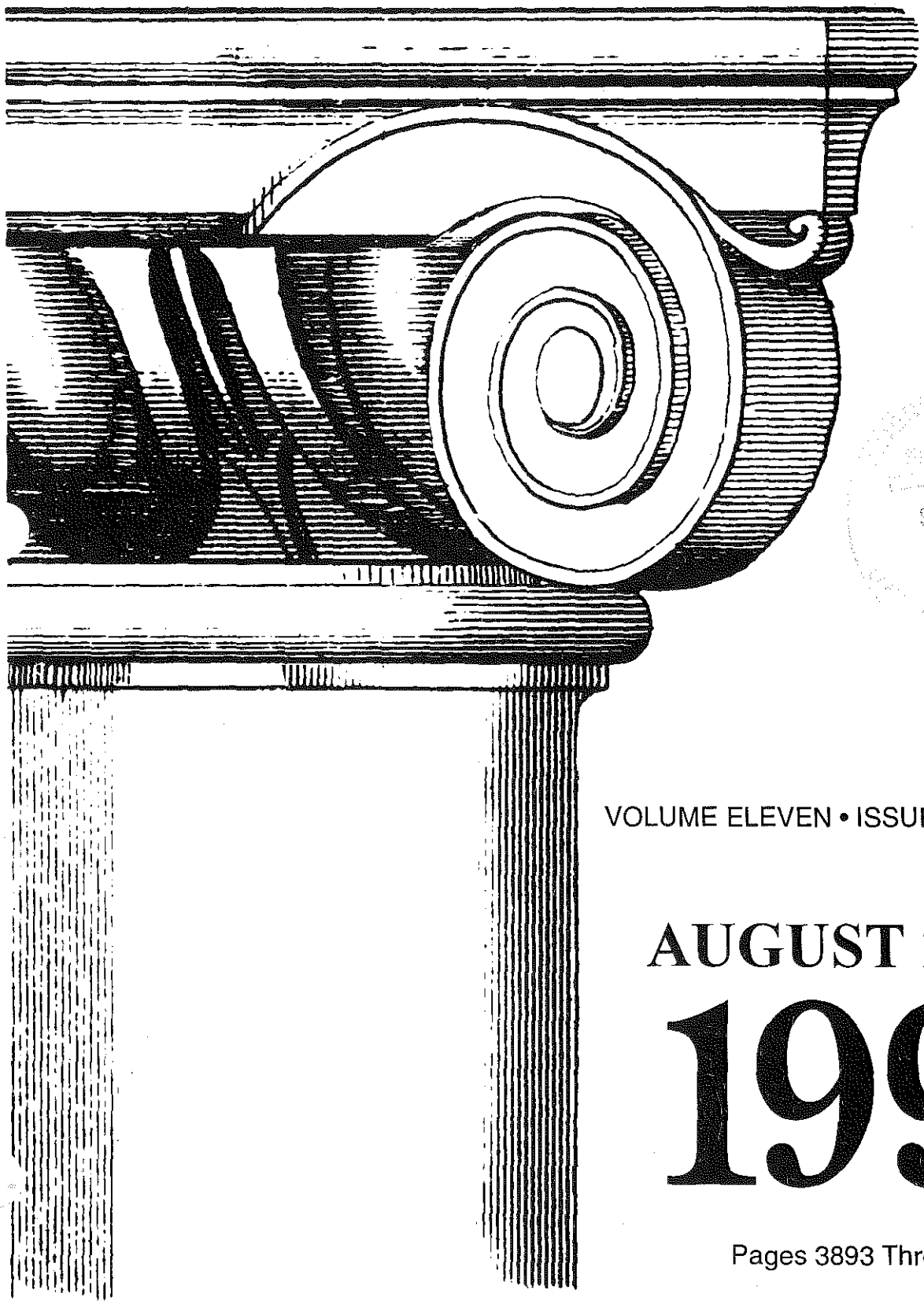
THE VIRGINIA REGISTER

OF REGULATIONS



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THE VIRGINIA REGISTER INFORMATION PAGE

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 (§ 9-6.14:7.1 et seq.) of Chapter 1.1:1 of the Code of Virginia be examined carefully.

CITATION TO THE *VIRGINIA REGISTER*

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

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The Virginia Register of Regulations is published pursuant to Article 7 (§ 9-6.14:22 et seq.) of Chapter 1.1:1 of the Code of Virginia. Individual copies are available for $4 each from the Registrar of Regulations.

PUBLICATION DEADLINES AND SCHEDULES

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Material Submitted By Noon Wednesday	Will Be Published On
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NOTICES OF INTENDED REGULATORY ACTION

Symbol Key
† Indicates entries since last publication of the *Virginia Register*

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

† Notice of Intended Regulatory Action

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 consider amending regulations entitled: **VR 460-03-3.1100. Narrative for the Amount, Duration and Scope of Services and VR 460-02-3.1300. Standards Established and Methods Used to Assure High Quality of Care.** The purpose of the proposed action is to promulgate permanent regulations to supersede the existing emergency regulation providing for durable medical equipment. The agency does not intend to hold a public hearing on the proposed regulation after publication.

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

Public comments may be submitted until September 20, 1995, to Denise Turner, Division of Program Operations, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219.

Contact: Victoria P. Simmons or Roberta J. Jonas, Regulatory Coordinators, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 371-8850 or FAX (804) 371-4981.

VA.R. Doc. No. R95-655; Filed August 2, 1995, 10:20 a.m.

† Notice of Intended Regulatory Action

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 consider amending regulations entitled: **VR 460-03-4.1940:1. Nursing Home Payment System (Legal Fees for NF Appeals).** The purpose of the proposed action is to amend the nursing home payment system to provide that nursing facilities which appeal their cost reimbursement settlement must substantially prevail in their appeal in order to have their legal fees reimbursed by the department. The regulation intends to provide for definition of "substantially prevail on the merits." The agency does not intend to hold a public hearing on the proposed regulation after publication.

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

Public comments may be submitted until September 20, 1995, to Scott Crawford, Division of Financial Services, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219.

Contact: Victoria P. Simmons or Roberta J. Jonas, Regulatory Coordinators, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 371-8850 or FAX (804) 371-4981.

VA.R. Doc. No. R95-657; Filed August 2, 1995, 10:19 a.m.

† Notice of Intended Regulatory Action

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 consider promulgating regulations entitled: **VR 460-04-2.2100. Medical Assistance Eligibility Resulting from Welfare Reform.** The purpose of the proposed action is to reflect the medical assistance transitional benefits mandated in Chapter 450 of the 1995 Acts of Assembly relating to individuals who lose Aid to Families with Dependent Children cash assistance. The agency does not intend to hold a public hearing on the proposed regulation after publication.

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

Public comments may be submitted until September 20, 1995, to Ann Cook or Pat Sykes, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219.

Contact: Victoria P. Simmons or Roberta J. Jonas, Regulatory Coordinators, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 371-8850 or FAX (804) 371-4981.

VA.R. Doc. No. R95-654; Filed August 2, 1995, 10:20 a.m.

† Notice of Intended Regulatory Action

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 consider amending regulations entitled: **VR 460-04-8.14. MEDALLION.** The purpose of the proposed action is to expand mandatory enrollment in the MEDALLION Program to aged, blind, and disabled recipients based on requirements in the 1995 Appropriations Act. The agency does not intend to hold a public hearing on the proposed regulation after publication.

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

Public comments may be submitted until September 20, 1995, to Kathy Thompson, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219.

Contact: Victoria P. Simmons or Roberta J. Jonas, Regulatory Coordinators, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 371-8850 or FAX (804) 371-4981.

VA.R. Doc. No. R95-656; Filed August 2, 1995, 10:19 a.m.

DEPARTMENT OF SOCIAL SERVICES (STATE BOARD OF)

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Social Services intends to consider promulgating regulations entitled: **VR 615-01-57. The Virginia Independence Program** The purpose of the proposed action is to promulgate regulations required by Chapter 450 of the 1995 Acts of Assembly, relating to the Virginia Independence Program. The agency does not intend to hold a public hearing on the proposed regulation after publication.

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

Public comments may be submitted until September 20, 1995.

Contact: David E. Olds, Employment Services Program Manager, Department of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1229 or FAX (804) 692-2209.

VA.R. Doc. No. R95-641; Filed July 25, 1995, 10:12 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Social Services intends to consider repealing regulations entitled: **VR 615-70-1. State Income Tax Intercept for Child Support.** The purpose of the proposed action is to repeal the State Income Tax Intercept for Child Support Regulation (VR 615-70-1), which has been incorporated into, and superseded by § 5.12 of VR 615-70-17, Child Support Enforcement Program Regulations.

The subject matter of the regulation that is sought to be repealed is represented in a comprehensive regulation that was reviewed in accordance with the Administrative Process Act that went into effect on July 15, 1992. Thus, the above-captioned regulation became obsolete and should be removed as regulation of the Virginia Department of Social Services, Division of Child Support Enforcement.

Having multiple regulations that cover the same subject matter remain in effect will undoubtedly lead to confusion and waste for the public that the Commonwealth of Virginia is ordered to serve. Repealing the obsolete regulation that has been covered in a more recent promulgation will reduce much of this waste and confusion. The agency does not intend to hold a public hearing on the proposed repeal of the regulation after publication.

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

Public comments may be submitted until September 6, 1995.

Contact: Penelope B. Pellow, Division of Child Support Enforcement, Policy Unit Manager, Department of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-2400 or FAX (804) 692-2410.

VA.R. Doc. No. R95-637; Filed July 19, 1995, 8:38 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Social Services intends to consider repealing regulations entitled: **VR 615-70-2. Application Fee Schedule.** The purpose of the proposed action is to repeal the Application Fee Schedule (VR 615-70-2), which has been incorporated into, and superseded by § 2.6 of VR 615-70-17, Child Support Enforcement Program Regulations.

The subject matter of the regulation that is sought to be repealed is represented in a comprehensive regulation that was reviewed in accordance with the Administrative Process Act that went into effect on July 15, 1992. Thus, the above-captioned regulation became obsolete and should be removed as regulation of the Virginia Department of Social Services, Division of Child Support Enforcement.

Having multiple regulations that cover the same subject matter remain in effect will undoubtedly lead to confusion and waste for the public that the Commonwealth of Virginia is ordered to serve. Repealing the obsolete regulation that has been covered in a more recent promulgation will reduce much of this waste and confusion. The agency does not intend to hold a public hearing on the proposed repeal of the regulation after publication.

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

Public comments may be submitted until September 6, 1995.

Contact: Penelope B. Pellow, Division of Child Support Enforcement, Policy Unit Manager, Department of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-2400 or FAX (804) 692-2410.

VA.R. Doc. No. R95-635; Filed July 19, 1995, 8:38 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Social Services intends to consider repealing regulations entitled: **VR 615-70-3. Separate Fee Charged for Child Support Enforcement Services.** The purpose of the proposed action is to repeal the Separate Fee Charged for Child Support Enforcement Services Regulation (VR 615-70-3), which has been incorporated into, and superseded by § 2.6 of VR 615-70-17, Child Support Enforcement Program Regulations.

The subject matter of the regulation that is sought to be repealed is represented in a comprehensive regulation that was reviewed in accordance with the Administrative Process Act that went into effect on July 15, 1992. Thus, the above-captioned regulation became obsolete and should be removed as regulation of the Virginia Department of Social Services, Division of Child Support Enforcement.

Having multiple regulations that cover the same subject matter remain in effect will undoubtedly lead to confusion and waste for the public that the Commonwealth of Virginia is ordered to serve. Repealing the obsolete regulation that has

been covered in a more recent promulgation will reduce much of this waste and confusion. The agency does not intend to hold a public hearing on the proposed repeal of the regulation after publication.

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

Public comments may be submitted until September 6, 1995.

Contact: Penelope B. Pellow, Division of Child Support Enforcement, Policy Unit Manager, Department of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-2400 or FAX (804) 692-2410.

VA.R. Doc. No. R95-636; Filed July 19, 1995, 8:38 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Social Services intends to consider repealing regulations entitled: **VR 615-70-4. Policy of the Department of Social Services, Division of Child Support Enforcement.** The purpose of the proposed action is to repeal the Policy of the Department of Social Services, Division of Child Support Enforcement Services Regulation (VR 615-70-4), which has been incorporated into, and superseded by § 4.9 of VR 615-70-17, Child Support Enforcement Program Regulations.

The subject matter of the regulation that is sought to be repealed is represented in a comprehensive regulation that was reviewed in accordance with the Administrative Process Act that went into effect on July 15, 1992. Thus, the above-captioned regulation became obsolete and should be removed as regulation of the Virginia Department of Social Services, Division of Child Support Enforcement.

Having multiple regulations that cover the same subject matter remain in effect will undoubtedly lead to confusion and waste for the public that the Commonwealth of Virginia is ordered to serve. Repealing the obsolete regulation that has been covered in a more recent promulgation will reduce much of this waste and confusion. The agency does not intend to hold a public hearing on the proposed repeal of the regulation after publication.

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

Public comments may be submitted until September 6, 1995.

Contact: Penelope B. Pellow, Division of Child Support Enforcement, Policy Unit Manager, Department of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-2400 or FAX (804) 692-2410.

VA.R. Doc. No. R95-634; Filed July 19, 1995, 8:38 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Social Services intends to consider repealing regulations entitled: **VR 615-70-6. Credit Bureau Reporting.** The purpose of the proposed action is to repeal the Credit Bureau Reporting Regulation (VR 615-70-6), which has been incorporated into, and superseded by § 8.3 of VR 615-70-17, Child Support Enforcement Program Regulations.

The subject matter of the regulation that is sought to be repealed is represented in a comprehensive regulation that was reviewed in accordance with the Administrative Process Act that went into effect on July 15, 1992. Thus, the above-captioned regulation became obsolete and should be removed as regulation of the Virginia Department of Social Services, Division of Child Support Enforcement.

Having multiple regulations that cover the same subject matter remain in effect will undoubtedly lead to confusion and waste for the public that the Commonwealth of Virginia is ordered to serve. Repealing the obsolete regulation that has been covered in a more recent promulgation will reduce much of this waste and confusion. The agency does not intend to hold a public hearing on the proposed repeal of the regulation after publication.

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

Public comments may be submitted until September 6, 1995.

Contact: Penelope B. Pellow, Division of Child Support Enforcement, Policy Unit Manager, Department of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-2400 or FAX (804) 692-2410.

VA.R. Doc. No. R95-633; Filed July 19, 1995, 8:38 a.m.

PUBLIC COMMENT PERIODS - PROPOSED REGULATIONS

PUBLIC COMMENT PERIODS REGARDING STATE AGENCY REGULATIONS

Effective July 1, 1995, publication of notices of public comment periods in a newspaper of general circulation in the state capital is no longer required by the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia). Chapter 717 of the 1995 Acts of Assembly eliminated the newspaper publication requirement from the Administrative Process Act. In *The Virginia Register of Regulations*, the Registrar of Regulations has developed this section entitled "Public Comment Periods - Proposed Regulations" to give notice of public comment periods and public hearings to be held on proposed regulations. The notice will be published once at the same time the proposed regulation is published in the Proposed Regulations section of the *Virginia Register*. The notice will continue to be carried in the Calendar of Events section of the *Virginia Register* until the public comment period and public hearing date have passed.

Notice is given in compliance with § 9-6.14:7.1 of the Code of Virginia that the following public hearings and public comment periods regarding proposed state agency regulations are set to afford the public an opportunity to express their views.

DEPARTMENT OF CONSERVATION AND RECREATION

† September 18, 1995 - 7 p.m. -- Public Hearing
Municipal Center, 441 Market Street, Suffolk, Virginia.

† September 19, 1995 - 7 p.m. -- Public Hearing
County of Roanoke Administration Center, 5204 Bernard Drive, Roanoke, Virginia.

† September 21, 1995 - 7 p.m. -- Public Hearing
Henrico County Government Center, 4301 East Parham Road, Richmond, Virginia.

† October 23, 1995 -- Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Conservation and Recreation intends to adopt regulations entitled: **VR 217-03-00. Nutrient Management Training and Certification Regulations.** This regulation is being promulgated to govern a voluntary program for training and certifying persons preparing nutrient management plans. The plans are prepared to manage land application of fertilizers, sewage sludge, manure, and other nutrient sources for agronomic benefits and in ways which protect water quality. The regulation provides for certification standards, revocation or suspension of certificates, criteria for the development of nutrient management plans, and program fees. The Department of Conservation and Recreation will administer this program as part of the nutrient management program.

The development of a voluntary nutrient management training and certification program was authorized by the 1994 Session of the General Assembly. The program should expand the number of persons in the private and public sector capable of developing nutrient management plans beyond that of the limited number of agency personnel currently involved. Nutrient management is a key strategy to assist in efforts to reduce nitrogen and phosphorus levels in the Chesapeake Bay necessary to protect ecological and economic interests dependent on the Chesapeake Bay. The program should assist the Commonwealth in achieving a 40% reduction in controllable nutrient loads entering the Chesapeake Bay tributaries consistent with the Chesapeake Bay Agreement of 1983, as amended in 1987 and 1992. The program should also protect groundwater and surface waters in the Commonwealth while retaining the agronomic benefits of efficient nutrient use on farms crops and other lands.

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

Contact: E.J. Fanning, Assistant Manager, Nutrient Management Program, Department of Conservation and Recreation, 203 Governor St., Suite 206, Richmond, VA 23219, telephone (804) 371-8095.

DEPARTMENT OF SOCIAL SERVICES (STATE BOARD OF)

Reproposed

† September 20, 1995 -- Public comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Social Services intends to adopt regulations entitled: **VR 615-01-51. Auxiliary Grants Program: Levels of Care and Rate Setting.** The regulation includes the process for adult care residences to use in reporting their costs, the process used in calculating the auxiliary grant rates for the residences, and services to be provided to auxiliary grant recipients.

Statutory Authority: §§ 63.1-25 and 63.1-25.1 of the Code of Virginia.

Contact: Karen Cullen, Program Consultant, Division of Benefit Programs, Department of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1720.

* * * * * * * *

Reproposed

† **September 20, 1995** -- Public comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Social Services intends to adopt regulations entitled: **VR 615-22-02:1 Standards and Regulations for Licensed Adult Care Residences.** The 1993 General Assembly enacted legislation (House Bill 2280) which created two levels of care in licensed homes for adults. This legislation also established the statutory basis for the prohibition of specific medical conditions. In addition, it changed the term "homes for adults" to "adult care residences." This regulation specifies the licensure requirements for adult care residences. Sections addressed within the licensure regulation include personnel and staffing requirements; admission, retention and discharge policies; resident accommodations, care and related services; buildings and grounds; and additional requirements for assisted living facilities (the higher of the two levels of care). The proposed regulation replaces the regulation entitled "Standards and Regulations for Licensed Home for Adults" and has a proposed effective date of February 1, 1996.

Statutory Authority: §§ 63.1-25, 63.1-174 and 63.1-174.001 of the Code of Virginia.

Contact: Judy McGreal, Program Development Supervisor, Department of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1792.

* * * * * * * *

Reproposed

† **September 20, 1995** -- Public comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Social Services intends to adopt regulations entitled: **VR 615-46-02. Assessment and Case Management in Adult Care Residences.** This regulation establishes general standards for assessment and case management for applicants to and residences of adult care residences.

Statutory Authority: §§ 63.1-25 and 63.1-173.3 of the Code of Virginia.

Contact: Terry A. Smith, Manager, Adult Services Program, Department of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1208.

DEPARTMENT OF CONSERVATION AND RECREATION

Title of Regulation: **VR 217-03-00. Nutrient Management Training and Certification Regulations.**

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

Public Hearing Dates:
September 18, 1995 - 7 p.m. (Suffolk)
September 19, 1995 - 7 p.m. (Roanoke)
September 21, 1995 - 7 p.m. (Richmond)
Written comments may be submitted until October 23, 1995.
(See Calendar of Events section for additional information)

Basis: The proposed regulation is based on the provisions of § 10.1-104.2 of the Code of Virginia pertaining to the development of a voluntary nutrient management training and certification program and associated regulations to govern the program.

Purpose: The purpose of this proposed regulation 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. This should help improve the efficient use of nutrients on agricultural and other lands to protect water quality as it impacts human health, economic, and recreational uses.

Substance: The proposed regulation 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.

