

Contact: Mary Davis-Bacon, Secretary, Virginia Winegrower's Advisory Board, 1100 Bank St., Suite 1009, Richmond, VA 23219, telephone (804) 786-0481.

VIRGINIA ALCOHOLIC BEVERAGE CONTROL BOARD

January 9, 1995 - 9:30 a.m. – Open Meeting
January 23, 1995 - 9:30 a.m. – Open Meeting
February 6, 1995 - 9:30 a.m. – Open Meeting
February 22, 1995 - 9:30 a.m. – Open Meeting
Department of Alcoholic Beverage Control, 2901 Hermitage Road, Richmond, Virginia. ☎

A meeting to receive and discuss reports and activities from staff members. Other matters not yet determined.

Contact: W. Curtis Coleburn, Secretary to the Board,

Calendar of Events

Virginia Alcoholic Beverage Control Board, 2901 Hermitage Rd., P.O. Box 27491, Richmond, VA 23261, telephone (804) 367-0712.

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

January 5, 1995 - 9 a.m. - Open Meeting

January 6, 1995 - 9 a.m. - Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, Conference Room 3, Richmond, Virginia. ☎

The Land Surveyor Section will conduct an Examination Development Workshop for the Land Surveyor A and B examinations.

Contact: George O. Bridewell, Examination Administrator, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8572 or (804) 367-9753/TDD ☎

† January 17, 1995 - 9 a.m. - Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☎

Informal fact-finding conferences in regard to the Board for Architects, Professional Engineers, Land Surveyors and Landscape Architects v. N.E. Edgerton - 9 a.m.; J.T. Cox - 9 a.m.; Alan E. Adler - 10 a.m.; Balzer & Associates, Inc. - 11:30 a.m. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at (804) 367-8500. The department fully complies with the Americans with Disabilities Act. Please notify the department of your request for accommodations at least two weeks in advance for consideration.

Contact: Carol A. Mitchell, Assistant Director, Board for Architects, Professional Engineers, Land Surveyors and Landscape Architects, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8524.

BOARD FOR ASBESTOS LICENSING AND LEAD CERTIFICATION

January 10, 1995 - 9 a.m. - Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, Conference Room 3, Richmond, Virginia. ☎

A regular meeting.

Contact: David E. Dick, Assistant Director, Board for Asbestos Licensing and Lead Certification, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8595 or (804) 367-9753/TDD ☎

AUCTIONEERS BOARD

January 13, 1995 - 2:30 p.m. - Public Hearing
Hospitality House, 415 Richmond Road, Williamsburg, Virginia.

February 12, 1995 - 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 Auctioneers Board intends to repeal regulations entitled: **VR 150-01-2, Rules and Regulations for the Virginia Board of Auctioneers** and adopt regulations entitled: **VR 150-01-2:1, Rules and Regulations for the Virginia Board of Auctioneers**. The proposed regulations establish entry requirements for licensure of auctioneers and auction firms, examination for licensure, licensure by reciprocity, standards of practice regarding advertising, contracts, escrow accounts, records and standards of conduct for auctioneers. The proposed regulations are a result of legislative amendments enacted to § 54.1-603 of the Code of Virginia which repealed the registration and certification program for auctioneers and established a single licensure program.

Statutory Authority: §§ 54.1-201 and 54.1-602 of the Code of Virginia.

Contact: Mark N. Courtney, Assistant Director, Auctioneers Board, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514.

BOARD OF AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY

† January 18, 1995 - 9 a.m. - Open Meeting

Department of Health Professions, 6606 West Broad Street, Richmond, Virginia.

A meeting to begin study of efficiency of mandating continuing education requirements and to study definitions of assistants and aides.

Contact: Carol King-Robinson, Licensure Technician, Board of Audiology and Speech-Language Pathology, 6606 W. Broad St., Richmond, VA 23230-1717, telephone (804) 662-9111 or (804) 662-7197/TDD ☎

BOARD FOR BARBERS

† January 8, 1995 - 8 a.m. - Open Meeting

Department of Professional and Occupational Regulation, 3813 Gaskins Road, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

† January 9, 1995 - 8 a.m. - Open Meeting

Department of Professional and Occupational Regulation

Calendar of Events

3600 West Broad Street, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A meeting to develop test specifications for the Virginia barber written, instructor and practical examinations.

Contact: George O. Bridewell, Examination Administrator, Board for Barbers, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8572 or (804) 367-9753/TDD ☎

† **February 6, 1995 - 9 a.m.** – Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☎

A general business meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact Karen W. O'Neal. The department fully complies with the Americans with Disabilities Act. Please notify the department of your request for accommodations at least two weeks in advance.

Contact: Karen W. O'Neal, Assistant Director, Board for Barbers, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-0500 or (804) 367-9753/TDD ☎

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

Southern Area Review Committee

December 28, 1994 - 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 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 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 ☎

STATE BOARD FOR COMMUNITY COLLEGES

† **January 11, 1995 - 2:30 p.m.** – Open Meeting
Virginia Community College System, James Monroe Building, 101 North 14th Street, 15th Floor, Richmond, Virginia.

State board committee meetings.

Contact: Joy S. Graham, Assistant Chancellor, Public Affairs, Virginia Community College System, Monroe Bldg.,

101 N. 14th St., 15th Floor, Richmond, VA 23219, telephone (804) 225-2126 or (804) 371-8504/TDD ☎

† **January 12, 1995 - 9 a.m.** – Open Meeting
Virginia Community College System, James Monroe Building, 101 North 14th Street, 15th Floor, Richmond, Virginia.

A regularly scheduled state board meeting.

Contact: Joy S. Graham, Assistant Chancellor, Public Affairs, Monroe Bldg., 101 N. 14th St., 15th Floor, Richmond, VA 23219, telephone (804) 225-2126 or (804) 371-8504/TDD ☎

DEPARTMENT OF CONSERVATION AND RECREATION

† **January 5, 1995 - 1 p.m.** – Open Meeting
Department of Conservation and Recreation, 203 Governor Street, Conference Room #200, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A meeting of the Department of Conservation and Recreation's ad hoc advisory committee to assist the department with the development of Nutrient Management Training and Certification Regulations, VR 217-02-00. The department will review the basis for the development of regulations and solicit issues which could be addressed as the regulations are developed.

Contact: E.J. Fanning, Assistant Program Manager, Department of Conservation and Recreation, 203 Governor St., Suite 206, Richmond, VA 23219, telephone (804) 371-8095 or (804) 786-2121/TDD ☎

BOARD FOR CONTRACTORS

† **January 11, 1995 - 9 a.m.** – Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☎

A regular scheduled meeting of the board which will address policy and procedural issues; review and render decisions on applications for contractor's 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: Gerald W. Morgan, Regulatory Boards Administrator Senior, Board for Contractors, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-2785.

BOARD OF CORRECTIONS

† **January 18, 1995 - 10 a.m.** – Open Meeting
Department of Corrections, 6900 Atmore Drive, Board Room, Richmond, Virginia. ☎

Calendar of Events

A meeting to discuss matters as may be presented to the board.

Contact: Vivian Toler, Secretary to the Board, Department of Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3235.

Administration Committee

† **January 18, 1995 - 8:30 a.m.** – Open Meeting
Department of Corrections, 6900 Atmore Drive, Richmond, Virginia. ☒

A meeting to discuss administration matters which may be presented to the full board.

Contact: Vivian Toler, Secretary to the Board, Department of Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3235.

Correctional Services Committee

† **January 17, 1995 - 1 p.m.** – Open Meeting
Department of Corrections, 6900 Atmore Drive, Board Room, Richmond, Virginia. ☒

A meeting to discuss correctional services matters which may be presented to the full board.

Contact: Vivian Toler, Secretary to the Board, Department of Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3235.

Liaison Committee

† **January 19, 1995 - 9:30 a.m.** – Open Meeting
Board of Corrections, 6900 Atmore Drive, Board Room, Richmond, Virginia. ☒

A meeting to discuss criminal justice matters.

Contact: Vivian Toler, Secretary to the Board, Department of Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3235.

BOARD FOR COSMETOLOGY

† **January 30, 1995 - 10 a.m.** – Open Meeting
† **March 27, 1995 - 10 a.m.** – Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☒

A general business meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact Karen W. O'Neal. The department fully complies with the Americans with Disabilities Act. Please notify the department of your request for accommodation at least two weeks in advance.

Contact: Karen W. O'Neal, Assistant Director, Board for Cosmetology, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-0500 or (804) 367-9753/TDD ☒

DEPARTMENT FOR THE DEAF AND HARD-OF-HEARING

Telecommunications Relay Services Advisory Board

January 18, 1995 - 10 a.m. – Open Meeting
Department for the Deaf and Hard-of-Hearing, 1100 Bank Street, 12th Floor, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

A regular business meeting. This meeting is open to the public. Public comment will be permitted with advance notice.

Contact: Loretta H. Barker, Administrative Assistant, Department for the Deaf and Hard-of-Hearing, 1100 Bank St., 12th Floor, Richmond, VA 23219, telephone (804) 371-7892/(V/TTY), toll-free 1-800-552-7917/(V/TTY) or (804) 225-2570/TDD ☒

BOARD OF EDUCATION

† **January 12, 1995 - 8:30 a.m.** – Open Meeting
Henrico County School Administration, 3810 Nine Mile Road, Glen Echo Building, 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.

Contact: James E. Laws, Jr., Administrative Assistant for Board Relations, Department of Education, P.O. Box 2120, Richmond, VA 23216-2120, telephone (804) 225-2924 or toll-free 1-800-292-3820.

LOCAL EMERGENCY PLANNING COMMITTEE - ROANOKE VALLEY

January 25, 1995 - 9 a.m. – Open Meeting
Salem Civic Center, 1001 Roanoke Boulevard, Room C, Salem, Virginia. ☒

A meeting to (i) receive public comment; (ii) receive report from community coordinators; and (iii) receive report from standing committee.

Contact: Chief Dan Hall, Fire Chief/Coordinator of Emergency Services, Salem Fire Department, 105 S Market St., Salem, VA 24153, telephone (703) 375-3080. ☒

DEPARTMENT OF ENVIRONMENTAL QUALITY

Work Group on Detection/Quantitation Levels

January 18, 1995 - 1:30 p.m. – Open Meeting
Department of Environmental Quality, 4949 Cox Road, Lab Training Room, Room 111, 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 Environmental Quality. Other meetings of the work group have been scheduled at the same time and location for February 15, March 15, April 5, April 19, May 3, May 17, June 7, and June 21, 1995. However, these dates are not firm. Persons interested in the meetings of this work group should confirm the date.

Contact: Alan J. Anthony, Chairman, Work Group on Detection/Quantitation Levels, Department of Environmental Quality, 629 E. Main St., 2nd Floor, P.O. Box 10009, Richmond, VA 23240-0009, telephone (804) 762-4120.

Technical Advisory Committee on Vegetative Waste Management and Yard Waste Composting Regulations

January 11, 1995 - 9 a.m. – Open Meeting
January 18, 1995 - 9 a.m. – Open Meeting
January 25, 1995 - 9 a.m. – Open Meeting
Department of Environmental Quality, Innsbrook Corporate Center, 4900 Cox Road, Piedmont Room, No. 1275, Richmond, Virginia. ☒

A meeting to assist the Department of Environmental Quality in formulation of the draft of the Vegetative Waste Management and Yard Waste Composting Regulations.

Contact: Robert G. Wickline, P.E., Department of Environmental Quality, Waste Management Division, P.O. Box 10009, Richmond, VA 23240-0009, telephone (804) 762-4213 or (804) 762-4021/TDD ☎

BOARD OF FORESTRY

† **January 12, 1995 - 9 a.m. – Open Meeting**
Marriott Hotel, 500 East Broad Street, Richmond, Virginia. ☒

A general business meeting.

Contact: Barbara A. Worrell, Administrative Staff Specialist, Department of Forestry, P.O. Box 3758, Charlottesville, VA 22903, telephone (804) 977-1375, Ext. 3346 or (804) 977-6555/TDD ☎

BOARD OF FUNERAL DIRECTORS AND EMBALMERS

† **January 9, 1995 - 3 p.m. – Open Meeting**
Department of Health Professions, 6606 West Broad Street, Richmond, Virginia.