Issues: 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. Nutrient application to land is agronomically necessary in many cases for the economically sustainable production of crops and for other benefits including maintenance of adequate ground cover and recycling of animal manures and treated sewage sludges. If applied at excessive rates, at improper times, or if misapplied, nutrients can be lost from the root zone in soils and enter ground and surface waters. Excessive nutrient levels in ground and surface waters can cause taste and odor problems and be harmful to human health if ingested. Drinking water containing above the EPA drinking water standard of 10 ppm nitrate-nitrogen is believed to cause methemoglobinemia (blue-baby syndrome) in infants. Excess nutrient runoff into surface waters can result in algae blooms and depletion of dissolved oxygen, thereby stressing or causing death in fish and other aquatic species of commercial, ecological, or recreational significance to the Commonwealth. The intent of the new proposed regulation is to encourage the proper management of nutrients to achieve the benefits of sound nutrient use while decreasing the level of potential nutrient loss from land to ground and surface waters. The department is unaware of disadvantages to the public or the Commonwealth from this regulation.

Impact: There are anticipated impacts on potential nutrient management plan developers who desire training and certification due to the levy of training course and certification fees, time devoted to training, and program compliance. However, due to the voluntary nature of the program, the impacts listed only apply to those individuals who desire to participate in the program. 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, the 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, result in the availability of additional qualified personnel to nutrient management plan users, and reduce the need to employ additional public sector personnel.

Particular Localities of the Commonwealth Affected by the Regulation: This is a uniform statewide program, although much of the incentive and funding for the program has originated with the interstate Chesapeake Bay Agreement and the EPA Chesapeake Bay Program Office.

Cost to the Public for Implementation of the Regulation: The cost to the public when the regulation is implemented will include a training fee of $35 for training sessions conducted by the department and a $100 biennial certification fee.

Cost to the State for Implementation of the Regulation: The cost for implementation by the department is expected to be minimal. A regional pool of approximately 900 examination questions has been developed in cooperation with the State of Maryland and the Commonwealth of Pennsylvania and the department is sharing examination analysis software and hardware with the Erosion and Sediment Control Certification Program also administered by the department. The department has obtained a $50,000 grant from the U.S.E.P.A. Chesapeake Bay Program for FY 95-96 to defray the majority of other program startup costs.

No additional staff resources will be required to develop and administer this program. The department will utilize a portion of the personnel time of one environmental engineer position and 10 field environmental specialist senior positions currently established within the Nutrient Management Program to administer the regulations. In addition to their other duties, the training, administration, and random review of nutrient management plans prepared by certified individuals will occur. If the regulations are not promulgated

to encourage additional private and public sector participation in nutrient management plan development, the agency would need to seek an additional 10 to 15 FTEs to meet our commitments to the nutrient reduction goals established by the Chesapeake Bay Agreement.

Economic Impact Analysis Prepared by the Department of Planning and Budget.

A. Description. These regulations create a voluntary certification program for people who wish to advise farmers (and others) about how to apply fertilizers, manure, sewage sludge and other sources of plant nutrients in ways that minimize nonpoint source nutrient pollution of Virginia waters and of the Chesapeake Bay. Virginia is committed to reducing the flow of these nutrients into the Chesapeake. Much of this nutrient pollution arises as runoff from agricultural lands. At the margin, the cheapest way to reduce this effluent is to induce farmers to use "best management practices" (BMPs) on their land. These BMPs involve site-specific issues of quantity, timing and location in the application of plant nutrients.

Farmers do have some tax incentives to adopt nutrient management plans (NMPs) that specify the BMPs for their operation. If they adopt a nutrient management plan, they qualify for substantial tax savings on farm equipment. However, information about how to minimize nutrient runoff is difficult for farmers to evaluate. In the past, most information about fertilizer application procedures has come from sales agents for the various suppliers. These agents lack the incentives to consider nutrient runoff in making their recommendations. In response, the General Assembly directed the Department of Conservation and Recreation (DCR) to establish a voluntary certification program as a means of ensuring that farmers (and other fertilizer users) have a reliable source of information about BMPs. The program is voluntary in two dimensions. First, people offering fertilizer management advice are not required to be certified and, second, farmers are not required to use certified agents to write their nutrient management plan.

To implement the General Assembly's directive, DCR has proposed regulations that do two things: 1) establish the certification program, and 2) specify the contents of acceptable NMPs. The only question that needs to be addressed in an economic impact analysis of these regulations is whether the voluntary Nutrient Management Training and Certification Regulations are implemented in a way that gives the maximum amount of nutrient reduction for the minimum cost. The question of whether it would be better to hire additional state employees to carry out this function is moot since the General Assembly has directed that this program be implemented. If this program does not work, then the General Assembly would have to revisit the issue at a later time.

B. The certification process. In establishing a certification program, it is important to ask whether the certification will actually lead to better information getting to the farmers. (Whether the information leads to actual reductions in nutrient runoff is beyond the scope of this analysis.) If the cost of certification is too high, then few would seek the certification. But the presence of the certification program could lead to a loss of credibility of those not certified. Thus, farmers could actually end up with less information than before. Fortunately, as the program is structured, this does not appear to be a problem. Most of the start-up costs of the program were funded by grants. The operating costs are expected to be modest and recoverable by a bi-annual certification fee of $100 and fees for training programs offered by the department. Evidence from similar programs in Maryland and Pennsylvania indicate that fees in this range do not serve as a significant deterrent to entry into the certification process.

C. Content requirements. One possible criticism of the NMP content requirements is that they are in the nature of "technology standards." This means that, rather than focusing on results, the content requirements focus on specific methods and procedures that are deemed acceptable. In general, performance standards are preferred to technology standards because the former leaves more room for cost-saving innovation. Although the proposed regulations do indicate some flexibility on the part of DCR concerning the methods used, they clearly direct certified planners toward a specific set of procedures.

The major drawback of performance standards is that, for those standards to be effective, DCR must be able to measure the actual amounts of runoff at each farm. For nonpoint sources of nutrient effluents, this monitoring is very expensive. In choosing technology standards for the NMPs, DCR had to balance the cost of reduced innovation against the gain of reduced monitoring costs. As long as DCR revisits the regulations with some regularity to include innovative management techniques in the NMP standards, the costs of reduced innovation should be minimal. Also, DCR indicates that they communicate frequently with farmers via the trade press to announce improved management techniques.

It does seem cumbersome for DCR to put all of the technical specifications of an NMP in the regulations themselves. The regulations should state the principles for selecting specifications for inclusion, but the technical specifications themselves could be published as a manual or guidance document. This manual would specify the actual analysis methods and application techniques available for inclusion in an acceptable NMP. This would avoid the costly necessity of promulgating a new regulation every time someone develops a new application method, or as the scientific data on runoff evolves.

D. Program evaluation. Another area of concern is DCR's plan for evaluating the effectiveness of this program. The need for these regulations arises because there is evidence that imperfections in the market for information prevent farmers (and others) from achieving reductions in nutrient runoff that may be in their own best interest. It is important that DCR be more specific about how it will assess the impact of the training and certification program. While statistics on numbers of people attending programs or on how many people are sitting and passing the exams may be of some passing interest, they are not measures of the effectiveness of the program. The correct measure is how much additional nutrient reduction in nonpoint nutrient runoff is due to the existence of this program. This is not easy to measure, so it would be useful for DCR to give some attention to how the

program will be evaluated. For example, it may require that they establish a statistical baseline before the program is implemented. Some assessment planning should be done before the program is started.

While these regulations do not involve additional expenditures, careful evaluation is critical for two reasons. First, the Commonwealth is committed to a substantial reduction in nonpoint nutrient runoff. If the Commonwealth is depending heavily on this voluntary program to generate these reductions, and it is ineffective, then actual reductions will be greatly delayed. This could be quite costly. Second, although the costs of the program are not borne directly by the taxpayers, the program does absorb real economic resources. If this program is not at least as effective per dollar spent as the next best alternative, then it should be replaced by that alternative.

E. Accounting for staff resources used. DCR's fiscal impact analysis states that "[n]o additional staff resources will be required to develop and administer this program. DCR will utilize a portion of the personnel time of one environmental engineer position and 10 field environmental specialist senior positions currently established within the Nutrient Management Program to administer the regulations." This is not an appropriate way to measure the staff resources required for this program. Either current staff is not being employed effectively, or DCR must be giving something up in reallocating their time to this program. It is important that DCR report the "opportunity cost" of existing staff time. That is, what would the staff be doing if they weren't administering this program.

F. Specific economic impacts. Because this program is voluntary and very modest in scope, DPB expects that any negative economic impact on businesses, localities, and property values will be insignificant. Those currently in the business of providing nutrient management advice will feel some pressure to earn a certification because, not to do so might put them at a competitive disadvantage relative to those who do earn certification. However, given the incentives that farmers have to develop adequate NMPs, this certification program stands a good chance of improving business in this area by removing some of the uncertainty that farmers now feel about paying for NMP advice. Generally, DPB would expect that those affected by this program would generally agree that it is an improvement over the current situation. Although it is DPB's expectation that any changes in employment would be very small, the net effect would most likely be an increase. According to information provided by DCR, the annual cost of joining the program will be less than $100 in 1995 dollars and will, in any event, be voluntarily incurred.

Agency Response to Economic Impact Analysis: In response to the DPB Economic Impact Assessment of the proposed Nutrient Management Training and Certification Regulations, VR 217-03-00, which was faxed to the Department of Conservation and Recreation on July 31, 1995, the department responds:

1. Chapter 938 of the 1994 Virginia Acts of Assembly amended § 9-6.14:7.1 of the Administrative Process Act, providing "That the provisions of this Act shall take effect January 1, 1995, and shall not apply to any promulgation of regulations initiated prior to January 1, 1995." This amendment exempted both departments from the requirement in subsection G to jointly prepare an economic impact analysis since the Notice of Intended Regulatory Action was published in the Virginia Register of Regulations on November 14, 1994. This technicality was mutually understood and in presumed agreement during the July 7, 1995, meeting between DCR and DPB. However, it was agreed DPB would undertake an economic analysis with DCR assistance.

2. Concerning the issue of certification costs, the department agrees that the bi-annual certification fee of $100 and training fees should not be a significant deterrent to participation in the program considering assessment of demand in the Bay states.

3. Concerning the effect of promulgating "technology standards" versus "performance standards," and the effect on cost-saving innovation, the intent of developing the Virginia Nutrient Management Standards and Criteria, 1995, as a companion document to the proposed narrative regulations was to anticipate and facilitate the consideration and adoption of innovative and alternative methods and changes in numerical recommendations.

4. Concerning how the department will assess the effectiveness of the training and certification program, the department would agree that while compiling statistics on the numbers of persons attending training sessions, or percentage passing certification exams, are not the full measure of program effectiveness, such statistics are an important first step in the achievement of the key goal, i.e., the 40% reduction in NPS nutrient loading by the year 2000. Dissemination of best available technology in certified nutrient management plans that are fully implemented incorporates at least three interim goals, i.e., training and certification of plan writers, drafting acceptable plans, and fully implementing these plans.

The department also agrees on the reduction in nonpoint nutrient runoff as an ultimate measure of effectiveness, but as this analysis already states, runoff or effluent monitoring is expensive, and for the most part is accomplished by other agencies. Cost-effectiveness dictates employing "reasonable assumptions" that if fertilizers, manures and sewage sludge are managed and applied at times of crop demand according to accepted environmentally sound recommendations, that aggregate runoff from a farm is improved at least to the extent that some percentage of excessive nutrients have not been applied, eroded, and thus lost to the aquatic environment or groundwater aquifers.

5. Concerning the allocation of staff resources for developing and administering this program, the department would agree that the certification program will require some reallocation of time on the part of the named positions, which have been effectively utilized to date within the existing program framework. The Training and Certification Program, however, represents an improved framework for the overall Nutrient Management Program which will allow department

personnel to reach more of its clients in all sectors by use and oversight of a public-private partnership. Administration and oversight of the regulatory program will result in fewer nutrient management plans being written by DCR staff, but will increase the availability of certified nutrient management plan writers from all sources--public and private.

6. The department agrees with DPB's positive assessment of specific economic impacts.

Summary:

Nutrient Management Training and Certification Regulations are being promulgated to govern a voluntary program for training and certifying persons preparing nutrient management plans. The plans are prepared to manage land application of fertilizers, sewage sludge, manure, and other nutrient sources for agronomic benefits and in ways which protect water quality. The regulations provide for certification standards, revocation or suspension of certificates, criteria for the development of nutrient management plans, and program fees. The Department of Conservation and Recreation will administer this program as part of the nutrient management program.

The development of a voluntary nutrient management training and certification program was authorized by the 1994 Session of the General Assembly. The program should expand the number of persons in the private and public sector capable of developing nutrient management plans beyond that of the limited number of agency personnel currently involved. Nutrient management is a key strategy to assist in efforts to reduce nitrogen and phosphorus levels in the Chesapeake Bay necessary to protect ecological and economic interests dependent on the Chesapeake Bay. The program should assist the Commonwealth in achieving a 40% reduction in controllable nutrient loads entering the Chesapeake Bay tributaries consistent with the Chesapeake Bay Agreement of 1983 as amended in 1987 and 1992. The program should also protect groundwater and surface waters in the Commonwealth while retaining the agronomic benefits of efficient nutrient use on farm crops and other lands.

VR 217-03-00. Nutrient Management Training and Certification Regulations.

§ 1. Definitions.

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

"Application rate" or "nutrient rate" means the quantity of major nutrients, nitrogen as N, phosphorus as P_2O_5, and potassium as K_2O on a per acre basis to supply crop or plant nutrient needs, and to achieve realistic expected crop yields.

"Banding" or "sideband" means the placement of fertilizer approximately two inches to the side and two inches below the seed.

"Best management practice" means a conservation or pollution control practice that manages soil, nutrient losses, or other potential pollutant sources to minimize pollution of water resources, such as split applications of nitrogen, or use of cereal grain cover crops to trap available nitrogen and reduce soil erosion.

"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 for land application, marketing, or distribution in accordance with VR 355-17-200, Biosolids Use Regulations of the Board of Health.

"Broadcast" means the uniform application of a material over a field.

"Calibration" means the systematic determination of the operational parameters, such as speed and quantity delivered, of application equipment.

"Certified nutrient management planner" or "nutrient management planner" or "planner" means the person or persons who prepare nutrient management plans under these regulations.

"Cool season grass" means grass species of temperate zone origin which exhibit the greatest rates of dry matter production in the day/night temperature range of 60°/50°F to 80°/70°F and includes fescues, bluegrasses, and ryegrasses.

"Commonwealth" means the Commonwealth of Virginia.

"Cover crop" means a crop including, but not limited to, cereal grains, which is planted following the harvest of the preceding crop for the purpose of:

1. Seasonal protection of soil, or

2. Assimilation of residual nitrogen left from a previous crop or from continued mineralization of nitrogen.

"Crop" means cultivated plants or agricultural produce such as grain, silage, forages, oilseeds, vegetables, fruit, nursery stock, or turfgrass.

"Cropland" means land used for the production of grain, oilseeds, silage, industrial crops, and any other category of crop not defined as specialty crop, hay, or pasture.

"Crop nutrient needs" means the primary nutrient requirements of a crop determined as pounds of nitrogen as N, phosphorus as P_2O_5, and potassium as K_2O required for production of an expected crop yield based upon soil analysis results.

"Crop nutrient removal" means the amount of nutrients per acre expected to be taken up by a plant and removed from the site in the harvested portion at the expected yield level, generally expressed as tons per acre or bushels per acre.

"Crop rotation" means a method of maintaining and renewing the fertility of a soil by the successive planting of different crops on the same land.

"Department" means the Department of Conservation and Recreation.

"Double crop" means the production and harvesting of two crops in succession within a consecutive 12-month growing season.

"Dry manure" or "semisolid manure" means manure containing less than 85.5% moisture.

"Environmentally sensitive site" means any field which is particularly susceptible to nutrient loss to groundwater or surface water since it contains, or drains to areas which contain, any of the following features:

1. *Soils with a leaching index above 10;*
2. *Sinkholes;*
3. *Shallow soils less than 41 inches deep likely to be located over fractured or limestone bedrock;*
4. *Subsurface tile drains;*
5. *Floodplains as identified by soils prone to frequent flooding in county soil surveys; or*
6. *Lands with slopes greater than 15%.*

"Expected crop yield" means a realistic crop yield for a given farm field determined by using yield records and soil productivity information.

"Fertilizer" means any organic or inorganic material of natural or synthetic origin which is added to a soil to supply certain nutrients essential to plant growth.

"Field" means a unit of contiguous nonwooded land generally used for crop production that is separated by permanent boundaries, such as fences, permanent waterways, woodlands, croplines not subject to change because of farming practices, and other similar features or as determined by the United States Department of Agriculture Consolidated Farm Service Agency.

"Field identification number" means a number used by a farmer (or the United States Department of Agriculture Consolidated Farm Service Agency) to distinguish or identify the location of a field on a farm.

"Groundwater" means any water beneath the land surface in a water saturated layer of soil or rock.

"Grid soil sampling" means a process whereby farm fields or other areas are subdivided into smaller areas or squares for the purpose of obtaining more detailed soil analysis results.

"Hay" means a grass, legume, or other plants, such as clover or alfalfa, which is cut and dried for feed, bedding, or mulch.

"Hydrologic soil group" means a classification of soils into one of four groups, A, B, C, or D, according to their hydrologic properties, ranging from low runoff potential (high infiltration potential) in group A to high runoff potential (low infiltration potential) in group D.

"Incorporation" means the process whereby materials are mixed into soils and not exposed on the soil surface, such as would be achieved by disking one time to a depth of six inches.

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

"Irrigation" means the application of water to land to assist in crop growth.

"Irrigation scheduling" means the time and amount of irrigation water to be applied to an area for optimum crop growth and to minimize leaching and runoff.

"Leaching" means the movement of soluble material, such as nitrate, in solution through the soil profile by means of percolation.

"Legume" means a plant capable of fixing nitrogen from the atmosphere such as peas, beans, peanuts, clovers, and alfalfas.

"Legume nitrogen credit" means the amount of nitrogen a legume is expected to supply to a succeeding crop.

"Liming" means the application of materials containing the carbonates, oxides, or hydroxides of calcium or magnesium in a condition and in a quantity suitable for neutralizing soil acidity.

"Liquid manure" means manure containing at least 85.5% moisture.

"Livestock" means domesticated animals such as cattle, chickens, turkeys, hogs, and horses raised for home use or for profit.

"Manure" or "animal waste" means animal fecal and urinary excretions and waste by products which may include spilled feed, bedding litter, soil, lactase, process wastewater, and runoff water from animal confinement areas.

"Mehlich I" means a specific soil analysis procedure developed by North Carolina State University to determine levels of certain nutrients in soils.

"Micronutrient" means a nutrient necessary only in extremely small amounts for plant growth.

"Mineralization" means the process when plant unavailable organic forms of nutrients are converted to a plant available inorganic state as a result of soil microbial decomposition.

"NRCS" means the United States Department of Agriculture, Natural Resource Conservation Service (formerly SCS).

"Nutrient" means an element or compound essential as raw materials for plant growth and development such as carbon, nitrogen, and phosphorus.

"Nutrient content" means the percentage of any primary nutrients such as nitrogen as N, phosphorus as P_2O_5, and potassium as K_2O contained in any type or source of plant nutrients.

"Nutrient management plan" or "plan" means a plan to manage the amount, placement, timing, and application of manure, fertilizer, biosolids, or other materials containing plant nutrients in order to reduce pollution and to produce crops.

"Nutrient Management Training and Certification Fund" means the fund established by § 10.1-104.2 of the Code of Virginia to support the department's Nutrient Management Training and Certification Program.

"Organic nutrient source" or "organic source" means manure, biosolids, sludge, green manure, compost, or other plant or animal residues which contain plant nutrients.

"Organic residuals" means nutrients released over time from manure, biosolids, industrial wastes, legumes, or other organic sources of nutrients.

"Pasture" means land which supports the grazing of animals for forages.

"Person" means an individual, corporation, partnership, association, a governmental body and its subordinate units, a municipal corporation or any other legal entity.

"Plant available nutrients" means the portion of nutrients contained in nutrient sources which is expected to be available for potential use by plants during the growing season or the crop rotation.

"Pre-sidedress nitrogen test (PSNT)" means a procedure used to help determine soil nitrogen level during a crop growing season.

"Primary nutrients" means nitrogen as N, phosphorus as P_2O_5, and potassium as K_2O.

"Residual nutrients" means the level of nitrogen, phosphorus, and potassium remaining or available in the soil from previously applied nutrient sources, or unharvested plants or plant parts, or baseline nutrient levels in the soil.