A meeting to conduct general business.

Contact: Carol King-Robinson, Licensure Technician, Board of Funeral Directors and Embalmers, 6606 W. Broad St., Richmond, VA 23230-1717, telephone (804) 662-9111 or (804) 662-7197/TDD ☎

† **January 10, 1995 - 8 a.m. – Open Meeting**
Department of Health Professions, 6606 West Broad Street, Richmond, Virginia.

A joint meeting for information exchange with Virginia Funeral Directors Association and Virginia Morticians Association. A routine meeting will follow board adjournment.

Contact: Carol King-Robinson, Licensure Technician, Board of Funeral Directors and Embalmers, 6606 W. Broad St., Richmond, VA 23230-1717, telephone (804) 662-9111 or (804) 662-7197/TDD ☎

† **January 10, 1995 - 9 a.m. – Public Hearing**
Department of Health Professions, 6606 West Broad Street, Richmond, Virginia.

A public hearing on preneed proposed regulations and trainee proposed regulations, also a general board meeting and formal administrative hearing.

Contact: Carol King-Robinson, Licensure Technician, Board of Funeral Directors and Embalmers, 6606 W. Broad St., Richmond, VA 23230-1717, telephone (804) 662-9111 or (804) 662-7197/TDD ☎

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January 10, 1995 - 9:30 a.m. – Public Hearing
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia.

January 13, 1995 – 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 Funeral Directors and Embalmers intends to amend regulations entitled: **VR 320-01-3. Preneed Funeral Planning Regulations.** The proposed amendments are designed to amend regulations in compliance with changes to federal law, clarify disclosure requirements for funeral homes to make to consumers and correct editorial errors and comply with Registrar's format.

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

Calendar of Events

Contact: Meredyth P. Partridge, Executive Director, Board of Funeral Directors and Embalmers, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9907.

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January 10, 1995 - 9:30 a.m. – Public Hearing
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia.

January 13, 1995 – 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 Funeral Directors and Embalmers intends to amend regulations entitled: **VR 320-01-04. Regulations of the Resident Trainee Program for Funeral Service.** The purpose of the proposed amendments is to address maximum limit on apprenticeship, supervision of trainee who has completed program, requirements for final reporting, failure to report, editorial changes, supervision for active trainees, and reporting requirements for active trainees.

Statutory Authority: §§ 54.1-2400, 54.1-2803 and 54.1-2817 of the Code of Virginia.

Contact: Meredyth P. Partridge, Executive Director, Board of Funeral Directors and Embalmers, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9907.

DEPARTMENT OF HEALTH (STATE BOARD OF)

† **February 24, 1995 –** 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 355-28-300. Regulations for the Immunization of School Children.** Chapter 62 of the 1994 Acts of the General Assembly (HB 1280) requires that children born on or after January 1, 1994, be immunized against hepatitis B before their first birthday. The regulations are being amended to add hepatitis B vaccine to the list of vaccines already required for children to be admitted to day care centers and schools.

Statutory Authority: §§ 22.1-271.2 and 32.1-46 of the Code of Virginia.

Contact: Martin Cader, M.D., Director, Division of Communicable Disease Control, Department of Health, P.O. Box 2448, Room 113, Richmond, VA 23218, telephone (804) 786-6261 or FAX (804) 786-1076.

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† **February 10, 1995 - 9 a.m. – Public Hearing**

3600 Centre, 3600 West Broad Street, 3rd Floor Conference Room, Richmond, Virginia.

† **February 15, 1995 - 10 a.m. – Public Hearing**
Lynchburg Sheraton, Lynchburg, Virginia.

† **February 27, 1995 –** Written comments may be submitted until 5 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 Board of Health intends to amend regulations entitled: **VR 355-33-500. Rules and Regulations for the Licensure of Hospitals in Virginia (Neonatal Services).** Pursuant to the Commonwealth's commitment to reduce infant mortality, the proposed regulations establish a service level distinction based upon national standards to ensure treatment of a range of neonates from normal newborns to the sickest, high-risk newborns. The proposed regulations are the minimum quality assurance standards that must be uniformly met if hospitals want to provide neonatal services in the Commonwealth.

Statutory Authority: §§ 32.1-12 and 32.1-127 of the Code of Virginia.

Written comments may be submitted until 5 p.m. on February 27, 1995, to Nancy R. Hofheimer, Director of the Office of Health Facilities Regulation, Department of Health, 3600 W. Broad Street, Suite 216, Richmond, Virginia 23230.

Contact: Stephanie Sivert, Director, Acute Care Service, Department of Health, Office of Health Facilities Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2104 or FAX (804) 367-2149.

Food Service Advisory Committee

† **January 9, 1995 - 10 a.m. – Open Meeting**
† **January 31, 1995 - 10 a.m. – Open Meeting**
Department of Housing and Community Development, Jackson Center, 501 North Second Street, Second Floor Conference Room, Richmond, Virginia. ☒

Meetings to address the Governor's Executive Order Number 15 (Comprehensive Review of Regulations). Under discussion will be whether to amend, delete or keep in present form the Rules and Regulations of the Board of Health Governing Restaurants.

Contact: John E. Benko, Director, Division of Food and Environmental Services, Department of Health, 1500 E. Main St., Suite 115, Richmond, VA 23219, telephone (804) 786-3559.

VIRGINIA HEALTH SERVICES COST REVIEW COUNCIL

† **January 24, 1994 - 9:30 a.m. – Open Meeting**

Calendar of Events

Trigon Blue Cross/Blue Shield, 2015 Staples Mill Road, Richmond, Virginia. ☒

A monthly meeting.

Contact: Kim Bolden Walker, Public Relations Coordinator, Virginia Health Services Cost Review Council, 805 E. Broad St., 6th Floor, Richmond, VA 23219, telephone (804) 786-6371.

BOARD FOR HEARING AID SPECIALISTS

† **January 9, 1995 - 9 a.m.** – Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☒

A general business meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact Karen W. O'Neal. The department fully complies with the Americans with Disabilities Act. Please notify the department of your request for accommodations at least two weeks in advance.