"Runoff" means that part of precipitation, snow melt, or irrigation water that runs off the land into streams or other surface water which can carry pollutants from the land.

"Secondary nutrient" means calcium, magnesium, or sulfur.

"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.

"Slope" means the degree of deviation of a surface from horizontal, measured as a percentage, as a numerical ratio, or in degrees.

"Sidedress" means the placement of fertilizer beside or between the rows of a crop after crop emergence.

"Sinkhole" means a depression in the earth's surface caused by dissolving of underlying limestone, salt, or gypsum having drainage patterns through underground channels.

"Slowly available nitrogen" means nitrogen sources that have restricted availability involving compounds which dissolve slowly, materials that must be microbially decomposed, or soluble compounds coated with substances highly impermeable to water such as urea formaldehyde based water insoluble nitrogen, sulfur coated urea, natural organics.

"Soil erosion" or "erosion" means the wearing away of the land surface by water, wind, or waves.

"Soil management group" means a grouping of soils based on their similarity in profile characteristics which affect crop production and require specific soil and crop management practices.

"Soil nitrate leaching index" means the potential for a given soil to be subject to nitrate leaching below the root zone.

"Soil pH level" means the negative logarithm of the hydrogen-ion activity of a soil which measures the relative acidity or alkalinity of the soil. The pH level affects the availability and plant utilization of nutrients.

"Soil productivity group" means a grouping of soils based upon expected yield levels for a given crop type.

"Soil series" means a classification of a specific soil type by name based on the chemical and physical properties of the soil.

"Soil survey" means a published or unpublished document developed by a governmental entity which includes detailed descriptions and classifications of soils, mapping of various soil series, and the interpretation of soils according to their adaptability for various crops and trees.

"Specialty crop" means vegetables, tree crops, perennial vine crops, ornamentals, horticultural crops, and other similar crops.

"Split application" means utilizing a sequence of two or more nutrient applications, separated by approximately three weeks or more, to a single crop in order to improve nutrient uptake efficiency.

"Surface water" means all water whose surface is exposed to the atmosphere.

"Tillering" is the formation of lateral shoots from the axillary buds of small grains and grasses.

"Tissue test" means an analysis of crop tissue for the percentage of nitrogen at key growth stages, and used as an intensive nutrient management technique with small grain crops.

"Topdress" means broadcast applications of fertilizer on crops such as small grains or forage after crop emergence has occurred.

"Turfgrass" means selected grass species planted or sodded and managed for such uses as home lawns, golf courses, office parks and rights-of-way.

"Volatilization" means a process by which nitrogen is lost to the atmosphere as ammonia gas.

"Warm season grass" means a grass species of tropical origin that exhibits the highest rate of dry matter production in the day/night temperature range of 90°/79°F at a minimum to a maximum of 97°/88°F. Warm season grasses include zoysia and bermuda grasses.

"Water insoluble nitrogen" or "WIN" means a urea formaldehyde based slowly available nitrogen listed on fertilizer bags and reported as a percentage.

"Watershed" means a drainage area or basin in which all land and water areas drain or flow toward a central collector such as a stream, river, or lake at a lower elevation.

"Watershed code" means the letter and number used by the department to identify a watershed or hydrologic unit area.

"Zadoks' growth stage" means the numerical scale ranging from 0-93 which assigns values to small grain growth stages, e.g. Growth Stage 30 is just prior to the stem elongation phase in wheat growth.

§ 2. Purpose.

A. These regulations govern the department's voluntary Nutrient Management Training and Certification Program for individuals who prepare nutrient management plans.

B. A nutrient management plan is prepared to indicate how primary nutrients are to be managed on farm fields and other land for crop production and in ways which protect groundwater and surface water from excessive nutrient enrichment. Plans contain operating procedures based on expected crop yield, existing nutrient levels in the soil, organic residuals, optimum timing and placement of nutrients, environmental resource protection, and agronomic practices such as liming, tillage, and crop rotation. The department shall certify the competence of individuals to prepare these plans and provide criteria relating to the development of nutrient management plans.

§ 3. Certificates of competence.

A. These regulations apply to any individual seeking a certificate of competence as described in § 10.1-104.2 of the Code of Virginia.

B. Certificates of competence shall be issued by the department to certified nutrient management planners. The department may issue distinct classifications of certification based on areas of specialty, including agriculture and urban agronomic practices.

§ 4. Eligibility requirements.

A. Certification may be obtained by satisfying all of the following requirements for certification:

1. Satisfactorily completing and submitting to the department an application in the form required by the department, including a statement of any felony convictions. Such application shall be submitted to the department at least 30 days before the approved examination date set by the department. The application shall request information relating to the person's education, work experience, knowledge of nutrient management, and willingness to abide by the requirements of these regulations;

2. Supplying proof of meeting one of the following:

a. A copy of a college transcript indicating completion of a college degree with a major in an agriculturally related area, and one year of practical experience related to nutrient management planning acceptable to the department, or

b. A combination of education to include nutrient management related educational courses or training and a minimum of three years of practical experience related to nutrient management acceptable to the department;

3. Obtaining a passing score on each of the essential components of the nutrient management certification examination administered by the department; and

4. Submitting a $100 certification fee by check or money order to the department.

B. Certificates shall be valid for two years and will expire on the last day of the expiration month. Certified nutrient management planners or applicants shall notify the department of any change in mailing address within 30 days of such change in address.

C. Individuals certified as nutrient management consultants by the State of Maryland or certified as nutrient management specialists by the Commonwealth of Pennsylvania will be eligible for certification in Virginia by complying with all requirements of these regulations except for subdivision A 2 of this section. These individuals may also substitute, for the requirements in § 6 C, the attainment of a passing score on a Virginia specific examination component which shall include at a minimum the elements listed in § 6 C 9 and C 10. The department, upon review, may accept or approve nutrient management certification programs of other states as satisfying partial requirements for certification.

§ 5. Fees.

A. Fees shall be collected for certification and recertification to defray the administrative cost for the certification program.

B. A fee may be charged to supply training materials and present education and training programs, including continuing education, which support the certification program.

C. Fees are nonrefundable and shall not be prorated.

D. The certification fee of $100 for the initial certification period shall be due with the application for certification. If the applicant is unsuccessful in achieving a passing score on the examination, the applicant may retake the examination at the next scheduled time. Applicants may retake the examination one time with no additional charge by resubmitting the application for certification.

F. All fees collected by the department shall be deposited in the state treasury Nutrient Management Training and Certification Fund and shall be used exclusively for the operation of the Nutrient Management Training and Certification Program.

§ 6. Examination.

A. The department shall administer nutrient management certification examinations at least once per year. The examinations shall require a demonstration of the ability to prepare a nutrient management plan. The department may limit the number of applicants taking the examination based upon available examination space.

B. Applicants for certification shall achieve a passing score on each of the essential components of the nutrient management certification examination to become eligible for certification.

C. The examinations for persons involved in agricultural nutrient management shall address the elements listed below. To address nutrient management on certain other land uses, for example residential lawns, office parks, and golf courses, specialty specific examinations may be added to or substituted by the department for the elements below.

1. General understanding of overall nutrient management concepts such as nutrient cycling on farms, the purpose of nutrient management planning, economic aspects of nutrient use, and components of a nutrient management plan;

2. Basic soil science concepts such as soil physical and chemical properties including texture, structure, organic matter, and horizon development, and how such characteristics influence crop productivity and adaptation, water runoff, and infiltration;

3. Environmental management concepts such as the water cycle, nutrient loss mechanisms, environmental effects of nutrients in waters including Chesapeake Bay, identification of high risk sites relating to nutrient use and appropriate nutrient management practices to reduce nutrient losses;

4. Nutrient sampling, testing, and analysis such as basic sampling procedures, relationship of soil test level with likelihood of crop response, soil nitrate testing, manure and biosolids sampling and interpretation, and determining nitrogen supplied by legumes;

5. Basic soil fertility concepts such as relationship of soil pH to nutrient availability and toxicity, essential elements for crop growth, limiting factors to crop production, cation exchange capacity and related concepts, nutrient cycles, and forms of nutrients in soils;

6. Fertilizer management concepts such as types of fertilizers, nutrient analysis of common materials and grades, basic calculations and blending, calibration of equipment, and application methods;

7. Manure management concepts such as nutrient content and volume produced, determination of plant available nutrients, selecting sites for manure application, proper timing and placement, coordination of fertilizers with manure, application methods and calibration;

8. Biosolids management concepts such as determination of plant available nutrients, nutrient content, forms of nutrients, types of sludges, coordination with fertilizer applications, and application methods;

9. Nutrient management training and certification regulatory requirements, and requirements of other nutrient management related laws, regulations, and incentive programs; and

10. Development of multiple components of nutrient management plans and completion of calculations comparable to development of nutrient management plans such as, but not limited to, determination of specific soil types in fields, determination of specific nutrient requirements based on soil productivity and soil analysis results, evaluation of field limitations based on environmental hazards or concerns, and interpretation of manure analysis results.

D. An individual who is unable to take an examination at the scheduled time shall notify the department at least five days prior to the date and time of the examination; such individual will be rescheduled for the next examination. The department may consider accepting notice of less than five days due to individual hardship situations on a case-by-case basis. Failure to notify the department may require the individual to submit a new application and payment of fees in accordance with § 4.

E. The department shall establish acceptable passing scores for the examinations based on the department's determination of the level of examination performance required to show minimal acceptable competence.

F. All applicants shall be notified of results in writing within 60 days of the completion of the examinations.

§ 7. Training.

A. The department shall provide a training session on the mechanics of nutrient management plan development prior to scheduled examinations.

B. The department may provide a training course on concepts supporting and relating to nutrient management which may include: basic soil science; soil fertility; environmental management; fertilizer, manure, and biosolids management; and other relevant topics.

§ 8. Certificate renewal.

The department will not renew a certificate if a proceeding to deny certification under § 11 has begun, or if the department has found that the applicant violated any requirements of these regulations. A certificate is issued for two years and may be renewed on or before the expiration of a certificate by complying with all of the following requirements:

1. Submittal of a renewal application on the form the department requires;

2. Payment of a $100 renewal fee to the department;

3. Submittal of proof of satisfactory completion of at least four hours of continuing education pre-approved by the department within the past two years. Requests for pre-approval of continuing education courses must be received at least 60 days prior to the expected course date or dates and must include a detailed syllabus indicating time to be spent on each topic area covered. Continuing education hours must be in subject matter consistent with § 6 C. Department personnel may attend continuing education sessions to verify that the requirements are met. Proof of attendance must be verified by the course provider. The department may accept continuing education units obtained in Maryland and Pennsylvania if such continuing education units are specifically for the purpose of recertification in the state nutrient management certification program; and

4. Completion of at least one nutrient management plan or completion of four hours of continuing education pre-approved by the department within the past two years in addition to the requirements of subdivision 3 of this section.

§ 9. Expiration of a certificate.

A. A certificate shall be deemed expired the day after the expiration date on the certificate if any of the requirements of § 8 are not met.

B. Following the expiration of a certificate, reinstatement may be accomplished only by reapplication and compliance with all requirements of § 4 A including the examination requirements.

§ 10. Recordkeeping and reporting requirements.

A. Certified nutrient management planner reporting requirements. A person who holds a certificate under these regulations shall keep records and file with the department by September 30 of each year an annual activity report on a form supplied by the department covering the previous year (July 1 through June 30). The annual activity report shall contain the following information:

1. Name and certificate number of the certified nutrient management planner;

2. Any change of mailing address during the previous year;

3. Number of nutrient management plans completed;

4. Acreage covered by plans and planned acreage by county and state watershed codes;

5. Breakdown of planned acreage by cropland, hay, pasture, and specialty crops by county and watershed code; and

6. Other information indicating number of practices facilitated by the planner such as manure testing and use of the PSNT.

B. Certified nutrient management planner recordkeeping requirements. The department may periodically inspect nutrient management plans prepared by certified persons and required records for the purpose of review for compliance with §§ 14 and 15. A certified nutrient management planner shall maintain the following plan records for a period of not less than three years from the date the plan was prepared:

1. A complete copy of each nutrient management plan prepared and shall make such plans available for inspection by department personnel upon request within two weeks of receiving such request;

2. Records for each plan with all of the following information if the information is not already contained in the plan:

a. Soil analysis for each field, or field grid if grid soil sampling is used, dated not more than three years prior to the date the nutrient management plan was completed to include information on soil fertility levels for phosphorus and potassium, and pH level;

b. Copies of soil survey maps or a soil survey book containing maps for each field unless a soil survey has not been published for the county;

c. Yield records for each field and calculations used to determine the planning yield if different from soil productivity based yields;

d. Type and number of livestock, if any, as well as a description of the livestock to include average weight;

e. Calculations or records indicating annual quantity of manure produced or expected to be produced; and

f. Organic nutrient source analysis, if applicable, to include information on percentage of moisture, total nitrogen or total Kjeldahl nitrogen, total phosphorus, and total potassium.

§ 11. Compliance with regulations and disciplinary action.

If the department finds that a certified person or an applicant for certification violated any requirements of these regulations, including the circumstances listed below, the department may deny, suspend or revoke certification, following the informal fact-finding procedures of the Virginia Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia).

1. Providing misleading, false, or fraudulent information in applying for a certificate;

2. Providing the department with any misleading, false, or fraudulent report;

3. Offering or preparing a nutrient management plan claimed to be prepared by a person certified as a nutrient management planner in Virginia as provided by these regulations without a certificate;

4. Offering or preparing a nutrient management plan that does not comply with the requirements of these regulations;

5. Failing to promptly provide any report or to allow the department access to inspect any records required to be kept by these regulations;

6. Conviction of a felony related in any way to the responsibilities of a certified nutrient management planner.

§ 12. Advisory committee.

The department may establish a nutrient management training and certification advisory committee. Advisors shall serve for a term of two years. Members shall be from the agricultural community, academia, industry, the environmental community, and appropriate government units.

§ 13. Duties of other state agencies.

The provisions of these regulations shall not limit the powers and duties of other state agencies.

§ 14. Nutrient management plan content.

A. A certified nutrient management planner shall prepare nutrient management plans which contain the information in subsections B through G of this section. For nutrient management plans covering nonagricultural, specialty land uses, for example residential lawns, office parks, and golf courses, the department may specify additional plan elements which are critical to the management of nutrients for a particular activity, and may eliminate requirements not pertinent to nonagricultural land uses.

B. Plan identification. Each plan shall be identified by a single cover sheet indicating:

1. Farmer/operator name and address;

2. Name and certificate number of certified nutrient management planner;

3. County and watershed code of land under the nutrient management plan;

4. Total acreage under the plan with double cropped acreage accounted for only once;

5. Acreage of cropland, hay, pasture, and specialty crops included in the plan for the first year of the plan;

6. Date the plan was prepared or revised; and

7. Type and approximate number of livestock, if applicable.

C. Map or aerial photograph.

1. Each plan shall contain a map or aerial photograph to identify:

a. The farm location and boundaries;

b. Individual field boundaries; and

c. Field numbers and acreages.

2. The map or aerial photograph shall be legible, with the features in subdivision 1 of this subsection recognizable. A farm sketch or soil survey map may be used when a map or aerial photograph is not available, if the features described in subdivision 1 of this subsection are recognizable.

D. Summary of nutrient management plan recommendations. Each plan shall contain one or more summary sheets that list the following information for each field:

1. Name of the farmer/operator;

2. Field identification numbers to include the United States Department of Agriculture Consolidated Farm Service Agency tract and field numbers;

3. Field acreages;

4. Expected crop or crop rotation;

5. Crop nutrient needs per acre based on soil analysis results and soil productivity;

6. Legume nitrogen credits per acre;

7. Available nutrients in soil from previous crop and mineralization of organic residuals;

8. Recommended organic nutrient source application rates in tons per acre or 1,000 gallons per acre; plant available nitrogen as N, phosphorus as P_2O_5, and potassium as K_2O per acre; and spreading schedule to include approximate months of application;

9. Expected days for incorporation of organic nutrient sources into the soil if organic nutrient sources will be used;

10. Commercial fertilizer rates and timing of applications, including split applications of nitrogen and the possible use of soil nitrogen test results on a field before sidedressing with nitrogen.

E. Individual fields may be grouped together if similar soil productivity levels, soil fertility levels, and environmentally sensitive site features exist pertaining to subsection D of this section.

F. Each plan shall also contain the following information in summary or narrative form:

1. Identification and management of environmentally sensitive sites;

2. Quantities of manure produced on the farm, available manure storage capacity, and manure analysis;

3. Total manure used as crop nutrients, if any, including manure from both on farm and off farm sources based on plan recommendations and total land requirements for manure utilization;

4. Quantity of unused manure, if applicable, and recommendations on appropriate use options;

5. Liming recommendations if soil pH is below the optimal range;

6. Recommendations or fact sheets to ensure efficient application of fertilizers and organic nutrient sources and other best management practices to reduce the potential for the degradation of surface and groundwater quality, which may include but are not limited to:

a. Equipment calibration;

b. Application timing and method;

c. Crop rotation and agronomic practices;

d. Soil nitrate testing; and

e. Cover crop management;

7. Information on maintaining and updating a nutrient management plan. General comments about plan maintenance shall include:

a. The length of time the plan is effective, not to exceed three years from the date the plan is developed; and

b. Identification of circumstances or changes in the farm operation such as an increase in animal numbers that would require the plan to be updated prior to the time specified in subdivision 7 a of this subsection.

8. Expected crop yields for each field for the planned crop rotation;

9. Other notes as needed pertaining to nutrient application, tillage, and other special conditions.

G. The nutrient management planner should incorporate additional plan requirements as appropriate if required by other specific regulatory or incentive programs which apply to a specific operator.

§ 15. Required nutrient management plan procedures.

A. Nutrient application.

1. A certified nutrient management planner shall include, in each plan, nutrient application practices for each field in the plan. The nutrient application rates shall be calculated for nitrogen (N), phosphate (P_2O_5), and potash (K_2O). Individual field recommendations shall be made after considering nutrients contained in fertilizers, manure, biosolids, legumes in the crop rotation, crop residues, residual nutrients, and all other sources of nutrients. Individual fields may be grouped together if similar soil productivity levels, soil fertility levels, and environmentally sensitive site features exist.

2. Nutrient application rates.

a. Determination of crop nutrient needs shall be consistent with tables and procedures contained in Virginia Nutrient Management Standards and Criteria, 1995, and the Commercial Vegetable Production Recommendations, 1995 (Virginia Cooperative Extension Publication 456-420), and shall be based on soil test results for P_2O_5 and K_2O.

b. Nitrogen applications rates in nutrient management plans shall not exceed crop nutrient needs in subdivision 2 a of this subsection and phosphorus application rates should be managed to reduce adverse water quality impacts. Whenever possible, phosphorus applications from organic nutrient sources should not exceed crop needs based on a soil test over the duration of the crop rotation. If this is not possible, preference should be given to routing phosphorus in organic nutrient sources to fields having the lowest phosphorus soil analysis, fields to be rotated into crops such as alfalfa hay, or fields with predominately A and B slopes as identified in a soil survey.

c. The development and implementation of a comprehensive soil conservation plan that meets the criteria for a conservation system contained in the United States Department of Agriculture NRCS Field Office Technical Guide shall be recommended by a nutrient management planner on sites designated as highly erodible land (HEL) by the NRCS where a soil analysis indicates a very high phosphorus level (55 parts per million or above using Mehlich I extraction procedures or other methods correlated to Mehlich I) and phosphorus applications from organic sources will exceed crop uptake. If such sites are established pastures, the certified nutrient management planner shall recommend that pasture grasses or legumes be maintained at no less than a three-inch height in order to reduce runoff potential.

d. Recommended application rates for potassium, secondary nutrients, and micronutrients should be at agronomically or economically justifiable levels for expected crop production.

e. Expected crop yield shall be determined from crop yield records or soil productivity on a given field. The calculation of expected crop yield shall:

(1) Be an average of the three highest yielding years taken from the last five years the particular crop was grown in the specific field, or

(2) Be based on and consistent with soil productivity information contained in Virginia Nutrient Management Standards and Criteria, 1995.

f. Soil analysis results for each field shall be determined by using standard soil sampling and analysis methods according to Agronomy Monograph #9, American Society of Agronomy utilizing the Mehlich I extraction procedure for phosphorus or other methods correlated to Mehlich I and utilizing correlation procedures contained in Virginia Nutrient Management Standards and Criteria, 1995. Soil analysis results shall be dated no more than three years prior to the date of the nutrient management plan. A single composite soil sample should represent an area up to approximately 20 acres. Fields such as those common to strip cropping may be combined when soils, previous cropping history, and soil fertility are similar. Representative soil samples shall be obtained from the soil surface to a depth of two to four inches for fields which are not tilled, and to a depth of six to eight inches for fields which are tilled or have been tilled within the past three years. Soil sampling of fields based on grids of subfield areas may be utilized.

g. The most recent organic nutrient source analysis results or an average of past nutrient analysis results should be used to determine the nutrient content of organic nutrient sources. For plans on new animal waste facilities, average values published in Virginia Nutrient Management Standards and Criteria, 1995,

should be utilized unless proposed manure storage and treatment conditions warrant the use of alternative data. Plant available nutrient content shall be determined using the mineralization rates and availability coefficients found in Virginia Nutrient Management Standards and Criteria, 1995, for different forms and sources of organic nutrients. Mineralization of organic nutrients from previous applications shall be accounted for in the plan.

h. The expected nitrogen contributions from legumes shall be credited when determining nutrient application rates at levels listed in Virginia Nutrient Management Standards and Criteria, 1995.

3. Soil pH influences nutrient availability and should be adjusted to the level suited for the crop.

4. Nutrient application timing.

a. Timing recommendations for nutrient applications shall be as close to plant nutrient uptake periods as possible. To reduce the potential for nutrient leaching or runoff, a certified nutrient management planner shall recommend planting an agronomically feasible crop within 30 days of the planned nutrient application if no actively growing crop is in place. For organic nutrient sources, planned applications may be recommended between December 21 and March 16, if necessary, if a crop will be planted during the normal spring planting season and sites have low surface runoff potential due to slope or crop residue or if management practices such as injection are recommended to reduce the potential for surface runoff of organic nutrient sources. A certified nutrient management planner shall utilize procedures contained in Virginia Nutrient Management Standards and Criteria, 1995, to assist in determining the timing of nutrient applications.

b. The nutrient management planner shall recommend split application of inorganic nitrogen fertilizers as starter or broadcast and sidedressing or top dressing in row crops and small grains consistent with procedures contained in Virginia Nutrient Management Standards and Criteria, 1995, on environmentally sensitive sites. Split applications of inorganic nitrogen fertilizers and irrigation scheduling shall be recommended for crops to receive irrigation. The use of a pre-sidedress nitrogen test (PSNT) can help to determine additional nitrogen needs during the growing period.

c. Nutrient applications on frozen or snow covered grounds should be avoided. If an emergency situation such as storage system freeze-up necessitates the application of organic nutrient sources, select fields which have slopes of less than 5.0% and which are planted in cover crops.

5. Application method for nutrients.

a. The application of nitrogen shall be managed to minimize runoff, leaching and volatilization losses.

b. Applications of liquid manures or sludges utilizing irrigation shall not be recommended to be applied at rates above those contained in Virginia Nutrient Management Standards and Criteria, 1995.

c. Plans shall not recommend liquid manure or sludge application rates utilizing nonirrigation liquid spreading equipment which exceed 14,000 gallons per acre (approximately one-half (0.5) inch) per application. The amount of liquid manure or sludge application in plans will not exceed the hydraulic loading capacity of the soil at the time of each application. If a subsequent pass across a field is necessary to achieve the desired application rate, the plan will allow for sufficient drying time.

d. Where possible, the planner should recommend that biosolids and manures be incorporated or injected in the crop root zone. Lime stabilized biosolids should not be injected due to the creation of a localized band of high soil pH unless subsequent practices are utilized, such as disking, in order to adequately mix the soil.

e. The planner shall recommend buffer zones around wells, springs, surface waters, sinkholes, and rock outcrops where manure or biosolids should not be applied. Such buffer zones recommended shall be consistent with criteria contained in Nutrient Management Standards and Criteria, 1995.

B. Manure production and utilization.

1. The planner shall estimate the annual manure quantity produced on each farm utilizing tables and forms contained in Virginia Nutrient Management Standards and Criteria, 1995, or from actual farm records of manure pumped or hauled during a representative 12-month period.

2. The nutrient management plan shall state the total amount of manure produced and the amount that can be used on the farm, utilizing the information and methods provided in the Virginia Nutrient Management Standards and Criteria, 1995. The plan shall discuss any excess manure and shall provide recommendations concerning options for the proper use of such excess manure.

C. Plans shall identify and address the protection from nutrient pollution of environmentally sensitive sites.

D. Plan maintenance and revisions.

1. A site-specific nutrient management plan developed in accordance with all requirements of these regulations, including a specified crop rotation system, shall provide information on soil fertility and seasonal application of required nutrients for one to three years of crop production.

2. The plan shall indicate a need for modification if cropping systems, rotations, fields, animal numbers, animal type, or management are changed, added or removed. The planner shall state in the plan that such plan will be invalid if available land area for the utilization of manure decreases below the level necessary to utilize

manure in the plan, or if changes in animal numbers or type affect land area necessary to utilize manure.

3. Adjustments to manure production and application should be made if there are increases in animal numbers or changes in how animal waste is stored or applied, or when there are changes in nutrient content of manure resulting from changing feed ration, animal types, or new sampling and analysis for nutrient content and application rate calculations.

4. Soil analysis shall be recommended for each field at least once every three years to determine the soil fertility and pH, and to update the nutrient management plan.

5. Manure analysis shall be recommended before field application until a baseline nutrient content is established for the specific manure type on the corresponding farm operation. After a baseline nutrient content is established, a manure analysis shall be recommended at least once every three years for dry or semisolid manures, and at least once every year for liquid manures.

6. Modified top dressing or sidedressing application rates of nitrogen may be recommended if a pre-sidedress nitrogen test administered during the growing season indicates different levels of nitrogen than planning time calculations.

7. The planner should notify the farm operator if their operation is required to have a nutrient management plan by an established Virginia regulatory program.

Documents Incorporated by Reference

(VR 217-03-00)

Virginia Nutrient Management Standards and Criteria, Department of Conservation and Recreation, Division of Soil and Water Conservation, 1995.

Virginia Commercial Vegetable Production Recommendations for 1995, Virginia Cooperative Extension Service, Publication No. 456-420.

NRCS Field Office Technical Guide, United States Department of Agriculture.

Agronomy Monograph #9, American Society of Agronomy.

VA.R. Doc. No. R95-660; Filed August 2, 1995, 12:01 p.m.

DEPARTMENT OF SOCIAL SERVICES (STATE BOARD OF)

REPROPOSED

EDITOR'S NOTICE: The State Board of Social Services is soliciting additional public comment for 30 days on VR 615-01-51, Auxiliary Grants Program: Levels of Care and Rate Setting. The initial 60-day public comment period was held from December 13, 1993, through February 11, 1994. In response to public comment, several revisions were made to the regulations. Also, Chapter 649 of the 1995 Acts of Assembly was enacted concerning adult care residences and revisions have been made to address these changes. The proposed regulation was previously published in 10:6 VA.R. 1443-1447 December 13, 1993.

Title of Regulation: **VR 615-01-51. Auxiliary Grants Program: Levels of Care and Rate Setting.**

Statutory Authority: §§ 63.1-25 and 63.1-25.1 of the Code of Virginia.

Public Hearing Date: N/A -- Public comments may be submitted until September 20, 1995.
(See Calendar of Events section for additional information)

Basis: Section 63.1-25.1 of the Code of Virginia was amended by the General Assembly in 1991 to require that the State Board of Social Services promulgate regulations for the administration of the Auxiliary Grants Program. This section of the Code of Virginia was further amended in 1993 which directs the State Board to promulgate regulations requiring assessment by a case manager as a condition of an individual's eligibility for an Auxiliary Grants Program payment.

Purpose: The purpose of this regulation is to establish standards for the administration of the Auxiliary Grants Program which include requirements for the department to use in establishing auxiliary grant rates for adult care residences, define services to be provided by adult care residences to Auxiliary Grants Program recipients, and requirements for evaluation of recipients by case managers to determine their need for residential living care or assisted living care.

Substance: This regulation includes requirements which address the process for adult care residences to use in reporting their costs, the process used in calculating the auxiliary grant rates for the residences, and services to be provided to auxiliary grants recipients. The regulations also include requirements for evaluation of auxiliary grants applicants and recipients by case managers to determine the level of care needed in adult care residences.

Issues: This regulation will (i) ensure timely and accurate information is submitted to the department for its use in evaluating the cost of operating an adult care residence and determining the adequacy of the state's maximum auxiliary grant rate for adult care residences, (ii) ensure that the rate established for the adult care residence will purchase specific services for the recipient of an Auxiliary Grants Program payment, and (iii) ensure that the recipient's needs can be met by the adult care residence before payment from the Auxiliary Grants Program is made.

There would be no disadvantage to either the public or state if this regulation is implemented.

Impact: This regulation will affect an estimated 7,300 Auxiliary Grants Program recipients in FY 96 and 7,600 in FY 97. These recipients reside in approximately 365 adult care residences. The regulation will have no fiscal impact on the department or the public. It will impact the adult care residences to the extent that their costs of providing the specified services exceed the maximum auxiliary grants rate.

This regulation does not impact disproportionately upon any locality.

Preface:

The Virginia Board of Social Services wants it noted that its voting out for Administrative Process Act publication the regulations on adult care residences on July 19, 1995, is not meant to indicate board approval and endorsement of the regulations in their entirety. A comprehensive cost impact will be required before board action. Following the 30-day comment period, the board intends to review the comments submitted and the information on the costs of the implementation of the adult care residences regulations, then make whatever changes needed and take whatever action it determines appropriate.

Summary:

This regulation sets forth requirements for the administration of the Auxiliary Grants Program which include the process the Virginia Department of Social Services is to use in establishing auxiliary grant rates for adult care residences, the services to be included in that rate, and the requirement for an individual's evaluation by a case manager as a condition of eligibility for payment from the program.

The initial proposed regulation was published in the December 13, 1993, issue of the Virginia Register for the public comment period from December 13, 1993, through February 11, 1994. As a result of comments received, the Virginia Department of Social Services slightly modified the regulation and is reproposing for an additional 30 days of comment this revised proposed regulation.

VR 615-01-51. Auxiliary Grants Program: Levels of Care and Rate Setting.

§ 1. Definitions.

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

"Adult care residence" means any place, establishment, or institution, public or private, operated or maintained for the maintenance or care of four or more adults who are aged, infirm, or disabled and who are cared for in a primarily residential setting, except (i) a facility or portion of a facility licensed by the State Board of Health or the Department of Mental Health, Mental Retardation and Substance Abuse Services, but including any portion of such facility not so licensed, and (ii) the home or residence of an individual who cares for or maintains only persons related to him by blood or marriage, and (iii) a facility or any portion of a facility serving infirm or disabled persons between the ages of 18 and 21, or 22 if enrolled in an educational program for the handicapped pursuant to § 22.1-214 of the Code of Virginia, when such facility is licensed by the Virginia Department of Social Services as a child-caring institution under Chapter 10 (§ 63.1-195 et seq.) of Title 63.1 of the Code of Virginia, but including any portion of the facility not so licensed. Included in this definition are any two or more places, establishments, or institutions owned or operated by a single entity and providing maintenance or care to a combined total of four or more aged, infirm or disabled adults.

"Applicant" means an adult currently residing or planning to reside in an adult care residence who has applied for financial assistance under the Auxiliary Grants Program.

"Approved rate" means a rate established by the Department of Social Services' Division of Financial Management for use by eligibility workers in local departments in determining Auxiliary Grants Program payments for eligible recipients.

"Assisted living" means a level of service provided by an adult care residence for adults who may have physical or mental impairments and require at least moderate assistance with the activities of daily living. Included in this level of service are individuals who are dependent in behavior pattern (i.e., abusive, aggressive, disruptive) as documented on the uniform assessment instrument.

"Auxiliary Grants Program" means a state and locally funded assistance program to supplement income of a Supplemental Security Income (SSI) recipient or adult who would be eligible for SSI except for excess income, who resides in an adult care residence with an approved rate.

"Case manager" means an employee of a public human services agency having a contract with the Department of Medical Assistance Services to provide case management services and who is qualified to perform case management activities.

"Cost report" means Adult Care Residences Cost Report.

"Department" means the Virginia Department of Social Services.

"Minimum rate" means the rate used to determine eligible auxiliary grant recipient reimbursement prior to the establishment of the residence's approved rate.

"Newly licensed adult care residence" means a residence that has been licensed for 12 months or less and is submitting a cost report for the first time for the establishment of a rate in excess of the minimum rate.

"Nonoperating expense" means expenses incurred by the residence for activities other than those directly related to the care of residents.

"Nonoperating revenue" means income earned by the residence for activities other than those directly related to the care of residents.

"Operating costs" means the allowable expenses incurred by an adult care residence for activities directly related to the care of residents.

"Personal needs allowance" means an amount of money reserved for meeting personal needs when computing the amount of the auxiliary grant.

"Qualified assessor" means an entity contracting with the Department of Medical Assistance Services (DMAS) to perform nursing facility preadmission screening or to complete the uniform assessment instrument for a home and

community-based waiver program including an independent physician contracting with DMAS to complete the uniform assessment instrument for residents of the adult care residence, or any hospital which has contracted with DMAS to perform nursing facility preadmission screening.

"Rate" means approved rate.

"Recipient" means an adult approved to receive financial assistance under the Auxiliary Grants Program when residing in an adult care residence with an approved rate.

"Residence" means an adult care residence.

"Residential living" means a level of service provided by an adult care residence for adults who may have physical or mental impairments and require only minimal assistance with the activities of daily living. Included in this level of service are individuals who are dependent in medication administration as documented on the uniform assessment instrument. This definition includes independent living facilities that voluntarily become licensed.

"Uniform assessment instrument" means the department-designated assessment form.

§ 2. Assessment.

A. In order to receive payment from the Auxiliary Grants Program for care in an adult care residence, applicants shall have been assessed by a case manager or other qualified assessor using the uniform assessment instrument and determined to need residential living care or assisted living care.

B. In order to continue receiving payment from the Auxiliary Grants Program, recipients residing in adult care facilities on the effective date of these regulations shall have been assessed by a case manager or other qualified assessor no later than 12 months from the effective date of these regulations and determined to need residential care or assisted living care in an adult care residence. Provisions shall be made by the department in Auxiliary Grants Program policy for grandfathering in those recipients who do not meet the criteria for residential care.

C. As a condition of eligibility for the Auxiliary Grants Program, a uniform assessment instrument shall be completed on a recipient at least once every 12 months and a determination made that the individual needs residential or assisted living care in an adult care residence.

§ 3. Basic services.

The rate established by the department for an adult care residence providing residential living care or assisted living care under the Auxiliary Grants Program shall cover the following services:

1. Room and board.

a. Provision of a furnished room (See VR 615-22-02:1);

b. Housekeeping services based on the needs of the recipient;

c. Meals and snacks required by licensing regulations, including extra portions of food at mealtime and special diets;

d. Clean bed linens and towels as needed by the recipient and at least once a week.

2. Maintenance and care.

a. Minimal assistance with personal hygiene including bathing, dressing, oral hygiene, hair grooming and shampooing, care of clothing, shaving, care of toenails and fingernails, arranging for haircuts as needed, care of needs associated with menstruation or occasional bladder or bowel incontinence;

b. Medication administration as required by licensing regulations including insulin injections;

c. Provision of generic personal toiletries including shampoo, toothpaste, toothbrush, comb, soap and toilet paper;

d. Minimal assistance with the following:

(1) Care of personal possessions;

(2) Care of funds if requested by recipient and residence policy allows this practice (See VR 615-22-02:1);

(3) Use of the telephone;

(4) Arranging transportation;

(5) Obtaining necessary personal items and clothing;

(6) Making and keeping appointments;

(7) Correspondence.

e. Securing health care and transportation when needed for medical treatment;

f. Providing social and recreational activities as required by licensing regulations;

g. General supervision for safety.

§ 4. Personal needs allowance.

A. The personal needs allowance for the recipient shall not be charged by the residence for any item or service not requested by the resident. The residence shall not require a resident or his representative to request any item or service as a condition of admission or continued stay. The residence must inform the resident or his representative requesting an item or service for which a charge will be made that there will be a charge for the item or service and what the charge will be. The personal needs allowance is expected to cover the cost of the following categories of items and services:

1. Clothing;

2. Personal toiletries not included in those to be provided by the adult care residence or if the recipient requests a specific type or brand of toiletries;

3. Personal comfort items including tobacco products, sodas, and snacks beyond those required by licensing regulations;

4. Barber and beauty shop services;

5. Over-the-counter medication, medical copayments and deductibles, insurance premiums;

6. Other needs such as postage stamps, dry cleaning, laundry, direct bank charges, personal transportation, and long distance telephone calls;

7. Personal telephone, television, or radio;

8. Social events and entertainment offered outside the scope of the activities program;

9. Other items agreed upon by both parties except those listed in subsection B of this section.

B. The personal needs allowance shall not be encumbered by the following:

1. Recreational activities required by licensing regulations (including any transportation costs of those activities);

2. Administration of accounts (bookkeeping, account statements);

3. Debts owed the residence for basic services as outlined by regulations;

4. Charges for laundry by the adult care residence which exceed $10 per month.

§ 5. Establishment of rate.

A. Submission of a cost report to the department's Division of Financial Management, Bureau of Cost Accounting is required to establish a rate in excess of the minimum rate.

B. The rate shall be calculated based on operating cost data reported on the cost report. Total operating costs shall be reduced by any nonoperating revenue, less nonoperating expenses. If nonoperating expenses exceed nonoperating revenue, no adjustment is made. These costs are then adjusted in accordance with department policy to recognize operation changes, growth, and inflation. Based on the greater of actual filled bed days or 85% of bed capacity, a monthly rate per resident shall be calculated.

C. The established rate shall be the lesser of the calculated rate or the maximum authorized monthly rate established by state regulations as set forth in the Appropriations Act.

D. Rates shall be valid for 12 months unless the residence is required to submit a new cost report as a result of (i) significant operational changes as defined by department policy, or (ii) the residence changes ownership, or (iii) the residence changes location.

E. Newly licensed adult care residences shall operate for a minimum of 90 days prior to submission of a cost report for the purpose of establishing a rate. During the first 90 days of operation, the adult care residence's rate shall be the minimum rate. When cost reports are submitted no later than 60 days after the end of the first 90 days of operation, the effective date of the rate shall be made retroactive to the residence's date of licensure. When cost reports are submitted more than 150 days after licensure, the effective date of the rate shall be no later than the first day of the second month following receipt of the cost report by the department's Division of Financial Management.

F. Adult care residences that have been in licensed operation in excess of 12 months shall establish an initial approved rate by submitting a cost report for the preceding calendar year. The cost report shall be reviewed by the department's Division of Financial Management and the approved rate established. The approved rate shall be the lesser of the calculated rate or the maximum authorized rate established by state regulations as set forth in the Appropriations Act. The approved rate shall become effective no later than the first day of the second month following the month the cost report is received by the department's Division of Financial Management.

G. After the initial approved rate is established, cost reports shall be submitted annually to the department's Division of Financial Management. If a provider that has previously established a rate fails to submit a cost report, the rate for residential living care shall become the minimum rate at the end of the twelfth month from the date the last rate was set.

§ 6. Reimbursement.

Any moneys contributed toward the cost of care pending public pay eligibility determination shall be reimbursed to the recipient or contributing party by the adult care residence once eligibility for public pay is established and that payment received.

§ 7. Audits.

All financial information reported by an adult care residence on the cost report shall be reconcilable to the residence's general ledger system or similar records. All cost reports are subject to audit by the Department of Social Services. Financial information which is not reconcilable to the residence's general ledger or similar records could result in retroactive adjustment of the rate and establishment of a liability to the provider. Records shall be retained for three years after the end of the reporting period or until audited, whichever is first.

VA.R. Doc. No. R95-648; Filed August 1, 1995, 9:11 a.m.

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REPROPOSED

EDITOR'S NOTICE: The State Board of Social Services is soliciting additional public comment for 30 days on VR 615-22-02:1, Standards and Regulations for Licensed Adult Care Residences. The initial 60-day public comment period was held from December 13, 1993, through February 11, 1994. In response to public comment, several revisions were made to the regulations. Also, Chapter 649 of the 1995 Acts of Assembly was enacted concerning adult care residences and revisions have been made to address these changes. A

summary of the proposed regulation was previously published in 10:6 VA.R. 1448-1449 December 13, 1993. The full text of the proposed regulation is printed below.