Contact: Karen W. O'Neal, Assistant Director, Board for Hearing Aid Specialists, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-0500 or (804) 367-9753/TDD ☎

STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA

† **January 10, 1995 - 9:30 a.m.** – Open Meeting
Virginia State University, Petersburg, Virginia. ☒
(Interpreter for the deaf provided upon request)

† **February 21, 1995 - 10 a.m.** – Open Meeting
Omni Hotel, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

† **March 14, 1995 - 9:30 a.m.** – Open Meeting
Council of Higher Education, 101 North 14th Street, Council Conference Room, Richmond, Virginia. ☒

A general business meeting. Contact the council for more information.

Contact: Anne M. Pratt, Associate Director, State Council of Higher Education, 101 N. 14th St., 9th Floor, Richmond, VA 23219, telephone (804) 225-2639.

HOPEWELL INDUSTRIAL SAFETY COUNCIL

January 3, 1995 - 9 a.m. – Open Meeting
† **February 7, 1995 - 9 a.m.** – Open Meeting
† **March 7, 1995 - 9 a.m.** – Open Meeting
Hopewell Community Center, Second and City Point Road, Hopewell, Virginia. ☒ (Interpreter for the deaf provided upon request)

Local Emergency Preparedness Committee Meeting on emergency preparedness as required by SARA Title III.

Contact: Robert Brown, Emergency Service Coordinator, 300 North Main Street, Hopewell, VA 23860, telephone (804) 541-2298.

LIBRARY BOARD

January 20, 1995 - 10:30 a.m. – Open Meeting
The Library of Virginia, 11th Street at Capitol Square, 3rd Floor, Supreme Court Room, Richmond, Virginia. ☒

A meeting to discuss administrative matters of The Library of Virginia.

Contact: Jean H. Taylor, Secretary to State Librarian, 11th Street at Capitol Square, Richmond, VA 23219, telephone (804) 786-2332.

Automation and Networking Committee

January 20, 1995 - 8:45 a.m. – Open Meeting
The Library of Virginia, 11th Street at Capitol Square, 3rd Floor, Conference Room B, Richmond, Virginia. ☒

A meeting to discuss automation and networking matters related to The Library Board.

Contact: Jean H. Taylor, Secretary to State Librarian, 11th Street at Capitol Square, Richmond, VA 23219, telephone (804) 786-2332.

By-Laws Committee

January 20, 1995 - 8:15 a.m. – Open Meeting
The Library of Virginia, 11th Street at Capitol Square, Office of the State Librarian, Richmond, Virginia. ☒

A meeting to discuss possible revisions to the by-laws of the Library Board.

Contact: Jean H. Taylor, Secretary to State Librarian, 11th Street at Capitol Square, Richmond, VA 23219, telephone (804) 786-2332.

Executive Committee

January 19, 1995 - 7 p.m. – Open Meeting
The Library of Virginia. Location to be announced.

A meeting to discuss matters pertaining to the Library Board.

Contact: Jean H. Taylor, Secretary to State Librarian, 11th Street at Capitol Square, Richmond, VA 23219, telephone (804) 786-2332.

Calendar of Events

General Library Committee

January 20, 1995 - 8 a.m. - Open Meeting

The Library of Virginia, 11th Street at Capitol Square, Office of the Director of General Library Division, Richmond, Virginia. ☎

A meeting to discuss general library matters as they relate to the Library Board.

Contact: Jean H. Taylor, Secretary to State Librarian, 11th Street at Capitol Square, Richmond, VA 23219, telephone (804) 786-2332.

Legislative and Finance Committee

January 20, 1995 - 9:30 a.m. - Open Meeting

The Library of Virginia, 11th Street at Capitol Square, Office of the State Librarian, Richmond, Virginia. ☎

A meeting to discuss legislative and financial matters related to the Library Board.

Contact: Jean H. Taylor, Secretary to State Librarian, 11th Street at Capitol Square, Richmond, VA 23219, telephone (804) 786-2332.

Nominating Committee

January 20, 1995 - 8 a.m. - Open Meeting

The Library of Virginia, 11th Street at Capitol Square, Office of the State Librarian, Richmond, Virginia. ☎

A meeting to discuss nominations relating to the Library Board.

Contact: Jean H. Taylor, Secretary to State Librarian, 11th Street at Capitol Square, Richmond, VA 23219, telephone (804) 786-2332.

Public Library Development Committee

January 20, 1995 - 9:30 a.m. - Open Meeting

The Library of Virginia, 11th Street at Capitol Square, Library Development and Networking Division, Room 4-24, Richmond, Virginia. ☎

A meeting to discuss matters pertaining to public library development and the Library Board.

Contact: Jean H. Taylor, Secretary to State Librarian, 11th Street at Capitol Square, Richmond, VA 23219, telephone (804) 786-2332.

Publications and Cultural Affairs Committee

January 20, 1995 - 9:30 a.m. - Open Meeting

The Library of Virginia, 11th Street at Capitol Square, Office of the Director of Publications and Cultural Affairs, Richmond, Virginia. ☎

A meeting to discuss matters related to publications and cultural affairs and the Library Board.

Contact: Jean H. Taylor, Secretary to State Librarian, 11th Street at Capitol Square, Richmond, VA 23219, telephone (804) 786-2332.

STATE COUNCIL ON LOCAL DEBT

† **January 18, 1995 - 11 a.m. - Open Meeting**

† **February 15, 1995 - 11 a.m. - Open Meeting**

† **March 15, 1995 - 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 the 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 1879, Richmond, VA 23215, telephone (804) 225-4928.

COMMISSION ON LOCAL GOVERNMENT

† **January 9, 1995 - 10 a.m. - Open Meeting**

Richmond area; site to be determined.

† **March 21, 1995 - 9 a.m. - Open Meeting**

Ashland area; site to be determined.

A regular meeting of the commission to consider such matters as may be presented. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the commission's office.

Contact: Barbara Bingham, Administrative Assistant, Commission on Local Government, 702 8th Street Office Bldg., Richmond, VA 23219, telephone (804) 786-6508 or (804) 786-1860/TDD ☎

† **March 20, 1995 - 11 a.m. - Open Meeting**

† **March 20, 1995 - 7:30 p.m. - Public Hearing**

Ashland area; site to be determined.