Title of Regulation: **VR 615-22-02:1. Standards and Regulations for Licensed Adult Care Residences.**

Statutory Authority: §§ 63.1-25, 63.1-174 and 63.1-174.001 of the Code of Virginia.

Public Hearing Date: N/A -- Public comments may be submitted until September 20, 1995.
(See Calendar of Events section for additional information)

Basis: Section 63.1-174 of the Code of Virginia provides the statutory basis for promulgation of licensure regulations. The State Board of Social Services is promulgating the proposed regulation for adult care residences.

Purpose: The purpose of this regulation is to establish standards to support levels of care in licensed adult care residences as required by House Bill 2280 enacted by the 1993 General Assembly. The proposed regulation will provide for two levels of licensure, residential living and assisted living. The requirements for the residential living level of licensure will be for those individuals who require only minimal assistance with the activities of daily living. This includes Parts I through V of the regulation, which also serve as basic requirements for the higher level of licensure. Additional requirements for assisted living facilities are included in Part VI of the regulation. The assisted living level of service is for individuals requiring a moderate level of assistance with the activities of daily living. House Bill 2280 also changed the term "homes for adults" to "adult care residences." Senate Bill 1010 enacted by the 1995 General Assembly modified and clarified certain aspects of the law relating to levels of care in adult care residences. The proposed regulation was revised accordingly.

Substance: This regulation contains most of the same requirements as the regulation entitled Standards and Regulations for Licensed Homes for Adults. Many enhancements have been made as recommended by the Joint Legislative Audit and Review Commission and as a result of the levels of care legislation. The regulation is divided into two main sections. The first section addresses requirements for all facilities. Some of the more substantive enhancements made to this section of the regulation which are not a part of the existing licensing regulation include:

1. Increased requirements for the administrator. The administrator must be 21 years of age and have one year of college or administrative experience in addition to a high school diploma or GED (current administrators are grandfathered);

2. Increased requirements for staff. Staff having direct care responsibilities must be at least 18 years of age unless certified as a nurse aide and must be able to effectively communicate both orally and in writing as applicable to their job responsibility;

3. Improved tuberculosis requirements. Annual documentation will be required of all staff confirming the absence of TB;

4. Strengthened staffing requirements. Staffing must be tied directly to the care needs of residents;

5. Communication among staff. Written communication must be utilized to ensure information is relayed when staff change shifts;

6. The prohibition of certain medical conditions as specified by statute;

7. Improved requirements for the administration of medication. Documentation is required, the safe disposal of medication is addressed, and specific safety precautions are included for the use of oxygen therapy;

8. Incorporation of the department's Do Not Resuscitate Order policy in the regulation; and

9. Increased space requirements. Resident sleeping quarters must have increased square footage when there is new construction or change in Use Group.

The second section addresses requirements for providers desiring assisted living licensure. Some of the major areas addressed include:

1. Higher qualifications for the administrator. These administrators must have two years of post secondary education or one year of college level courses in specified subject matter or a department approved curriculum and one year of relevant experience (current administrators are grandfathered);

2. A requirement that direct care staff complete a training program consistent with the department's requirements;

3. A 12-hour annual training requirement for direct care staff;

4. A requirement that a licensed health care professional be retained by employment or on a contractual basis to provide periodic health care oversight;

5. Standards regarding the provision of restorative and habilitative services;

6. Fourteen hours per week of activities available to residents; and

7. Additional requirements when residents have serious cognitive deficits and cannot recognize danger or protect their own safety and welfare.

Issues: This regulation addresses the following areas which will affect licensed providers: personnel and staffing requirements, admission and discharge procedures, resident accommodations, care and related services, buildings and grounds, and additional requirements for assisted living facilities.

The implementation of the proposed regulation will benefit all current and future residents of licensed adult care residences by enhancing the care, services and supervision provided. It will also provide the basis for increased protection and fewer incidences of abuse and neglect.

The regulation will benefit the state by allowing individuals who otherwise would require nursing care to remain in a less expensive, lower level of care which has appropriate precautions and medical oversight to support a safe environment.

The Department of Medical Assistance Services is seeking a Medicaid Assisted Living Waiver to support some of the cost of assisted living care for public pay residents. The implementation of the regulation with the Medicaid waiver should reduce the Commonwealth's Medicaid costs by eliminating or delaying nursing home admissions.

Many providers support most of the regulation. However, there are some standards, especially in the assisted living section, that are still controversial because of cost impact.

There would be no disadvantage to the state if this regulation was implemented.

Impact: As of July 1, 1995, there were 572 adult care residences throughout the state licensed to serve a total of approximately 27,000 residents.

This regulation will impact the licensees' cost of providing care to residents of adult care residences. The regulation will mainly affect operational costs of providers who are licensed for the assisted living level of care. However, the payment source for public pay residents is expected to increase. In addition, it is expected that Medicaid waiver payments will be available to providers who care for public pay residents requiring a higher level of care. The department continues to analyze cost impact and will seek further information regarding costs during the public comment period.

The licensing costs associated with implementing this regulation were included in the appropriation for the department.

There would also be no cost associated with the implementation of this regulation. The cost to comply with it would depend on the type of the facility and would range from $0 to approximately $196 per month for a 25-bed facility.

Costs for a facility providing a residential level care to 25 residents would range from $0 for a facility already in compliance with the proposed regulations to approximately $6 per month for a facility that would have to come into compliance with some of the proposed regulations. This does not include a one time only cost of $400.

Costs for a facility providing the higher level of care (assisted living) to 25 residents would range from $0 for a facility already in compliance with the proposed regulations to approximately $196 per month for a facility that would provide care to 25 residents who are in the most severe stages of physical or mental impairment. This does not include a one time only cost of $1,720.

The licensed capacity of adult care residences range from four persons to 600+ persons. It should be noted that a 25-bed facility would not have the operational cost efficiencies of a larger facility. This regulation does not affect the facilities in any particular locality more than in any other.

Preface:

The Virginia Board of Social Services wants it noted that its voting out for Administrative Process Act publication the regulations on adult care residences on July 19, 1995, is not meant to indicate board approval and endorsement of the regulations in their entirety. A comprehensive cost impact analysis will be required prior to board action. Following the 30-day comment period, the board intends to review the comments submitted and the information on the costs of the implementation of the adult care residences regulations, then make whatever changes needed and take whatever action it determines appropriate.

Summary:

The 1993 General Assembly enacted legislation (House Bill 2280) which created two levels of care in licensed homes for adults. This legislation also established the statutory basis for the prohibition of specific medical conditions. In addition, it changed the term "homes for adults" to "adult care residences." Requirements for case management services for residents and the administration of the Auxiliary Grant Program were also included in the legislation. These requirements are addressed in separate regulations. This regulation specifies the licensure requirements for adult care residences. Sections addressed within the licensure regulation include personnel and staffing requirements; admission, retention and discharge policies; resident accommodations, care and related services; buildings and grounds; and additional requirements for assisted living facilities (the higher of the two levels of care).

A public comment period for this regulation was held between December 13, 1993, and February 11, 1994. In response to public comment, several revisions were made to the proposed licensure regulation, which included:

1. Elimination of a direct care staffing standard which utilized a specific formula for all homes, replacing it with a staffing pattern requirement for facilities not on extended licensure (later modified again due to 1995 legislation);

2. The administrator, rather than the physician, determines whether a resident needs night supervision;

3. Deletion of the standard prohibiting the admission and retention, except for a temporary period, of bedfast residents;

4. Elimination of the standard requiring a facility to assist residents in overcoming transfer trauma;

5. When a resident intends to move, the maximum allowable notice was increased from 30 to 45 days;

6. Deletion of the standard requiring the facility to prepare a written relocation plan when a resident is to be discharged;

7. Elimination of the standard requiring the adult care residence to develop a policy which allows for appeal of

a decision to discharge when a resident objects to the decision;

8. Deletion of the standard specifying that the facility plan for any transfer with the resident and prepare the resident for the change;

9. A modification was made to specify that the picture of the resident be current, rather than annual;

10. Elimination of the standard requiring the adult care residence to provide each resident with an identification card and contact information for use when the resident is away from the facility;

11. A modification was made so that a resident council need not be established if the majority of the residents do not want a council;

12. An increase from five to 10 days was made in the time given for a physician to sign a verbal order;

13. Deletion of the standard requiring the facility to return discontinued prescription medication to the dispensing pharmacist and replacement with a standard requiring the facility to have a plan for proper disposal of medication;

14. Elimination of the standard specifying that a resident's emergency medical technician DO NOT RESUSCITATE (DNR) Order be posted in his room or that he wears the designated bracelet;

15. The standard on restraints was modified to conform with OBRA requirements;

16. The requirement that inside temperatures not exceed 85°F was eliminated and requirements were added for (i) cooling devices when inside temperatures exceed 85°F and (ii) a plan to protect residents from heat related illnesses when air conditioners are not provided;

17. Modification of the standard regarding bedroom square footage so that additional space requirements apply only to new construction or when there is a change in use group;

18. Elimination of the standard specifying a three-minute requirement for fire drills in ambulatory only buildings;

19. An increase in the annual training hours for the administrator;

20. Modification of the assisted living standard regarding administrator education and experience requirements so that current administrators are grandfathered;

21. A modification was made so that newly employed direct care staff in assisted living facilities have four months to complete the required training program;

22. Deletion of the assisted living standards requiring direct care staff to complete specific training topics within two years;

23. The responsibilities of the licensed health care professional in assisted living facilities were reduced;

24. Elimination of the assisted living standard which required that the licensed health care professional be available for consultation when not on site;

25. Elimination of the assisted living standard requiring that each resident have an annual physical examination;

26. Scheduled activities available for assisted living residents were reduced from 21 to 14 hours per week, with no less than one hour per day rather than two;

27. Modification of the assisted living standard regarding a psychological or psychiatric evaluation in order to further limit the need for such evaluation;

28. Modification of the assisted living standard applicable only when there are residents with serious cognitive deficits so that the standard only applies when residents cannot recognize danger or protect their own safety and welfare;

29. Deletion of the assisted living requirement for additional training for staff who provide direct care to residents with serious cognitive deficits; and

30. Modification of the assisted living requirement for protective devices on windows to limit the devices to bedroom and bathroom windows of residents with dementia.

Several standards were also modified for clarification or eliminated for streamlining purposes.

House Bill 450, enacted by the 1994 General Assembly, removed the requirement from the Code of Virginia that a staff person administering medication in an adult care residence be an agent authorized in writing by the physician to administer the drugs. The licensure regulation was revised accordingly.

Because some disagreement among providers and advocates continued on certain issues and legislative intent, these concerns were brought before the 1995 General Assembly. Chapter 649 of the 1995 Acts of Assembly modified and clarified the law to resolve the concerns. Specifically, Senate Bill 1010 tied the level of staffing directly to the care needs of residents and allowed adult care residences to serve persons with more severe medical conditions. It also made some changes in regard to the uniform assessment instrument and the written assurance regarding the meeting of the resident's care needs. In addition House Bill 1960, also signed by the Governor, included a provision for accepting temporarily detained residents not involuntarily committed back into an adult care residence. The proposed licensure regulation was revised accordingly to address the changes mandated by the Code of Virginia.

An additional 30-day public comment period is being held to receive further comments on outstanding issues.

Philosophy and Guiding Principles Statement:

The purpose of these regulations is to set minimum and reasonable standards for licensure of adult care residences. An adult care residence provides safe and home-like quality living arrangements for adults who may

have limited types or degrees of functional capabilities. These regulations maximize independence and promote the principles of individuality, personal dignity, freedom of choice, and fairness for all individuals residing in adult care residences.

Consistent with this philosophy, these regulations shall embody the following guiding principles:

-That all residents are entitled to appropriate, safe and quality care;

-That each resident shall be viewed as an individual and empowered to make decisions regarding his care;

-That each residence should identify the types and extent of services offered and those services should reflect the needs of the population in care;

-That the resident should be entitled to remain in care as long as the facility is able to adequately care for the resident within the limitations established by law, so that social ties and relationships may be preserved to the fullest extent possible.

-That standards are consistent with the provision of cost effective services.

VR 615-22-02:1. Standards and Regulations for Licensed Adult Care Residences.

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:

"Activities of daily living (ADLs)" means bathing, dressing, toileting, transferring, bowel control, bladder control and eating/feeding. A person's degree of independence in performing these activities is a part of determining appropriate setting and services.

"Administer medication" means to open a container of medicine or to remove the prescribed dosage and to give it to the resident for whom it is prescribed.

"Administrator" means the licensee or a person designated by the licensee who oversees the day-to-day operation of the facility, including compliance with all regulations for licensed adult care residences.

"Adult care residence" means any place, establishment, or institution, public or private, operated or maintained for the maintenance or care of four or more adults who are aged, infirm or disabled and who are cared for in a primarily residential setting, except (i) a facility or portion of a facility licensed by the State Board of Health or the Department of Mental Health, Mental Retardation and Substance Abuse Services, but including any portion of such facility not so licensed, and (ii) the home or residence of an individual who cares for or maintains only persons related to him by blood or marriage, and (iii) a facility or portion of a facility serving infirm or disabled persons between the ages of 18 and 21, or 22 if enrolled in an educational program for the handicapped pursuant to § 22.1-214 of the Code of Virginia, when such facility is licensed by the Virginia Department of Social Services as a child-caring institution under Chapter 10 (§ 63.1-195 et seq.) of Title 63.1 of the Code of Virginia, but including any portion of the facility not so licensed.

Included in this definition are any two or more places, establishments or institutions owned or operated by a single entity and providing maintenance or care to a combined total of four or more aged, infirm or disabled adults.

"Ambulatory" means the condition of a resident who:

1. Is physically and mentally able to exit the residence without assistance in an emergency and who can ascend or descend stairs if present in any necessary exit path, or

2. Because of physical or mental impairment requires limited assistance, such as the assistance of a wheelchair, walker, cane, prosthetic device, or a single verbal command, to exit the residence in an emergency.

"Assisted living" means a level of service provided by an adult care residence for adults who may have physical or mental impairments and require at least moderate assistance with the activities of daily living. Included in this level of service are individuals who are dependent in behavior pattern (i.e., abusive, aggressive, disruptive) as documented on the uniform assessment instrument.

"Case management" means an activity performed by an employee of a public human service agency to locate, coordinate and monitor services for applicants and recipients of the Auxiliary Grants Program and for private pay residents who purchase the service.

"Case manager" means an employee of a public human services agency having a contract with the Department of Medical Assistance Services to provide case management services and who is qualified to perform case management activities.

"Chemical restraint" means a psychopharmacologic drug that is used for discipline or convenience and not required to treat the resident's medical symptoms, including when the drug is used in one or more of the following ways:

1. In excessive dose (including duplicate drug therapy);

2. For excessive duration;

3. Without adequate monitoring;

4. Without adequate indications for its use;

5. In the presence of adverse consequences which indicate the dose should be reduced or discontinued; and

6. In a manner that results in a decline in the resident's functional status.

"Committee" means a person who has been legally invested with the authority and charged with the duty of managing the estate or making decisions to promote the well-being of a person who has been determined by the circuit court to be totally incapable of taking care of his person or

handling and managing his estate because of mental illness or mental retardation. A committee shall be appointed only if the court finds that the person's inability to care for himself or handle and manage his affairs is total.

"Continuous licensed nursing care" means around-the-clock observation, assessment, monitoring, supervision, or provision of medical treatments provided by a licensed nurse. Residents requiring continuous licensed nursing care may include:

1. Individuals who have a medical instability due to complexities created by multiple, interrelated medical conditions; or

2. Individuals with a health care condition with a high potential for medical instability.

"Department" means the Virginia Department of Social Services.

"Department's representative" means an employee of the Virginia Department of Social Services, acting as the authorized agent in carrying out the duties specified in the Code of Virginia.

"Direct care staff" means supervisors, assistants, aides, or other employees of a facility who assist residents in their daily living activities. Examples are likely to include nursing staff, geriatric assistants and mental health workers but are not likely to include waiters, chauffeurs, and cooks.

"Discharge" means the movement of a resident out of the adult care residence.

"Emergency" means, as it applies to restraints, a situation which may require the use of a restraint where the resident's behavior is unmanageable to the degree an immediate and serious danger is presented to the health and safety of the resident or others.

"Emergency placement" means the temporary status of an individual in an adult care residence when the person's health and safety would be jeopardized by not permitting entry into the facility until the requirements for admission have been met.

"Extended license" means a license that is granted for more than one year's duration because the facility demonstrated a pattern of strong compliance with licensing standards.

"Guardian" means a person who has been legally invested with the authority and charged with the duty of taking care of the person, managing his property and protecting the rights of the person who has been declared by the circuit court to be incapacitated and incapable of administering his own affairs. The powers and duties of the guardian are defined by the court and are limited to matters within the areas where the person in need of a guardian has been determined to be incapacitated.

"Habilitative service" means activities to advance a normal sequence of motor skills, movement, and self-care abilities or to prevent unnecessary additional deformity or dysfunction.

"Health care provider" means a person, corporation, facility or institution licensed by this Commonwealth to provide health care or professional services as a physician or hospital, dentist, pharmacist, registered or licensed practical nurse, optometrist, podiatrist, chiropractor, physical therapist, physical therapy assistant, clinical psychologist, or health maintenance organization. This list is not all inclusive.

"Household member" means any person domiciled in an adult care residence other than residents or staff.

"Human subject research" means any medical or psychological research which utilizes human subjects who may be exposed to the possibility of physical or psychological injury as a consequence of participation as subjects and which departs from the application of those established and accepted methods appropriate to meet the subject's needs but does not include (i) the conduct of biological studies exclusively utilizing tissue or fluids after their removal or withdrawal from a human subject in the course of standard medical practice, (ii) epidemiological investigations, or (iii) medical treatment of an experimental nature intended to save or prolong the life of the subject in danger of death, to prevent the subject from becoming disfigured or physically or mentally incapacitated or to improve the quality of the subject's life pursuant to § 37.1-234 of the Code of Virginia.

"Independent living environment" means one in which the resident or residents perform all activities of daily living and instrumental activities of daily living for themselves without requiring the assistance of any staff member in the adult care residence.

"Independent living status" means that the resident is assessed as capable of performing all activities of daily living and instrumental activities of daily living for himself without requiring the assistance of any staff member in the adult care residence. (If the policy of a facility dictates that medications are administered or distributed centrally without regard for the residents' capacity this shall not be considered in determining independent status.)

"Independent physician" means a physician who is chosen by the resident of the adult care residence and who has no financial interest in the adult care residence, directly or indirectly, as an owner, officer, or employee or as an independent contractor with the residence.

"Individualized service plan" means the written description of actions to be taken by the licensee to meet the assessed needs of the resident.

"Instrumental activities of daily living (IADLs)" means meal preparation, housekeeping, laundry, and managing money. A person's degree of independence in performing these activities is a part of determining appropriate setting.

"Intermittent intravenous therapy" means therapy provided by a licensed health care professional at medically predictable intervals for a limited period of time on a daily or periodic basis.

"Licensee" means any person, association, partnership or corporation to whom the license is issued.

"Licensed health care professional" means any health care professional currently licensed by the Commonwealth of Virginia to practice within the scope of his profession, such as a clinical social worker, dentist, licensed practical nurse, nurse practitioner, pharmacist, physical therapist, physician, physician's assistant, psychologist, registered nurse, and speech-language pathologist.

NOTE: Responsibilities of physicians contained within these regulations may be implemented by nurse practitioners or physicians' assistants as assigned by the supervising physician and within the parameters of professional licensing.

"Maintenance" or "care" means the protection, general supervision and oversight of the physical and mental well-being of the aged, infirm or disabled individual. Assuming responsibility for the well-being of residents, either directly or through contracted agents, is considered "general supervision and oversight."

"Maximum physical assistance" means that an individual has a rating of total dependence in four or more of the seven activities of daily living as documented on the uniform assessment instrument.

NOTE: An individual who can participate in any way with performance of the activity is not considered to be totally dependent.

"Mental impairment" means a disability which reduces an individual's ability to reason or make decisions.

"Minimal assistance" means dependency in only one activity of daily living or dependency in one or more of the instrumental activities of daily living as documented on the uniform assessment instrument.

"Moderate assistance" means dependency in two or more of the activities of daily living as documented on the uniform assessment instrument.

"Nonambulatory" means a resident of an adult care residence who by reason of physical or mental impairment is unable to exit the residence in an emergency without the assistance of another person.

"Nonemergency" means, as it applies to restraints, circumstances which may require the use of a restraint for the purpose of providing support to a physically weakened resident.

"Payee" means an individual, other than the guardian or committee, who has been designated to receive and administer funds belonging to a resident in an adult care residence. A payee is not a guardian or committee unless so appointed by the court.

"Personal representative" means the person representing or standing in the place of the resident for the conduct of his affairs. This may include a guardian, committee, attorney-in-fact under durable power of attorney, next of kin, descendent, trustee, or other person expressly named by the resident as his agent.

"Physical impairment" means a condition of a bodily or sensory nature that reduces an individual's ability to function or to perform activities.

"Physical restraint" means any manual method or physical or mechanical device, material, or equipment attached or adjacent to the resident's body that the resident cannot remove easily, which restricts freedom of movement or access to his body.

"Psychopharmacologic drug" means any drug prescribed or administered with the intent of controlling mood, mental status or behavior. Psychopharmacologic drugs include not only the obvious drug classes, such as antipsychotic, antidepressants, and the anti-anxiety/hypnotic class, but any drug that is prescribed or administered with the intent of controlling mood, mental status, or behavior, regardless of the manner in which it is marketed by the manufacturers and regardless of labeling or other approvals by the Federal Drug Administration (FDA).

"Public pay" means a resident of an adult care facility eligible for benefits under the Auxiliary Grants Program.

"Qualified assessor" means an entity contracting with the Department of Medical Assistance Services to perform nursing facility preadmission screening or to complete the uniform assessment instrument for a home- and community-based waiver program, including an independent physician contracting with the Department of Medical Assistance Services to complete the uniform assessment instrument for residents of adult care residences, or any hospital which has contracted with the Department of Medical Assistance Services to perform nursing facility preadmission screening.

"Rehabilitative services" means activities that are ordered by a physician or other qualified health care professional which are provided by a rehabilitative therapist (physical therapist, occupational therapist or speech-language pathologist). These activities may be necessary when a resident has demonstrated a change in his capabilities and are provided to enhance or improve his level of functioning.

"Resident" means any aged, infirm, or disabled adult residing in an adult care residence for the purpose of receiving maintenance and care.

"Residential living" means a level of service provided by an adult care residence for adults who may have physical or mental impairments and require only minimal assistance with the activities of daily living. Included in this level of service are individuals who are dependent in medication administration as documented on the uniform assessment instrument. This definition includes independent living facilities that voluntarily become licensed.

"Respite care" means services provided for maintenance and care of aged, infirm or disabled adults for temporary periods of time, regularly or intermittently. Facilities offering this type of care are subject to these regulations.

"Restorative care" means activities designed to assist the resident in reaching or maintaining his level of potential. These activities are not required to be provided by a rehabilitative therapist and may include activities such as range of motion, assistance with ambulation, positioning, assistance and instruction in the activities of daily living, psychosocial skills training, and reorientation and reality orientation.

"Skilled nursing treatment" means a service ordered by a physician which is provided by and within the scope and practice of a licensed nurse.

"Systems review" means a physical examination of the body to determine if the person is experiencing problems or distress, including cardiovascular system, respiratory system, gastrointestinal system, urinary system, endocrine system, musculoskeletal system, nervous system, sensory system and the skin.

"Transfer" means movement of a resident to a different assigned living area within the same licensed facility.

"Transfer trauma" means feelings or symptoms of stress, emotional shock or disturbance, hopelessness, or confusion resulting from the resident being moved from one residential environment to another.

"Uniform assessment instrument (UAI)" means the department designated assessment form. There is an alternate version of the form which may be used for private pay residents, i.e., those not eligible for benefits under the Auxiliary Grants Program. Social and financial information which is not relevant because of the resident's payment status is not included on the private pay version of the form.

§ 1.2. Applicability.

A. These standards and regulations for licensed adult care residences apply to any facility:

1. That is operated or maintained for the maintenance or care of four or more adults in one or more locations who are aged, infirm or disabled.

2. That assumes responsibility, either directly or through contracted agents, for the maintenance or care of four or more adults who are aged, infirm or disabled.

B. The following types of facilities are not subject to licensure as an adult care residence:

1. A facility or portion of a facility licensed by the State Board of Mental Health, Mental Retardation, and Substance Abuse Services.

2. The home or residence of an individual who cares for or maintains only persons related to him by blood or marriage.

3. A facility or portion of a facility, licensed as a children's residential facility under § 63.1-185 et seq. of the Code of Virginia, serving infirm or disabled persons between the ages of 18 and 21, or 22 if enrolled in an educational program for the handicapped.

§ 1.3. Types of facilities and scope of services.

A. An adult care residence licensed for residential living as defined in § 1.1 shall comply with Parts I through V.

B. An adult care residence licensed for assisted living as defined in § 1.1 shall comply with Parts 1 through VI.

NOTE: Within assisted living there are two payment levels for recipients of an auxiliary grant: regular assisted living and intensive assisted living as defined in regulations promulgated by the Department of Medical Assistance Services.

§ 1.4. Program of care and program description.

A. There shall be a program of care that:

1. Meets the resident population's physical, mental, emotional, and psychosocial needs;

2. Provides protection, guidance and supervision;

3. Promotes a sense of security and self-worth;

4. Promotes the resident's involvement with appropriate community resources; and

5. Meets the objectives of the service plan.

B. Each facility shall develop a written program description which shall be available to prospective residents and the general public and which shall include the following elements:

1. A description of the characteristics of the population to be served.

2. A description of the program components and services to be provided.

C. The facility shall update the program description as the characteristics of the residents change and shall review the description at least annually.

PART II.
PERSONNEL AND STAFFING REQUIREMENTS.

§ 2.1. Licensee.

A. The licensee shall ensure compliance with all regulations for licensed adult care residences and terms of the license issued by the department; with other relevant federal, state or local laws and regulations; and with the facility's own policies.

B. The licensee shall meet the following requirements:

1. The licensee shall give evidence of financial responsibility.

2. The licensee shall be of good character and reputation.

3. The licensee shall protect the physical and mental well-being of residents.

4. The licensee shall keep such records and make such reports as required by these regulations for licensed adult care residences. Such records and reports may be inspected at any reasonable time in order to determine compliance with these regulations.

5. The licensee shall meet the qualifications of the administrator if he assumes those duties.

C. An adult care residence sponsored by a religious organization, a corporation or a voluntary association shall be controlled by a governing board of directors that shall fulfill the duties of the licensee.

§ 2.2. Administrator.

A. Each residence shall have an administrator of record. This does not prohibit the administrator from serving more than one facility.

B. The administrator shall meet the following minimum qualifications and requirements:

1. The administrator shall be at least 21 years of age.

2. He shall be able to read, to write, and to understand these regulations.

3. He shall be able to perform the duties and to carry out the responsibilities required by these regulations.

4. The administrator shall be a high school graduate or shall have a General Education Development Certificate (GED), and have completed at least one year of successful post secondary education from an accredited college or institution or administrative or supervisory experience in caring for adults in a group care facility. The following exception applies: Administrators employed prior to the effective date of these standards shall be a high school graduate or shall have a GED, or shall have completed one year of successful experience in caring for adults in a group care facility.

5. He shall demonstrate basic respect for the dignity of residents by ensuring compliance with residents' rights.

6. He shall meet the requirements stipulated for all staff in subsection A of § 2.3.

7. He shall not be a resident.

C. The residence licensee/operator, residence administrator, relatives of the licensee/operator or administrator, or residence employees shall not act as, seek to become, or become the committee or guardian of any resident unless specifically so appointed by a court of competent jurisdiction pursuant to Chapter 4 (§ 37.1-128.01 et seq.) of Title 37.1 of the Code of Virginia.

D. Facility owners shall notify the licensing agency of a change in a facility's administrator. The notifications shall be sent to the licensing agency in writing within 10 working days of the change.

E. It shall be the duty of the administrator to oversee the day-to-day operation of the residence. This shall include, but shall not be limited to, responsibility for:

1. Services to residents;

2. Maintenance of buildings and grounds;

3. Supervision of adult care residence staff.

F. Either the administrator or a designated assistant who meets the qualifications of the administrator shall be awake and on duty on the premises at least 40 hours per week.

G. When an administrator terminates employment, a new administrator shall be hired within 90 days from the date of termination.

H. The administrator shall attend at least 20 hours of training related to management or operation of a residential facility for adults or client specific training needs within each 12-month period. When adults with mental impairments reside in the facility, at least five of the required 20 hours of training shall focus on the resident who is mentally impaired. Documentation of attendance shall be retained at the facility and shall include title of course, location, date and number of hours.

§ 2.3. Personnel qualifications.

A. All staff members including the administrator, shall:

1. Be of good character;

2. Be physically and mentally capable of carrying out assigned responsibilities;

3. Be considerate and tolerant of aged and disabled persons;

4. Be clean and well-groomed;

5. Meet the requirements specified in the Regulation for Criminal Record Checks for Homes for Adults and Adult Day Care Centers (VR 615-37-01).

B. All staff shall be able to communicate in English effectively both orally and in writing as applicable to their job responsibilities.

C. All direct care staff shall be at least 18 years of age unless certified as a nurse aide.

D. Direct care staff who are responsible for caring for residents with special health care needs shall only provide services within the scope of their practice and training.

§ 2.4. Staff training and orientation.

A. All employees shall be made aware of:

1. The purpose of the facility;

2. The services provided;

3. The daily routines; and

4. Required compliance with regulations for adult care residences as it relates to their duties and responsibilities.

B. All personnel shall be trained in the relevant laws, regulations, and the residence's policies and procedures sufficiently to implement the following:

1. Emergency and disaster plans for the facility;

2. Techniques of complying with emergency and disaster plans including evacuating residents when applicable;

3. Use of the first aid kit and knowledge of its location;

4. Confidential treatment of personal information;

5. Observance of the rights and responsibilities of residents;

6. Procedures for detecting and reporting suspected abuse, neglect, or exploitation of residents to the

appropriate local department of social services. (NOTE: Section 63.1-55.3 of the Code of Virginia requires anyone providing full- or part-time care to adults for pay on a regular basis to report suspected adult abuse, neglect, or exploitation);

7. Techniques for assisting residents in overcoming transfer trauma.

8. Specific duties and requirements of their positions. Training in these areas shall occur within the first seven days of employment, and prior to assuming job responsibilities unless under the sight supervision of a trained staff person.

C. Within the first 30 days of employment, all direct care staff shall be trained to have general knowledge in the care of aged, infirm or disabled adults with due consideration for their individual capabilities and their needs.

D. The residence shall provide at least eight hours of training annually for direct care staff.

1. The training shall be relevant to the population in care and shall be provided through in-service training programs or institutes, workshops, classes, or conferences.

2. When adults with mental impairments reside in the facility, at least two of the required eight hours of training shall focus on the resident who is mentally impaired.

3. Documentation of this training shall be kept by the facility in a manner that allows for identification by individual employee.

§ 2.5. Staff duties performed by residents.

A. Any resident who performs any staff duties shall meet the personnel and health requirements for that position.

B. There shall be a written agreement between the residence and any resident who performs staff duties.

1. The agreement shall specify duties, hours of work, and compensation.

2. The agreement shall not be a condition for admission or continued residence.

3. The resident shall enter into such an agreement voluntarily.

§ 2.6. Volunteers.

A. Any volunteers used shall:

1. Have qualifications appropriate to the services they render;

2. Be subject to laws and regulations governing confidential treatment of personal information.

B. Duties and responsibilities of all volunteers shall be clearly differentiated from those of persons regularly filling staff positions.

C. At least one staff member shall be assigned responsibility for overall selection, supervision and orientation of volunteers.

§ 2.7. Health requirements and employee records.

A. A record shall be established for each staff member. It shall not be destroyed until two years after employment is terminated.

B. Personal and social data to be maintained on employees are as follows:

1. Name;

2. Birthdate;

3. Current address and telephone number;

4. Position and date employed;

5. Last previous employment;

6. For persons employed after November 9, 1975, copies of at least two references or notations of verbal references, obtained prior to employment, reflecting the date of the reference, the source and the content;

7. For persons employed after July 1, 1992, an original criminal record report;

8. Previous experience or training or both;

9. Social security number;

10. Name and telephone number of person to contact in an emergency;

11. Notations of formal training received following employment; and

12. Date and reason for termination of employment.

C. Health information required by these standards shall be maintained at the facility for the licensee or administrator or both, each staff member, and each household member who comes in contact with residents.

1. Initial tuberculosis examination and report.

a. Within 30 days before or seven days after employment, each individual shall obtain an evaluation indicating the absence of tuberculosis in a communicable form.

b. If the evaluation is not secured prior to employment and the individual has a cough, the person shall wear a mask until the evaluation is obtained.

c. When a staff person terminates work at a licensed facility and begins working at another licensed facility with a gap in service of six months or less, the previous statement of tuberculosis screening may be transferred to the second facility.

d. Each individual shall submit documentation that he is free of tuberculosis in a communicable form. This documentation shall be maintained at the facility and shall include the information contained on the form found in Appendix I of the User's Manual: Virginia Uniform Assessment Instrument.

2. Subsequent evaluations. Any individual who comes in contact with a known case of tuberculosis or who develops chronic respiratory symptoms shall immediately

be removed from contact with the residents and personnel of the residence. These individuals shall not resume contact with the residents until they have received a tuberculosis evaluation that ensures the absence of the disease.

3. All staff shall submit documentation annually that confirms the absence of tuberculosis. This documentation shall be valid for one year from the date written.

4. If a staff member develops an active case of tuberculosis the facility shall report this information to the local health department.

D. At the request of the administrator of the facility or the department, a report of examination by a licensed physician shall be obtained when there are indications that the safety of residents in care may be jeopardized by the physical or mental health of a specific individual.

E. Any individual who, upon examination or as a result of tests, shows indication of a physical or mental condition which may jeopardize the safety of residents in care or which would prevent performance of duties:

1. Shall be removed immediately from contact with residents; and

2. Shall not be allowed contact with residents until the condition is cleared to the satisfaction of the examining physician as evidenced by a signed statement from the physician.

§ 2.8. First aid qualifications and supplies.

A. There shall be at least one staff member on the premises at all times who shall have a current first aid certificate which has been issued within the past three years by the Red Cross, a community college, a hospital, a volunteer rescue squad, a fire department, or a similarly approved program, unless the facility has an on duty registered nurse or licensed practical nurse.

B. There shall be at least one staff member on the premises at all times who has certification in cardiovascular pulmonary resuscitation (CPR) issued within the current year by the Red Cross, a community college, a hospital, a volunteer rescue squad, a fire department, or a similarly approved program. The CPR certificate must be approved annually.

C. A complete first aid kit shall be on hand at the facility, located in a designated place that is easily accessible. The kit shall include, but not be limited to, the following items:

Activated charcoal, adhesive tape, antiseptic ointment, band-aids (assorted sizes), blankets (disposable or other), cold pack, disposable gloves, gauze pads and roller gauze (assorted sizes), hand cleaner (e.g., antiseptic towelettes), plastic bags, scissors, small flashlight and extra batteries, syrup of ipecac, triangular bandage, and tweezers.

§ 2.9. Standards for staffing.

A. The adult care residence shall have staff adequate in knowledge, skills, and abilities and sufficient in numbers to provide services to attain and maintain the physical, mental and psychosocial well-being of each resident as determined by resident assessments and individualized service plans, and to assure compliance with these regulations.

B. There shall be sufficient staff on the premises at all times to implement the approved fire plan.

C. In each building when at least one resident is present, there shall be at least one staff member awake and on duty at all times. An exception to this is in facilities with 19 or fewer residents, when none of the residents requires a staff member awake and on duty at all times, the staff member on duty does not have to be awake during the night.

D. Staffing plans shall take into consideration vacant positions and staff absences.

§ 2.10. Communication among staff.

A method of written communication shall be utilized as a means of keeping staff on all shifts informed of significant happenings or problems experienced by residents, including physical and mental complaints or injuries.

PART III.
ADMISSION, RETENTION AND DISCHARGE POLICIES.

§ 3.1. Admission and retention policies.

A. No resident shall be admitted or retained for whom the facility cannot provide or secure appropriate care, or who requires a level of service or type of service for which the facility is not licensed or which the facility does not provide, or if the facility does not have the staff appropriate in numbers and with appropriate skill to provide such services.

B. Adult care residences shall not admit an individual before a determination has been made that the facility can meet the needs of the resident. The facility shall make the determination based upon:

1. The completed UAI;

2. The physical examination report;

3. An interview between the administrator or a designee responsible for admission and retention decisions, the resident and his personal representative, if any.

NOTE: In some cases, medical conditions may create special circumstances which make it necessary to hold the interview on the date of admission.

C. Upon receiving the UAI prior to admission of a resident, the adult care residence administrator shall provide written assurance to the resident that the facility has the appropriate license to meet his care needs at the time of admission. Copies of the written assurance shall be given to the personal representative, if any, and case manager, if any, and shall be kept on file at the facility.

D. All residents shall be 18 years of age or older.

E. No person shall be admitted without his consent and agreement, or that of his personal representative, if applicable.

F. Adult care residences shall not admit or retain individuals with any of the following conditions or care needs:

1. Ventilator dependency;

2. Dermal ulcers III and IV except those stage III ulcers which are determined by an independent physician to be healing;

3. Intravenous therapy or injections directly into the vein except for intermittent intravenous therapy managed by a health care professional licensed in Virginia or as permitted in subsection H of this section;

4. Airborne infectious disease in a communicable state that requires isolation of the individual or requires special precautions by the caretaker to prevent transmission of the disease, including diseases such as tuberculosis and excluding infections such as the common cold;

5. Psychotropic medications without appropriate diagnosis and treatment plans;

6. Nasogastric tubes;

7. Gastric tubes except when the individual is capable of independently feeding himself and caring for the tube or as permitted in subsection G of this section;

8. Individuals presenting an imminent physical threat or danger to self or others;

9. Individuals requiring continuous licensed nursing care;

10. Individuals whose physician certifies that placement is no longer appropriate;

11. Unless the individual's independent physician determines otherwise, individuals who require maximum physical assistance as documented by the UAI and meet Medicaid nursing facility level of care criteria as defined in the State Plan for Medical Assistance;

12. Individuals whose health care needs cannot be met in the specific adult care residence as determined by the residence.

G. When a resident has a stage III dermal ulcer that has been determined by an independent physician to be healing, periodic observation and any necessary dressing changes shall be performed by a licensed health care professional under a physician's treatment plan.

H. Intermittent intravenous therapy may be provided to a resident for a limited period of time on a daily or periodic basis by a licensed health care professional under a physician's treatment plan. When a course of treatment is expected to be ongoing and extends beyond a two-week period, evaluation is required at two-week intervals by the licensed health care professional.

I. At the request of the resident, care for the conditions or care needs specified in subdivisions F 3 and F 7 of this section may be provided to a resident in an adult care residence by a physician licensed in Virginia, a nurse licensed in Virginia under a physician's treatment plan or by a home care organization licensed in Virginia when the resident's independent physician determines that such care is appropriate for the resident. This standard does not apply to recipients of auxiliary grants.

J. When care for a resident's special medical needs is provided by licensed staff of a home care agency, the adult care residence staff may receive training from the home care agency staff in appropriate treatment monitoring techniques regarding safety precautions and actions to take in case of emergency.

K. Notwithstanding § 63.1-174.001 of the Code of Virginia, at the request of the resident, hospice care may be provided in an adult care residence under the same requirements for hospice programs provided in Article 7 (§ 32.1-162.1 et. seq.) of Chapter 5 of Title 32.1 of the Code of Virginia, if the hospice program determines that such program is appropriate for the resident.

L. A person shall have a physical examination by an independent physician, including screening for tuberculosis, within 30 days prior to the date of admission. The report of such examination shall be on file at the adult care residence and shall contain the following:

1. The date of the physical examination;

2. Height, weight, and blood pressure;

3. Significant medical history;

4. General physical condition, including a systems review as is medically indicated;

5. Any diagnosis or significant problems;

6. Any allergies;

7. Any recommendations for care including medication, diet and therapy;

8. The type or types of tests for tuberculosis used and the results. Documentation is required which includes the information contained on the form in Appendix I of the Users Manual: Virginia Uniform Assessment Instrument;

9. A statement that the individual does not have any of the conditions or care needs prohibited by subsection F of this section;

10. A statement that specifies whether the individual is considered to be ambulatory or nonambulatory; and

11. Each report shall be signed by the examining clinician.

NOTE: See § 1.1, definition of "licensed health care professional" for clarification regarding "physician."

M. When a person is accepted for respite care or on an intermittent basis, the physical examination report shall be valid for six months.