A meeting and a public hearing regarding the proposed voluntary settlement between the Town of Ashland and Hanover County. Persons desiring to participate in the commission's proceedings and requiring special accommodations or interpreter services should contact the commission's office.

Contact: Barbara Bingham, Administrative Assistant, Commission on Local Government, 8th Street Office Bldg., Room 702, Richmond, VA 23219, telephone (804) 786-6508 or (804) 786-1860/TDD ☎

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

† **February 24, 1995** – 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 Medical Assistance Services intends to amend regulations entitled: **VR 460-01-11 and VR 460-02-2.1100. Virginia Medicaid Qualifying Health Maintenance Organizations (HMOs)**. The Appropriations Act, passed by the 1994 General Assembly, required the Department of Medical Assistance (DMAS) to implement a health maintenance organization contracting program effective May 1, 1994. Federal regulations at 42 CFR 434.20(c) require that the state define health maintenance organizations in the state plan prior to entering into risk contracts with entities that are not federally qualified health maintenance organizations and that are providing comprehensive services. The regulations define extensive requirements for health maintenance organizations, which the State Corporation Commission's Bureau of Insurance has promulgated as Regulation 28. Rather than promulgate a separate set of regulations, DMAS is incorporating by reference Regulation 28. A new Attachment (2.1 A) is being added to the state plan to define a Medicaid health maintenance organization as required.

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

Written comments may be submitted until February 24, 1995, to Susan Bareford, Department of Medical Assistance Services, 600 East Broad Street, 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.

BOARD OF MEDICINE

† **January 12, 1995 - 9:30 a.m.** – Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia. ☒

† **January 13, 1995 - 9:30 a.m.** – Open Meeting
Holiday Inn - Downtown, 814 Capitol Landing Road, Williamsburg, Virginia. ☒

† **January 18, 1995 - 9:30 a.m.** – Open Meeting
Radisson Patrick Henry Hotel, 617 South Jefferson Street, Roanoke, Virginia. ☒

† **January 26, 1995 - 9:30 a.m.** – Open Meeting
Virginia Employment Commission, 3501 Lafayette Boulevard, Fredericksburg, Virginia. ☒

The informal conference committee composed of three

members of the board will inquire into allegations that certain practitioners may have violated laws and regulations governing the practice of medicine and other healing arts in Virginia. The committee will meet in open and closed sessions pursuant to § 2.1-344 of the Code of Virginia. Public comment will not be received.

Contact: Karen W. Perrine, Deputy Executive Director, Discipline, Board of Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9908 or (804) 662-9943/TDD ☎

† **February 9, 1995 - 8 a.m.** – Open Meeting

† **February 10, 1995 - 8 a.m.** – Open Meeting

† **February 11, 1995 - 8 a.m.** – Open Meeting

† **February 12, 1995 - 8 a.m.** – Open Meeting

Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia. ☒

The board will meet on February 9, 1995, in open session to conduct general board business, receive committee and board reports, nominate officers, and discuss any other items which may come before the board. The board will meet on February 9, 10, 11, and 12 to review reports, interview licensees, and make decisions on disciplinary matters. The board will also review any regulations that may come before it. The board will entertain public comment during the first 15 minutes on agenda items.

Contact: Eugenia K. Dorson, Deputy Executive Director, Discipline, Board of Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9923 or (804) 662-7197/TDD ☎

Credentials Committee

† **February 11, 1995 - 8:15 a.m.** – Open Meeting

Department of Health Professions, 6606 West Broad Street, 5th Floor, Board Rooms 3 and 4, Richmond, Virginia. ☒

The committee will meet in open and closed session to conduct general business, interview and review medical credentials of applicants applying for licensure in Virginia, and to discuss any other items which may come before the committee. The committee will receive public comments of those persons appearing on behalf of candidates.

Contact: Eugenia K. Dorson, Deputy Executive Director, Discipline, Board of Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9923 or (804) 662-7197/TDD ☎

Advisory Board of Occupational Therapy

January 10, 1995 - 10 a.m. – Open Meeting

Department of Health Professions, 6606 West Broad Street, 5th Floor, Board Room 4, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

Calendar of Events

A meeting to receive reports from the chairperson and vice-chair, review regulations and public comments on regulatory review, elect officers, and discuss any other business that may come before the board. The chairperson will entertain public comments during the first 15 minutes of the meeting.

Contact: Eugenia K. Dorson, Deputy Executive Director, Discipline, Board of Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9923 or (804) 662-7197/TDD ☎

Advisory Board on Physical Therapy

January 13, 1995 - 9 a.m. – Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Board Room 4, Richmond, Virginia. ☎
(Interpreter for the deaf provided upon request)

A meeting to review current regulations, respond to public comments concerning regulatory review and such other business that may come before the advisory board. The chairperson will entertain public comments following the adoption of the agenda for 15 minutes on agenda items.

Contact: Eugenia K. Dorson, Deputy Executive Director, Discipline, Board of Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9923 or (804) 662-7197/TDD ☎

DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES

State Human Rights Committee

January 27, 1995 - 9 a.m. – Open Meeting
Southside Complex, West Washington Street, Petersburg, Virginia.

A regular meeting to discuss business relating to human rights issues. Agenda items are listed for the meeting.

Contact: Elsie D. Little, State Human Rights Director, Department of Mental Health, Mental Retardation and Substance Abuse Services, James Madison Bldg., 109 Governor St., Richmond, VA 23219, telephone (804) 786-3988.

Virginia Mental Health Planning Council

† **January 9, 1995 - 11 a.m. – Open Meeting**
Henrico Area Mental Health and Mental Retardation Services, 10299 Woodman Road, Glen Allen, Virginia. ☎
(Interpreter for the deaf provided upon request)

The council meets at least four times per year. Its mission is to advocate for a consumer and family oriented, integrated and community based system of

mental health care of the highest quality. The council continuously monitors and evaluates the implementation of the state's mental health plan.

Contact: Jeanette DuVal, Planning Analyst, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23214, telephone (804) 371-0359 or (804) 371-8977/TDD ☎

VIRGINIA MILITARY INSTITUTE

Board of Visitors

† **February 11, 1995 - 8:30 a.m. – Open Meeting**
Virginia Military Institute, Smith Hall, Lexington, Virginia. ☎

A meeting to receive committee reports and reports on visits to academic departments.

Contact: Col. Edwin L. Dooley, Jr., Secretary, Board of Visitors, Virginia Military Institute, Superintendent's Office, Virginia Military Institute, Lexington, VA 24450, telephone (703) 464-7206.

DEPARTMENT OF MINES, MINERALS AND ENERGY

January 4, 1995 - 1 p.m. – Open Meeting
February 1, 1995 - 1 p.m. – Open Meeting
Department of Mines, Minerals and Energy, Buchanan-Smith Building, Route 23, Big Stone Gap, Virginia. ☎ (Interpreter for the deaf provided upon request)

A meeting of the Coal Combustion By-Products/Biosolids Work Group to advise the agency on development of guidelines for the placement of coal combustion by-products and biosolids on Division of Mined Land Reclamation permitted sites. This work group is open to the public. There will be a public comment period at the conclusion of the meeting.

Contact: Les Vincent, Chief Engineer, Department of Mines, Minerals and Energy, Division of Mined Land Reclamation, P.O. Drawer 900, Big Stone Gap, VA 24219, telephone (703) 523-8178 or toll-free 1-800-828-1120 (VA Relay Center)

January 9, 1995 - 9:30 a.m. – Open Meeting
February 13, 1995 - 9:30 a.m. – Open Meeting
Department of Mines, Minerals and Energy, Buchanan-Smith Building, Route 23, Big Stone Gap, Virginia. ☎ (Interpreter for the deaf provided upon request)

A meeting of the Permit Streamlining/Standardization Work Group to advise the agency on development of standardized, streamlined permit applications. Th

workgroup meeting is open to the public. There will be a public comment period at the conclusion of the meeting.

Contact: Les Vincent, Chief Engineer, Department of Mines, Minerals and Energy, Division of Mined Land Reclamation, P.O. Drawer 900, Big Stone Gap, VA 24219, telephone (703) 523-8178 or toll-free 1-800-828-1120 (VA Relay Center)

BOARD OF PROFESSIONAL COUNSELORS

† **February 17, 1995 - 9 a.m.** – Open Meeting
Department of Health Professions, 6606 West Broad Street, Conference Room 1, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A regular meeting to consider committee reports; consider recommendations on fees and standards of practice for Certified Rehabilitation Providers; consider comments on Regulations Governing the Certification of Substance Abuse Counselors; and respond to any correspondence and any other matters under the jurisdiction of the board. This is a public meeting and there will be a public comment period from 9:15 a.m. to 9:45 a.m.

Contact: Evelyn B. Brown, Executive Director, or Joyce D. Williams, Administrative Assistant, Board of Professional Counselors, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9912.

REAL ESTATE APPRAISER BOARD

† **January 31, 1995 - 10 a.m.** – Open Meeting
† **March 7, 1995 - 10 a.m.** – Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☎

A general business meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact Karen W. O'Neal. The department fully complies with the Americans with Disabilities Act. Please notify the department of your request for accommodation at least two weeks in advance.

Contact: Karen W. O'Neal, Assistant Director, Real Estate Appraiser Board, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-0500 or (804) 367-9753/TDD ☎

VIRGINIA RECYCLING MARKETS DEVELOPMENT COUNCIL

Plastics Subcommittee

† **January 10, 1995 - 10 a.m.** – Open Meeting
Auquier National Bank Board Room, 10 Courthouse Plaza,

Warrenton, Virginia.

A meeting to discuss barriers to the development of markets for recycled plastics and alternatives.

Contact: Paddy Katzen, Special Assistant to the Secretary of Natural Resources, Department of Environmental Quality, 629 E. Main St., Richmond, VA 23219, telephone (804) 762-4488.

VIRGINIA RESOURCES AUTHORITY

January 10, 1995 - 9:30 a.m. – Open Meeting
Virginia Resources Authority, The Mutual Building, 909 East Main Street, Board Room, Suite 607, Richmond, Virginia.

February 14, 1995 - 9:30 a.m. – Open Meeting
Virginia Resources Authority, The Mutual Building, 909 East Main Street, Board Room, Suite 607, Richmond, Virginia.

The board will meet to (i) approve minutes of its prior meeting; (ii) review the authority's operations for the prior months; and (iii) consider other matters and take other actions as it may deem appropriate. The planned agenda of the meeting will be available at the offices of the authority one week prior to the date of the meeting. Public comments will be received at the beginning of the meeting.

Contact: Shockley D. Gardner, Jr., Virginia Resources Authority, 909 E. Main St., Suite 607, Richmond, VA 23219, telephone (804) 644-3100 or FAX (804) 644-3109.

SEWAGE HANDLING AND DISPOSAL ADVISORY COMMITTEE

January 5, 1995 - 10 a.m. – Open Meeting
Department of Health, 1500 East Main Street, Main Street Station, Suite 115, Richmond, Virginia.

A regular meeting.

Contact: Berly Nguyen, Secretary, Sewage Handling and Disposal Advisory Committee, 1500 E. Main St., Suite 115, P.O. Box 2448, Richmond, VA 23219, telephone (804) 786-1750.

SEWAGE HANDLING AND DISPOSAL APPEALS REVIEW BOARD

February 1, 1995 - 10 a.m. – Open Meeting
Ramada Inn, 1130 Motel Drive, Allegheny Room, Woodstock, Virginia. ☎

A meeting to hear all administrative appeals of denials of onsite sewage disposal systems permits

Calendar of Events

pursuant to §§ 32.1-166.1 et seq. and 9-6.14:12 of the Code of Virginia, and VR 355-34-02.

Contact: Constance G. Talbert, Secretary to the Board, Sewage Handling and Disposal Appeals Review Board, 1500 E. Main St., Suite 117, P.O. Box 2448, Richmond, VA 23218, telephone (804) 786-1750.

STATE BOARD OF SOCIAL SERVICES

January 18, 1995 - 9 a.m. – Open Meeting

January 19, 1995 - 9 a.m. – Open Meeting

Koger Executive Center West, 1604 Santa Rosa Road, Wythe Building, Richmond, Virginia. ☒

A work session and formal business meeting.