N. Subsequent tuberculosis evaluations.

1. Any resident who comes in contact with a known case of tuberculosis or who develops chronic respiratory symptoms, within 30 days of exposure/development, shall receive an evaluation and documentation that ensures that the individual is free of tuberculosis in a communicable form.

2. If a resident develops an active case of tuberculosis, the facility shall report this information to the local health department.

O. The department, at any time, may request a report of a current psychiatric or physical examination, giving the diagnoses or evaluation or both, for the purpose of determining whether the resident's needs may continue to be met in an adult care residence. When requested, this report shall be in the form specified by the department.

P. An adult care residence shall only admit or retain residents as permitted by its use group classification and certificate of occupancy. The ambulatory/nonambulatory status of an individual is based upon:

1. Information contained in the physical examination report; and

2. Information contained in the most recent UAI.

Q. An emergency placement shall occur only when the emergency is documented and approved by a Virginia adult protective services worker or case manager for public pay individuals or an independent physician or a Virginia adult protective services worker for private pay individuals.

R. When an emergency placement occurs, the person shall remain in the adult care residence no longer than seven working days, unless all the requirements for admission have been met and the person has been admitted.

S. Prior to or at the time of admission to an adult care residence, the following personal and social data on a person shall be obtained and placed in the individual's record:

1. Name;

2. Last home address, and address from which resident was received, if different;

3. Date of admission;

4. Social security number;

5. Birthdate (If unknown, estimated age);

6. Birthplace, if known;

7. Marital status, if known;

8. Name, address and telephone number of personal representative, or other person responsible;

9. Name, address and telephone number of next of kin, if known (two preferred);

10. Name, address and telephone number of personal physician, if known;

11. Name, address and telephone number of personal dentist, if known;

12. Name, address and telephone number of clergyman and place of worship, if applicable;

13. Name, address and telephone number of local department of social services or any other agency, if applicable, and the name of the case manager or caseworker;

14. Service in the Armed Forces, if applicable;

15. Special interests and hobbies; and

16. Information concerning advance directives, if applicable.

NOTE: For assisted living facilities, § 6.2 also applies.

T. At or prior to the time of admission, there shall be a written agreement/acknowledgment of notification dated and signed by the resident/applicant for admission or the appropriate personal representative, and by the licensee or administrator. This document shall include the following:

1. Financial arrangement for accommodations, services and care which specifies:

a. Listing of specific charges for accommodations, services, and care to be made to the individual resident signing the agreement, the frequency of payment, and any rules relating to nonpayment;

b. Description of all accommodations, services, and care which the facility offers and any related charges;

c. The amount and purpose of an advance payment or deposit payment and the refund policy for such payment;

d. The policy with respect to increases in charges and length of time for advance notice of intent to increase charges;

e. If the ownership of any personal property, real estate, money or financial investments is to be transferred to the residence at the time of admission or at some future date, it shall be stipulated in the agreement; and

f. The refund policy to apply when transfer of ownership, closing of facility, or resident transfer or discharge occurs.

2. Requirements or rules to be imposed regarding resident conduct and other restrictions or special conditions and signed acknowledgment that they have been reviewed by the resident or his appropriate personal representative.

3. Acknowledgment that the resident has been informed of the policy regarding the amount of notice required when a resident wishes to move from the facility.

4. Acknowledgment that the resident has been informed of the policy required by § 5.1 I regarding weapons.

5. Those actions, circumstances, or conditions which would result or might result in the resident's discharge from the facility.

6. Acknowledgment that the resident has reviewed a copy of § 63.1-182.1 of the Code of Virginia, Rights and Responsibilities of Residents of Adult Care Residences, and that the provisions of this statute have been explained to him.

7. Acknowledgment that the resident or his personal representative has reviewed and had explained to him the residence's policies and procedures for implementing § 63.1-182.1 of the Code of Virginia, including the grievance policy and the transfer/discharge policy.

8. Acknowledgment that the resident has been informed of the bed hold policy in case of temporary transfer, if the facility has such a policy.

U. Copies of the signed agreement/acknowledgment of notification shall be provided to the resident and any personal representative and shall be retained in the resident's record.

V. A new agreement shall be signed or the original agreement shall be updated and signed by the licensee or administrator when there are changes in financial arrangements, services, or requirements governing the resident's conduct. If the original agreement provides for specific changes in financial arrangements, services, or requirements, this standard does not apply.

W. An adult care residence shall establish a process to ensure that any resident temporarily detained in an inpatient facility pursuant to § 37.1-67.1 of the Code of Virginia is accepted back in the adult care residence if the resident is not involuntarily committed pursuant to § 37.1-67.3 of the Code of Virginia.

§ 3.2. Discharge policies.

A. When actions, circumstances, conditions, or care needs occur which will result in the discharge of a resident, discharge planning shall begin immediately. The resident shall be moved within 30 days, except that if persistent efforts have been made and the time frame is not met, the facility shall document the reason and the efforts that have been made.

B. The adult care residence shall immediately notify the resident and the resident's personal representative, if any, of the planned discharge. The notification shall occur at least 14 calendar days prior to the actual discharge date. The reason for the move shall be discussed with the resident and his personal representative at the time of notification.

C. The adult care residence shall adopt and conform to a written policy regarding the number of calendar days notice that is required when a resident wishes to move from the facility. Any required notice of intent to move shall not exceed 45 days.

D. The facility shall assist the resident and his personal representative, if any, in the discharge or transfer processes. The facility shall help the resident prepare for relocation, including discussing the resident's destination. Primary responsibility for transporting the resident and his possessions rests with the resident or his personal representative.

E. When a resident's condition presents an immediate and serious risk to the health, safety or welfare of the resident or others and emergency discharge is necessary, 14-day notification of planned discharge does not apply, although the reason for the relocation shall be discussed with the resident and when possible his personal representative, if any.

F. Under emergency conditions, the resident or his personal representative and the family, caseworker, social worker or other agency personnel, as appropriate, shall be informed as rapidly as possible, but by the close of the business day following discharge, of the reasons for the move.

G. At the time of discharge, except as noted in subdivision 5 of this subsection, the adult care residence shall provide to the resident or his personal representative a dated statement signed by the licensee or administrator which contains the following information:

1. The date on which the resident or his personal representative was notified of the planned discharge and the name of the personal representative who was notified;

2. The reason or reasons for the discharge;

3. The actions taken by the facility to assist the resident in the discharge and relocation process;

4. The date of the actual discharge from the facility and the resident's destination;

5. When the termination of care is due to emergency conditions, the dated statement shall contain the above information as appropriate and shall be provided or mailed to the resident or his personal representative as soon as practicable and within 48 hours from the time of the decision to discharge.

H. A copy of the written statement required by subsection G of this section shall be retained in the resident's record.

I. When the resident is discharged and moves to another caregiving facility, the adult care residence shall provide to the receiving facility such information related to the resident as is necessary to ensure continuity of care and services. Original information pertaining to the resident shall be maintained by the adult care residence from which the resident was discharged. The adult care residence shall maintain a listing of all information shared with the receiving facility.

J. Within 60 days of the date of discharge, each resident or his appropriate personal representative shall be given a final statement of account, any refunds due, and return of any money, property or things of value held in trust or custody by the facility.

K. If an adult care residence allows for temporary movement of a resident with agreement to hold a bed, it shall develop and follow a written bed hold policy, which includes, but is not limited to, the conditions for which a bed will be held, any time frames, terms of payment, and circumstances under which the bed will no longer be held.

PART IV.
RESIDENT ACCOMMODATIONS, CARE AND RELATED SERVICES.

§ 4.1. Assessment and individualized service plans.

A. Uniform assessment instrument.

1. Private pay residents. As a condition of admission, the facility shall obtain a UAI with the items completed that are specified in Assessment and Case Management Services in Adult Care Residences (VR 615-46-02). The facility shall obtain the UAI from one of the following entities:

a. An independent physician;

b. An employee of the facility who has the knowledge, skills and abilities of a case manager as defined in VR 615-46-02; or

c. A case manager employed by a public human services agency or other qualified assessor.

2. Public pay residents. As a condition of admission, the facility shall obtain a completed UAI from the prospective resident's case manager or other qualified assessor.

3. The UAI shall be completed within 90 days prior to the date of admission to the adult care residence except that if there has been a change in the resident's condition since the completion of the UAI which would appear to affect the admission, a new UAI shall be completed.

4. When a resident moves to an adult care residence from another adult care residence or other long-term care setting which uses the UAI, if there is a completed UAI on record, another UAI does not have to be completed. The transferring long-term care provider must update the UAI to indicate any change in the individual's condition.

B. Facilities opting to complete the UAI for prospective private pay residents shall ensure that the information is obtained as required by VR 615-46-02.

C. Individualized service plan. The licensee/administrator or designee, in conjunction with the resident, and the resident's family, case worker, case manager, health care providers or other persons, as appropriate, shall develop and implement an individualized service plan to meet the resident's service needs.

An individualized service plan is not required for those residents who are assessed as capable of maintaining themselves in an independent living status.

The service plan shall be completed within 45 days after admission and shall include the following:

1. Description of identified need;

2. A written description of what services will be provided and who will provide them;

3. When and where the services will be provided; and

4. The expected outcome.

If a facility is licensed to care for 19 or fewer residents, the service plan shall include a statement that specifies whether the person does need or does not need to have a staff member awake and on duty at all times, including during the night.

The master service plan shall be filed in the resident's record; extracts from the plan may be filed in locations specifically identified for their retention, e.g., dietary plan in kitchen.

D. The individualized service plan shall reflect the resident's assessed needs and support the principles of individuality, personal dignity, freedom of choice and home-like environment and shall include other formal and informal supports that may participate in the delivery of services.

E. Uniform assessment instruments shall be completed at least once every 12 months on residents of adult care residences. Uniform assessment instruments shall be completed as needed as the condition of the resident changes and whenever there is a change in the resident's condition that appears to warrant a change in the resident's approved level of care. All UAIs shall be completed as prescribed in subsections A and B of this section.

F. At the request of the adult care residence, the resident's representative, the resident's physician, the Department of Social Services, or the local department of social services, an independent assessment using the UAI shall be completed to determine whether the resident's care needs are being met in the adult care residence. The adult care residence shall assist the resident in obtaining the independent assessment as requested.

G. For private pay residents, the adult care residence shall be responsible for coordinating with an independent physician, a case manager or other qualified assessor as necessary to ensure that UAIs are completed as required.

H. Individualized service plans shall be reviewed and updated at least once every 12 months. Individualized service plans shall be reevaluated as needed as the condition of the resident changes.

I. The licensee shall designate a staff person to review, monitor, implement and make appropriate modifications to the individualized service plan. This person shall also keep the resident's case manager, if applicable, informed of significant changes in the resident's condition.

§ 4.2. Resident records.

A. Any forms used for recordkeeping shall contain at a minimum the information specified in these regulations. Model forms, which may be copied, will be supplied by the department upon request.

B. All records which contain the information required by these standards for both residents and personnel shall be retained at the facility and kept in a locked area.

C. The licensee shall assure that all records are treated confidentially and that information shall be made available only when needed for care of the resident. All records shall

be made available for inspection by the department's representative.

D. The resident's individual record shall be kept current and the complete record shall be retained until two years after the resident leaves the residence.

E. A current picture of each resident shall be readily available for identification purposes, or if the resident refuses to consent to a picture, there shall be a narrative physical description, which is annually updated, maintained in his file.

§ 4.3. Release of information from resident's record.

A. The resident or the appropriate personal representative has the right to release information from the resident's record to persons or agencies outside the facility.

B. The licensee is responsible for making available to residents a form which residents may use to grant their written permission to release information to persons or agencies outside the facility.

A model form, which may be copied, may be obtained from the department.

C. Only under the following circumstances is a facility permitted to release information from the resident's records or information regarding the resident's personal affairs without the written permission of the resident or his personal representative, where appropriate:

1. When records have been properly subpoenaed;

2. When the resident is in need of emergency medical care and is unable or unwilling to grant permission to release information or his personal representative is not available to grant permission;

3. When the resident moves to another caregiving facility;

4. To representatives of the department; or

5. As otherwise required by law.

§ 4.4. Contents of resident's record; access by resident.

A. Any physician's notes and progress reports in the possession of the facility shall be retained in the resident's record.

B. Copies of all agreements between the facility and the resident and official acknowledgment of required notifications, signed by all parties involved, shall be retained in the resident's record. Copies shall be provided to the resident and any appropriate personal representative.

C. Residents shall be allowed access to their own records.

§ 4.5. Personal possessions.

Each resident shall be permitted to keep reasonable personal property in his possession at a facility in order to maintain individuality and personal dignity. These possessions may include, but are not limited to:

1. Clothing. A facility shall ensure that each resident has his own clothing.

a. The use of a common clothing pool is prohibited.

b. If necessary, resident's clothing shall be inconspicuously marked with his name to avoid getting mixed with others.

c. Residents shall be allowed and encouraged to select their daily clothing and wear clothing to suit their activities and appropriate to weather conditions.

2. Personal care items. Each resident shall have his own personal care items. Shampoo, toothpaste, a toothbrush, and a comb shall be provided at no additional cost for all auxiliary grant and general relief recipients. Toilet paper and soap shall be provided for residents at all commonly shared basins and bathrooms at no additional charge.

§ 4.6. Resident rooms.

A. The resident shall be encouraged to furnish or decorate his room as space and safety considerations permit and in accordance with these regulations.

B. Bedrooms shall contain the following items:

1. A separate bed with comfortable mattress, springs and pillow for each resident. Provisions for a double bed for a married couple shall be optional;

2. A table or its equivalent accessible to each bed;

3. An operable bed lamp or bedside light accessible to each resident;

4. A sturdy chair for each resident (wheelchairs do not meet the intent of this standard);

5. Drawer space for clothing and other personal items. If more than one resident occupies a room, ample drawer space shall be assigned to each individual;

6. At least one mirror; and

7. Window coverings for privacy.

C. Adequate and accessible closet or wardrobe space shall be provided for each resident.

D. The residence shall have sufficient bed and bath linens in good repair so that residents always have clean:

1. Sheets;

2. Pillowcases;

3. Blankets;

4. Bedspreads;

5. Towels;

6. Washcloths; and

7. Waterproof mattress covers when needed.

§ 4.7. Living room or multipurpose room.

A. Sitting rooms or recreation areas or both shall be equipped with:

1. Comfortable chairs (e.g., overstuffed, straight-backed, and rockers);

2. Tables;

3. Lamps;

4. Television (if not available in other areas of the facility);

5. Radio (if not available in other areas of the facility);

6. Current newspaper; and

7. Materials appropriate for the implementation of the planned activity program, such as books or games.

B. Space other than sleeping areas shall be provided for residents for sitting, for visiting with one another or with guests, for social and recreational activities, and for dining. These areas may be used interchangeably.

§ 4.8. Dining areas.

Dining areas shall have a sufficient number of sturdy dining tables and chairs to serve all residents, either all at one time or in reasonable shifts.

§ 4.9. Laundry and linens.

A. Residents' clothing shall be kept clean and in good repair.

B. Table coverings and napkins shall be clean at all times.

C. Bed and bath linens shall be changed at least every seven days and more often if needed. In facilities with common bathing areas, bath linens shall be changed after each use.

D. Table and kitchen linens shall be laundered separately from other washable goods.

E. A sanitizing agent shall be used when bed, bath, table and kitchen linens are washed.

§ 4.10. Transportation.

The resident shall be assisted in making arrangements for transportation as necessary.

§ 4.11. Activity/recreational requirements.

A. There shall be at least 11 hours of scheduled activities available to the residents each week for no less than one hour each day. Activities shall be of a social, recreational, religious, or diversional nature. Community resources may be used to provide activities.

B. These activities shall be varied and shall be planned in consideration of the abilities, physical conditions, need and interests of the residents.

C. The month's schedule of activities shall be written and posted by the first day of the month in a conspicuous place. Residents shall be informed of the activities program.

D. A record shall be kept of the activity schedules for the past three months. They shall be available for inspection by the department.

E. Resident participation in activities.

1. Residents shall be encouraged but not forced to participate in activity programs offered by the facility and the community.

2. Any restrictions on participation imposed by a physician shall be documented in the resident's record.

§ 4.12. Resident rights.

A. The resident shall be encouraged and informed of appropriate means as necessary to exercise his rights as a resident and a citizen throughout the period of his stay at the residence.

B. The resident has the right to voice or file grievances, or both, with the residence and to make recommendations for changes in the policies and services of the residence. The residents shall be protected by the licensee or administrator, or both, from any form of coercion, discrimination, threats, or reprisal for having voiced or filed such grievances.

C. Any resident of an adult care residence has the rights and responsibilities as provided in § 63.1-182.1 of the Code of Virginia and these regulations.

D. The operator or administrator of an adult care residence shall establish written policies and procedures for implementing § 63.1-182.1 of the Code of Virginia.

E. The rights and responsibilities of residents in adult care residences shall be reviewed with all residents annually. The facility is responsible for maintaining a written record indicating that all residents were informed of their rights on an annual basis. The written record must include the names of the residents present and the date the residents' rights were reviewed.

§ 4.13. Visiting in the residence.

A. Daily visits to residents in the residence shall be permitted.

B. If visiting hours are restricted, daily visiting hours shall be posted in a place conspicuous to the public.

§ 4.14. Visiting outside the residence.

Residents shall not be prohibited from making reasonable visits away from the residence except when there is written order of the appropriate personal representative to the contrary.

§ 4.15. Incoming and outgoing mail.

A. Incoming and outgoing mail shall not be censored.

B. Incoming mail shall be delivered promptly.

C. Mail shall not be opened by staff except upon request of the resident or written request of the appropriate personal representative.

§ 4.16. Resident councils.

Every adult care residence shall assist the residents in establishing and maintaining a resident council, except when the majority of the residents do not want to have a council. The council shall be composed of residents of the facility and

may include their family members. The council may extend membership to advocates, friends and others.

§ 4.17. Council duties.

The duties of the resident council shall be determined by the residents and may include but need not be limited to the following:

1. Assisting the facility in developing a grievance procedure;

2. Communicating resident opinions and concerns;

3. Obtaining information from the facility and disseminating the information to the residents;

4. Identifying problems and participating in the resolution of those problems;

5. Acting as a liaison with the community.

§ 4.18. Food service and nutrition.

A. When any portion of an adult care residence is subject to inspection by the State Department of Health, the residence shall be in compliance with those regulations, as evidenced by a report from the State Department of Health.

B. All meals shall be served in the dining area as designated by the facility. Under special circumstances, such as temporary illness or incapacity, meals may be served in a resident's room provided a sturdy table is used.

C. Residents with independent living status who have kitchens equipped with stove, refrigerator and sink within their individual apartments may have the option of obtaining meals from the facility or from another source.

1. The facility must have an acceptable health monitoring plan for these residents and provide meals both for other residents and for residents identified as no longer capable of maintaining independent living status.

2. An acceptable health monitoring plan includes: assurance of adequate resources, accessibility to food, a capability to prepare food, availability of meals when the resident is sick or temporarily unable to prepare meals for himself.

D. Personnel shall be available to help any resident who may need assistance in reaching the dining room or when eating.

§ 4.19. Observance of religious dietary practices.

A. The resident's religious dietary practices shall be respected.

B. Religious dietary laws (or practices) of the administrator or licensee shall not be imposed upon residents unless mutually agreed upon in the admission agreement between administrator or licensee and resident.

§ 4.20. Time interval between meals.

A. Time between the evening meal and breakfast the following morning shall not exceed 15 hours.

B. There shall be at least four hours between breakfast and lunch and at least four hours between lunch and supper.

§ 4.21. Catering or contract food service.

A. Catering service or contract food service, if used, shall be approved by the state or local health department or both.

B. Persons who are employed by a food service contractor or catering service and who are working on the premises of the adult care residence shall meet the health requirements for employees of adult care residences as specified in these regulations and the specific health requirements for food handlers in that locality.

C. Catered food or food prepared and provided on the premises by a contractor shall meet the dietary requirements set forth in these regulations.

§ 4.22. Number of meals.

A. A minimum of three well-balanced meals shall be provided each day.

B. Bedtime snacks shall be made available for all residents desiring them and shall be listed on the daily menu. Vending machines shall not be used as the only source for bedtime snacks.

§ 4.23. Menus for meals and snacks.