Contact: Phyllis Sisk, Special Assistant to the Commissioner, State Board of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1900, toll-free 1-800-552-3431 or toll-free 1-800-552-7096/TDD ☎

BOARD OF SOCIAL WORK

† **January 19, 1995 - 1 p.m. – Open Meeting**

Department of Health Professions, 6606 West Broad Street, 5th Floor, Room 3, Richmond, Virginia. ☒

A regularly scheduled board meeting to discuss training curriculum.

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

† **January 20, 1995 - 8:30 a.m. – Open Meeting**

Department of Health Professions, 6606 West Broad Street, 5th Floor, Room 3, Richmond, Virginia. ☒

A formal hearing.

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

COMMONWEALTH TRANSPORTATION BOARD

† **January 18, 1995 - 2 p.m. – Open Meeting**

Department of Transportation, 1401 East Broad Street, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

A work session of the Commonwealth Transportation Board and the Department of Transportation staff.

Contact: Robert E. Martinez, Secretary of Transportation, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-8032.

† **January 19, 1995 - 10 a.m. – Open Meeting**

Department of Transportation, 1401 East Broad Street, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

A monthly meeting of the board to vote on proposals presented regarding bids, permits, additions and deletions to the highway system, and any other matters requiring board approval. Public comment will be received at the outset of the meeting on items on the meeting agenda for which the opportunity for public comment has not been afforded the public in another forum. Remarks will be limited to five minutes. Large groups are asked to select one individual to speak for the group. The board reserves the right to amend these conditions. Separate committee meetings may be held on call of the chairman. Contact VDOT Public Affairs at (804) 786-2715 for schedule.

Contact: Robert E. Martinez, Secretary of Transportation, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-8032.

VIRGINIA TRANSPORTATION SAFETY BOARD

February 2, 1995 - 9 a.m. – Open Meeting

Department of Transportation, 1401 East Broad Street, Board Room, Richmond, Virginia. ☒

A quarterly meeting of the board. The board will confer with the Secretary of Transportation and the Commissioner of Motor Vehicles regarding transportation safety issues.

Contact: Bill Leighty, Deputy Commissioner, Department of Motor Vehicles, 2300 W. Broad St., Richmond, VA 23220, telephone (804) 367-6614.

TREASURY BOARD

† **January 18, 1995 - 9 a.m. – Open Meeting**

† **February 15, 1995 - 9 a.m. – Open Meeting**

† **March 15, 1995 - 9 a.m. – Open Meeting**

James Monroe Building, 101 North 14th Street, 3rd Floor, Treasury Board Room, Richmond, Virginia. ☒

A regular meeting.

Contact: Gloria J. Hatchel, Administrative Assistant, Department of the Treasury, James Monroe Bldg., 101 N. 14th St., Richmond, VA 23219, telephone (804) 371-6011.

BOARD FOR THE VISUALLY HANDICAPPED

January 19, 1995 - 2 p.m. – Open Meeting

Department for the Visually Handicapped, 397 Azalea Avenue, Richmond, Virginia. ☒ (Interpreter for the deaf)

provided upon request)

A quarterly meeting to review policy and procedures. The board reviews and comments on the department's budget.

Contact: Mary Schellenger, Administrative Assistant, Department for the Visually Handicapped, 397 Azalea Ave., Richmond, VA 23227, telephone (804) 371-3145 or toll-free 1-800-622-2155.

DEPARTMENT FOR THE VISUALLY HANDICAPPED

Vocational Rehabilitation Council

February 25, 1995 - 10 a.m. - Open Meeting
State Library for the Visually and Physically Handicapped, 395 Azalea Avenue, Richmond, Virginia. § (Interpreter for the deaf provided upon request)

The council meets quarterly to advise the department on matters related to vocational rehabilitation services for the blind and visually impaired citizens of the Commonwealth. Request deadline for interpreter services is February 11, 1995, at 3:30 p.m.

Contact: James G. Taylor, Vocational Rehabilitation Specialist, Department for the Visually Handicapped, 397 Azalea Ave., Richmond, VA 23227, telephone (804) 371-3140, toll-free 1-800-662-2155 or (804) 371-3140/TDD ☎

VIRGINIA VOLUNTARY FORMULARY BOARD

January 19, 1995 - 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 Pharmacy Services, 109 Governor St., Room B1-9, Richmond, VA 23219, telephone (804) 786-4326.

BOARD FOR WATERWORKS AND WASTEWATER WORKS OPERATORS

January 5, 1995 - 10 a.m. - Public Hearing
Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Richmond, Virginia. §

A public hearing on proposed fees followed by a regular board meeting on matters which may require board action. A public comment period will be scheduled during the meeting. No public comment will be accepted after that period. However, the meeting is open to the public. Persons desiring to participate in

the public hearing or meeting and requiring special accommodations or interpreter services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made for appropriate accommodations. The department fully complies with the Americans with Disabilities Act.

Contact: Nancy Taylor Feldman, Assistant Director, Board for Waterworks and Wastewater Works Operators, 3600 W. Broad St., Richmond, VA 23230-4917 or (804) 367-8590.

THE COLLEGE OF WILLIAM AND MARY

† **February 26, 1995 -** 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 College of William and Mary intends to amend regulations entitled: **VR 187-01-02. Motor Vehicle Parking and Traffic Rules and Regulations.** The purpose of the proposed amendment is to make minor changes in fees and lot designations.

Statutory Authority: § 23-9.2:3 of the Code of Virginia.

Written comments may be submitted until February 26, 1995, to Nancy S. Nash, Office of Administration and Finance, The College of William and Mary, P.O. Box 8795, Williamsburg, Virginia 23187-8795.

Contact: Mark Gettys, Associate Director, Auxiliary Services, The College of William and Mary, P.O. Box 8795, Williamsburg, VA 23187-8795, telephone (804) 221-2435.

BOARD OF YOUTH AND FAMILY SERVICES

† **January 11, 1995 - 10 a.m. - Open Meeting**
700 Centre, 7th and Franklin Streets, 4th Floor, Richmond, Virginia. §

The committee meets to hear presentations on various aspects of the operations of the Department of Youth and Family Services and the responsibilities and duties of 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.

† **January 12, 1995 - 10 a.m. - Open Meeting**
700 Centre, 7th and Franklin Streets, 4th Floor, Richmond, Virginia. §

A general meeting to review programs recommended for certification or probation; consider adoption of draft policies, and other matters that may come before the board.

Calendar of Events

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

ADMINISTRATIVE LAW ADVISORY COMMITTEE

† **January 4, 1995 - 11 a.m.** – Open Meeting
State Capitol, Capitol Square, House Room 1, Richmond,
Virginia. (Interpreter for the deaf provided upon
request)

A general business meeting.

Contact: Lyn Hammond, Project Coordinator, General
Assembly Building, 910 Capitol Square, Richmond, VA
23219, telephone (804) 786-3591.

CHRONOLOGICAL LIST

OPEN MEETINGS

December 28

Chesapeake Bay Local Assistance Board
- Southern Area Review Committee

January 3, 1995

Hopewell Industrial Safety Council

January 4

† Administrative Law Advisory Committee
Mines, Minerals and Energy, Department of

January 5

Architects, Professional Engineers, Land Surveyors and
Landscape Architects, Board for
† Conservation and Recreation, Department of
Sewage Handling and Disposal Advisory Committee

January 6

Architects, Professional Engineers, Land Surveyors,
and Landscape Architects, Board for

January 8

† Barbers, Board for

January 9

Alcoholic Beverage Control Board, Virginia
† Barbers, Board for
† Funeral Directors and Embalmers, Board of
† Health, Department of
- Food Service Advisory Committee

† Hearing Aid Specialists, Board for
† Local Government, Commission on
Mines, Minerals and Energy, Department of
† Mental Health, Mental Retardation and Substance
Abuse Services, Department of
- Virginia Mental Health Planning Council

January 10

Asbestos Licensing and Lead Certification, Board for
† Funeral Directors and Embalmers, Board of
† Higher Education for Virginia, State Council on
Medicine, Board of
- Advisory Board on Occupational Therapy
† Recycling Markets Development Council, Virginia
- Plastics Subcommittee
Resources Authority, Virginia

January 11

Agriculture and Consumer Services, Department of
- Virginia Winegrower's Advisory Board
† Community Colleges, State Board for
† Contractors, Board for
Environmental Quality, Department of
- Technical Advisory Committee on Vegetative Waste
Management and Yard Waste Composting
Regulations
† Youth and Family Services, Board of

January 12

Agriculture and Consumer Services, Department of
- Pesticide Control Board
† Community Colleges, State Board for
† Education, Board of
† Forestry, Board of
† Medicine, Board of
† Recycling Markets Development Council
† Youth and Family Services, Board of

January 13

Agriculture and Consumer Services, Department of
- Pesticide Control Board
- Virginia Pork Industry Board
Medicine, Board of
- Advisory Board on Physical Therapy

January 17

† Architects, Professional Engineers, Land Surveyors
and Landscape Architects, Board for
† Corrections, Board of
- Correctional Services Committee

January 18

† Audiology and Speech-Language Pathology, Board of
† Corrections, Board of
- Administration Committee
Deaf and Hard-of-Hearing, Department of
- Telecommunications Relay Services Advisory Board
Environmental Quality, Department of
- Work Group on Detection/Quantitation Levels
- Technical Advisory Committee on Vegetative Waste
Management and Yard Waste Composting

Calendar of Events

Regulations
† Local Debt, State Council on
† Medicine, Board of
† Social Services, State Board of
† Transportation Board, Commonwealth
† Treasury Board

January 19

† Corrections, Board of
- Liaison Committee
Library Board
- Executive Committee
Social Services, State Board of
† Social Work, Board of
† Transportation Board, Commonwealth
Visually Handicapped, Board for the
Voluntary Formulary Board, Virginia

January 20

Library Board
- Automation and Networking Committee
- By-Laws Committee
- General Library Committee
- Legislative and Finance Committee
- Nominating Committee
- Public Library Development Committee
- Publications and Cultural Affairs Committee
† Social Work, Board of

January 22

Accountancy, Board for

January 23

Accountancy, Board for
Alcoholic Beverage Control Board, Virginia

January 24

Accountancy, Board for
† Agricultural Council, Virginia
† Health Services Cost Review Council, Virginia

January 25

Emergency Planning Committee, Local - Roanoke Valley
Environmental Quality, Department of
- Technical Advisory Committee on Vegetative Waste Management and Yard Waste Composting Regulations

January 26

† Medicine, Board of

January 27

Mental Health, Mental Retardation and Substance Abuse Services, Department of
- State Human Rights Committee

January 30

† Cosmetology, Board for

January 31

† Health, Department of
- Food Service Advisory Committee
† Real Estate Appraiser Board

February 1

Mines, Minerals and Energy, Department of
Sewage Handling and Disposal Appeals Review Board

February 2

Transportation Safety Board, Virginia

February 6

Alcoholic Beverage Control Board, Virginia
† Barbers, Board for

February 7

† Hopewell Industrial Safety Council

February 9

† Medicine, Board of

February 10

† Medicine, Board of

February 11

† Medicine, Board of
- Credentials Committee
† Military Institute, Virginia

February 12

† Medicine, Board of

February 13

Mines, Minerals and Energy, Department of

February 14

Resources Authority, Virginia

February 15

Agriculture and Consumer Services, Department of
- Virginia Corn Board
† Local Debt, State Council on
† Treasury Board

February 16

Agriculture and Consumer Services, Department of
- Virginia Corn Board

February 17

† Professional Counselors, Board of

February 22

Alcoholic Beverage Control Board, Virginia

February 25

Visually Handicapped, Department for the
- Vocational Rehabilitation Advisory Council

March 7

† Hopewell Industrial Safety Council
† Real Estate Appraiser Board

Calendar of Events

March 15

† Local Debt, State Council on
† Treasury Board

March 20

† Local Government, Commission on

March 21

† Local Government, Commission on

March 27

† Cosmetology, Board for

PUBLIC HEARINGS

January 5, 1995

Waterworks and Wastewater Works Operators, Board
for

January 10

Funeral Directors and Embalmers, Board of

January 13

Auctioneers Board

February 10

† Health, Board of

February 15

† Health, Board of

March 20

† Local Government, Commission on