A. Food preferences of residents shall be considered when menus are planned.

B. Menus for the current week shall be dated and posted in an area conspicuous to residents.

C. Any menu substitutions or additions shall be recorded.

D. A record shall be kept of the menus served for three months. They shall be subject to inspection by the department.

E. Minimum daily menu.

1. Unless otherwise ordered in writing by the attending physician, the daily menu, including snacks, for each resident shall provide, at least, the following:

a. Five to six ounces of protein food (meat, poultry, fish, eggs, cheese, dry beans, etc.);

b. Two cups of milk or milk substitute (such as cheese, buttermilk, pudding, yogurt, etc.);

c. Four servings (1/2 to 3/4 cup each) of fruits or vegetables (one serving each day shall be a vitamin C source and a vitamin A source shall be served at least three times each week);

d. Four or more servings of whole grain or enriched breads (one slice per serving), and/or cereals (1/2 to 3/4 cups per serving).

2. Other foods may be added.

3. Second servings shall be provided, if requested, at no additional charge.

4. At least one meal each day shall include a hot main dish.

§ 4.24. Special diets; emergency food and water.

A. When a diet is prescribed for a resident by the attending physician, it shall be prepared and served according to the physician's orders.

B. The facility shall ensure the availability of a 72-hour emergency food and drinking water supply.

§ 4.25. Administration of medications and related services.

A. No medication, diet, medical procedure or treatment shall be started, changed or discontinued by the facility without an order by the physician. The resident's record shall contain such written order or a notation of the physician's verbal order. Verbal orders shall be reviewed and signed by a physician within 10 working days.

B. A medicine cabinet, container or compartment shall be used for storage of medications prescribed for residents when such medications are administered by the facility.

1. The storage area shall be locked.

2. When in use, adequate illumination shall be provided in order to read container labels, but the storage area shall remain darkened when closed.

3. The storage area shall not be located in the kitchen, but in an area free of dampness or abnormal temperatures unless the medication requires refrigeration.

C. A resident may be permitted to keep his own medication in a secure place in his room if the UAI has indicated that the resident is capable of self-administering medication. This does not prohibit the facility from storing or administering all medication provided the provisions of subsection D of this section are met.

D. Administration of medication.

1. Drugs shall be administered to those residents who are dependent in medication administration as documented on the UAI, provided subdivisions 2 and 3 of this subsection are met.

2. All staff responsible for medication administration shall have successfully completed a medication training program approved by the Board of Nursing or be licensed by the Commonwealth of Virginia to administer medications.

3. All medications shall be removed from the pharmacy container and administered by the same authorized person within two hours.

E. In the event of an adverse drug reaction or a medication error, first aid shall be administered as directed by the Virginia Poison Control Center, pharmacist, or physician. The resident's physician shall be notified as soon as possible and the actions taken by the staff person shall be documented.

F. The facility shall document all medications administered to residents, including over-the-counter medications. This documentation shall include:

1. Name of the resident;

2. Date prescribed;

3. Drug product name;

4. Dosage;

5. Strength of the drug;

6. Route (for example, by mouth);

7. How often medication is to be taken;

8. Time given and initials of staff administering the medication;

9. Dates the medication is discontinued or changed;

10. Any medication errors or omissions;

11. Significant adverse effects; and

12. The name and initials of all staff administering medications.

G. The facility shall have a plan for proper disposition of medications.

H. The use of PRN (as needed) medications is prohibited, unless one or more of the following conditions exist:

1. The resident is capable of determining when the medication is needed;

2. Licensed health care professionals are responsible for medication management; or

3. The resident's physician has provided detailed written instructions or facility staff have telephoned the doctor prior to administering the medication, explained the symptoms and received a documented oral order to assist the resident in self-administration. The physician's instructions shall include symptoms that might indicate the use of the medication, exact dosage, the exact timeframes the medication is to be given in a 24-hour period, and directions as to what to do if symptoms persist.

I. When oxygen therapy is provided, the following safety precautions shall be met and maintained:

1. The facility shall post "No Smoking-Oxygen in Use" signs and enforce the smoking prohibition in any room of a building where oxygen is in use.

2. The facility shall ensure that only oxygen from a portable source shall be used by residents when they are outside their rooms. The use of long plastic tether lines to the main source of oxygen is not permitted.

3. The facility shall make available to staff the emergency numbers to contact the resident's physician and the oxygen vendor for emergency service or replacement.

J. The performance of all medical procedures and treatments ordered by a physician shall be documented and the documentation shall be retained in the residents' record.

§ 4.26. Do Not Resuscitate (DNR) orders.

Do Not Resuscitate orders shall only be carried out in a licensed adult care residence when the order has been prescribed by a physician, is included in the individualized service plan and there is a licensed nurse available to implement the order.

§ 4.27. Health, hygiene, and grooming.

A. The following standards apply when the resident is in need of health care services (such as mental health counseling, or care of teeth, feet, eyes, ears, etc.)

1. The resident shall be assisted in making appropriate arrangements for the needed care. When mental health care is needed or desired by the resident, this assistance shall include securing the services of the local community mental health and mental retardation services board, state or federal mental health clinic or similar facility or agent in the private sector.

2. When the resident is unable to participate in making appropriate arrangements, the resident's family, personal representative, cooperating social agency or personal physician shall be notified of the need.

B. When the resident suffers serious accident, illness, or medical condition, medical attention shall be secured immediately.

C. The next of kin or personal representative and any responsible social agency shall be notified within 24 hours of any serious illness, or accident, or medical condition including the use of a restraint in an emergency. A notation shall be made in the resident's record of such notice.

D. Each facility shall ensure that health, hygiene and grooming needs of the residents are met, to include but not be limited to the following:

1. Bathing as needed or desired;

2. Shampooing, combing and brushing of hair;

3. Shaving;

4. Trimming of fingernails and toenails (certain medical conditions necessitate that this be done by a licensed health care professional); and

5. Daily tooth brushing and denture care.

E. Any significant changes in a resident's physical or mental condition, including illness or injury, shall be documented in the resident's record.

§ 4.28. Incident reports.

All facilities licensed pursuant to these regulations shall report to the licensing agency by the next working day any major incident which has or could threaten the health, safety or welfare of the residents or staff, such as a fire.

§ 4.29. Management and control of resident funds.

Pursuant to § 63.1-182.1 A 3 of the Code of Virginia, unless a committee or guardian of a resident has been appointed (see § 2.2 C), the resident shall be free to manage his personal finances and funds; provided, however, that the residence may assist the resident in such management in accordance with §§ 4.30 and 4.31.

§ 4.30. Resident accounts.

The residence shall provide to each resident a monthly statement or itemized receipt of the resident's account and shall place a copy also in the resident's record. The monthly statement or itemized receipt shall itemize any charges made and any payments received during the previous 30 days or during the previous calendar month and shall show the balance due or any credits for overpayment on the resident's account.

§ 4.31. Safeguarding residents' funds.

A. If the resident delegates the management of personal funds to the residence, the following standards apply:

1. Residents' funds shall be held separately from any other moneys of the residence. Residents' funds shall not be borrowed, used as assets of the residence, or used for purposes of personal interest by the licensee/operator, administrator, or residence staff.

2. If the residence's accumulated residents' funds are maintained in a single interest-bearing account, each resident shall receive interest proportionate to his average monthly account balance. The residence may deduct a reasonable cost for administration of the account.

3. If any personal funds are held by the residence for safekeeping on behalf of the resident, a written accounting of money received and disbursed, showing a current balance, shall be maintained. Residents' funds and the accounting of the funds shall be made available to the resident or the personal representative or both upon request.

B. No residence administrator or staff member shall act as either attorney-in-fact or trustee unless the resident has no other preferred designee and the resident himself expressly requests such service by or through residence personnel. Any residence administrator or staff member so named shall be accountable at all times in the proper discharge of such fiduciary responsibility as provided under Virginia law, shall provide a quarterly accounting to the resident, and, upon termination of the power of attorney or trust for any reason, shall return all funds and assets, with full accounting, to the resident or to his personal representative or to another responsible party expressly designated by the resident. See also § 2.2 C regarding committees or guardians appointed by a court of competent jurisdiction.

§ 4.32. Restraints.

A. Restraints shall not be used for purposes of discipline or convenience. Restraints may only be used to treat a resident's medical symptoms.

B. The facility may only impose physical restraints to treat the residents medical symptoms, which include but are not limited to physical, emotional, and behavioral problems, if the restraint is:

1. Necessary to ensure the physical safety of the resident or others; and

2. Imposed in accordance with a physician's written order that specifies the circumstances and duration under which the restraint is to be used, except in emergency circumstances until such an order can reasonably be obtained; and

3. Not ordered on a standing, blanket, or "as needed" (PRN) basis.

C. Whenever physical restraints are used, the following conditions shall be met:

1. A restraint shall be used only to the extent that is minimally necessary to protect the resident or others.

2. Restraints shall only be applied by staff who have received training in their use as specified by § 4.33 A;

3. The facility shall closely monitor the resident's condition which includes checking on the resident at least every 30 minutes;

4. The facility shall assist the resident as often as necessary, but no less than 10 minutes every two hours, for his safety, comfort, exercise, and elimination needs;

5. The facility shall release the resident from the restraint as quickly as possible;

6. Staff shall keep a record of restraint usage, checks, and care periods and note any unusual occurrences or problems;

7. Any facility using restraints shall develop and implement a written plan to reduce or eliminate the use of restraints in the facility;

8. In nonemergencies (as defined in § 1.1):

a. Restraints shall be used as a last resort and only if the facility, after completing, implementing and evaluating the resident's comprehensive assessment and service plan, determines and documents that less restrictive means have failed;

b. Restraints shall be used in accordance with the resident's service plan which allows for their progressive removal or the progressive use of less restrictive means;

c. The facility shall explain the use of the restraint to the resident or his personal representative and the resident's right to refuse the restraint, and shall obtain the written consent of the resident or his personal representative;

d. Restraints shall be applied so as to cause no physical injury and the least possible discomfort; and

9. In emergencies (as defined in § 1.1):

a. Restraints shall not be used unless they are necessary to alleviate an unanticipated immediate and serious danger to the resident or other individuals in the facility;

b. The order shall be confirmed in writing by the physician as soon as possible;

c. The resident shall be within sight and sound of staff at all times; and

d. If the emergency restraint is necessary for longer than two hours, the resident shall be transferred to a medical facility or monitored in the facility by a mental health crisis team until his condition has stabilized to the point that the attending physician documents that restraints are not necessary.

D. The use of chemical restraints is prohibited.

§ 4.33. Staff training when aggressive or restrained residents are in care.

A. The following training is required for staff in adult care residences that accept, or have in care, residents who are aggressive or restrained.

B. Aggressive residents.

1. Direct care staff shall be trained in methods of dealing with residents who have a history of aggressive behavior or of dangerously agitated states prior to being involved in the care of such residents.

2. This training shall include, at a minimum, information, demonstration, and practical experience in self-protection and in the prevention and de-escalation of aggressive behavior.

C. Restrained residents.

1. Direct care staff shall be appropriately trained in caring for the health needs of residents who are restrained prior to being involved in the care of such residents. Licensed medical personnel, e.g., R.N.s, L.P.N.s, are not required to take this training if their academic background deals with this type of care.

2. This training shall include, at a minimum, information, demonstration and experience in:

a. The proper techniques for applying and monitoring restraints;

b. Skin care appropriate to prevent redness, breakdown, and decubiti;

c. Active and active assisted range of motion to prevent joint contractures;

d. Assessment of blood circulation to prevent obstruction of blood flow and promote adequate blood circulation to all extremities;

e. Turning and positioning to prevent skin breakdown and keep the lungs clear;

f. Provision of sufficient bed clothing and covering to maintain a normal body temperature; and

g. Provision of additional attention to meet the physical, mental, emotional, and social needs of the restrained resident.

D. The training described in subsections B and C of this section shall meet the following criteria:

1. Training shall be provided by a qualified health professional.

2. A written description of the content of this training, a notation of the person/agency/organization or institution providing the training and the names of staff receiving the training shall be maintained by the facility except that, if the training is provided by the department, only a listing of staff trained and the date of training are required.

E. Refresher training for all direct care staff shall be provided at least annually or more often as needed.

1. The refresher training shall encompass the techniques described in subsection B or C of this section, or both.

2. A record of the refresher training and a description of the content of the training shall be maintained by the facility.

PART V.
BUILDINGS AND GROUNDS.

§ 5.1. General requirements.

A. A certificate of occupancy shall be obtained as evidence of compliance with the applicable edition of the Virginia Uniform Statewide Building Code.

B. Before construction begins or contracts are awarded for any new construction, remodeling, or alterations, plans shall be submitted to the department for review.

C. Doors and windows.

1. All doors shall open and close readily and effectively.

2. Any doorway or window that is used for ventilation shall be effectively screened.

D. There shall be enclosed walkways between residents' rooms and dining and sitting areas which are adequately lighted, heated, and ventilated. This requirement shall not apply to existing buildings or residences that had licenses in effect on January 1, 1980, unless such buildings are remodeled after that date or there is a change of sponsorship of the licensed residence.

E. There shall be an ample supply of hot and cold water from an approved source available to the residents at all times.

F. Hot water at taps available to residents shall be maintained within a range of 105-120°F.

G. Where there is an outdoor area accessible to residents, such as a porch or lawn, it shall be equipped with furniture in season.

H. Cleaning supplies and other hazardous materials shall be stored in a locked area. This safeguard shall be optional in an independent living environment.

I. Each facility shall develop and implement a written policy regarding weapons on the premises of the facility that will ensure the safety and well-being of all residents and staff.

§ 5.2. Maintenance of buildings and grounds.

A. The interior and exterior of all buildings shall be maintained in good repair.

B. The interior and exterior of all buildings shall be kept clean and shall be free of rubbish.

C. All buildings shall be well ventilated and free from foul, stale and musty odors.

D. Adequate provisions for the collection and legal disposal of garbage, ashes and waste material shall be made.

1. Covered, vermin-proof, watertight containers shall be used.

2. Containers shall be emptied and cleaned at least once a week.

E. Buildings shall be kept free of flies, roaches, rats and other vermin. The grounds shall be kept free of their breeding places.

F. All furnishings and equipment, including sinks, toilets, bathtubs, and showers, shall be kept clean and in good repair.

G. Each room shall have walls, ceiling, and floors or carpeting that may be cleaned satisfactorily.

H. All inside and outside steps, stairways and ramps shall have nonslip surfaces.

I. Grounds shall be properly maintained to include mowing of grass and removal of snow and ice, etc.

J. Handrails shall be provided on all stairways, ramps, elevators, and at changes of floor level.

K. Elevators, where used, shall be kept in good running condition and shall be inspected at least annually. The signed and dated certificate of inspection issued by the local authority, by the insurance company, or by the elevator company shall be evidence of such inspection.

§ 5.3. Heating, ventilation, and cooling.

A. Rooms extending below ground level shall not be used for residents unless they are dry and well ventilated. Bedrooms below ground level shall have required window space and ceiling height.

B. At least one movable thermometer shall be available in each building for measuring temperatures in individual rooms that do not have a fixed thermostat which shows the temperature in the room.

C. Heat.

1. Heat shall be supplied from a central heating plant or by an approved electrical heating system.

2. Provided their installation or operation has been approved by the state or local fire authorities, space

heaters, such as but not limited to, wood burning stoves, coal burning stoves, and oil heaters, or portable heating units either vented or unvented, may be used only to provide or supplement heat in the event of a power failure or similar emergency. These appliances shall be used in accordance with the manufacturer's instructions.

3. When outside temperatures are below 65°F, a temperature of at least 72°F shall be maintained in all areas used by residents during hours when residents are normally awake. During night hours, when residents are asleep, a temperature of at least 68°F shall be maintained. This standard applies unless otherwise mandated by federal or state authorities.

D. Cooling devices.

1. Cooling devices shall be made available in those areas of buildings used by residents when inside temperatures exceed 85°F.

2. Cooling devices shall be placed to minimize drafts.

3. Any electric fans shall be screened and placed for the protection of the residents.

4. When air conditioners are not provided, the facility shall develop and implement a plan to protect residents from heat related illnesses.

§ 5.4. Lighting and lighting fixtures.

A. Artificial lighting shall be by electricity.

B. All areas shall be well lighted for the safety and comfort of the residents according to the nature of activities.

C. Outside entrances and parking areas shall be lighted for protection against injuries and intruders.

D. Hallways, stairwells, foyers, doorways, and exits utilized by residents shall be kept well lighted at all times residents are present in the building.

E. Additional lighting, as necessary to provide and ensure presence of contrast, shall be available for immediate use in areas that may present safety hazards, such as, but not limited to, stairways, doorways, passageways, changes in floor level, kitchen, bathrooms and basements.

F. Glare shall be kept at a minimum in rooms used by residents. When necessary to reduce glare, coverings shall be used for windows and lights.

G. If used, fluorescent lights shall be replaced if they flicker or make noise.

H. Emergency lighting.

1. Flashlights or battery lanterns shall be available at all times, with one light for each employee directly responsible for resident care who is on duty between 6 p.m. and 6 a.m.

2. There shall be one operable flashlight or battery lantern available for each bedroom used by residents and for the living and dining area unless there is a provision for emergency lighting in the adjoining hallways.

3. Open flame lighting is prohibited.

§ 5.5. Sleeping areas.

Resident sleeping quarters shall provide:

1. For not less than 450 cubic feet of air space per resident;

2. For not less than 80 square feet of floor area in bedrooms accommodating one resident, except that as of the effective date of these regulations all buildings approved for construction or change in use group, as referenced in the BOCA National Building Code, shall have not less than 100 square feet of floor area in bedrooms accommodating one resident;

3. For not less than 60 square feet of floor area per person in rooms accommodating two or more residents, except that as of the effective date of these regulations all buildings approved for construction or change in use group, as referenced in the BOCA National Building Code, shall have not less than 80 square feet of floor area per person in rooms accommodating two or more residents;

4. For ceilings at least 7½ feet in height;

5. For window areas as provided in this subdivision:

a. There shall be at least eight square feet of glazed window area above ground level in a room housing one person, and

b. There shall be at least six square feet of glazed window area above ground level per person in rooms occupied by two or more persons;

6. For occupancy by no more than four residents in a room. A residence that had a valid license on January 1, 1980, permitting care of more than four residents in specific rooms, will be deemed to be in compliance with this standard; however, the residence may not exceed the maximum number of four residents in any other room in the facility. This exception will not be applicable if the residence is remodeled or if there is a change of sponsorship.

7. For at least three feet of space between sides and ends of beds that are placed in the same room;

8. That no bedroom shall be used as a corridor to any other room;

9. That all beds shall be placed only in bedrooms; and

10. That household members and staff shall not share bedrooms with residents.

§ 5.6. Toilet, handwashing and bathing facilities.

A. In determining the number of toilets, washbasins, bathtubs or showers required, the total number of persons residing on the premises shall be considered. Unless there are separate facilities for household members or live-in staff, they shall be counted in determining the required number of fixtures. In a residence with a valid license on January 1, 1980, only residents shall be counted in making the

determination unless such residence is subsequently remodeled or there is a change of sponsorship.

1. On each floor where there are residents' bedrooms, there shall be:

a. At least one toilet for seven persons;

b. At least one washbasin for each seven persons;

c. At least one bathtub or shower for each 10 persons;

d. Toilets, washbasins and bathtubs or showers in separate rooms for men and women where more than seven persons live on a floor. Bathrooms equipped to accommodate more than one person at a time shall be labeled by sex. Sex designation of bathrooms shall remain constant during the course of a day.

2. On floors used by residents where there are no residents' bedrooms there shall be:

a. At least one toilet;

b. At least one washbasin;

c. Toilets and washbasins in separate rooms for men and women in residences where there are 10 or more residents. Bathrooms equipped to accommodate more than one person at a time shall be designated by sex. Sex designation of bathrooms must remain constant during the course of a day.

B. Bathrooms shall provide for visual privacy for such activities as bathing, toileting, and dressing.

C. There shall be ventilation to the outside in order to eliminate foul odors.

D. The following sturdy safeguards shall be provided:

1. Handrails by bathtubs;

2. Grab bars by toilets; and

3. Handrails and stools by stall showers.

These safeguards shall be optional for individuals with independent living status.

§ 5.7. Toilet supplies.

A. The residence shall have an adequate supply of toilet tissue and soap. Toilet tissue shall be accessible to each commode.

B. Common handwashing facilities shall have paper towels or an air dryer, and liquid soap for hand washing.

§ 5.8. Fire safety: compliance with state regulations and local fire ordinances.

A. An adult care residence shall comply with the Virginia Statewide Fire Prevention Code as determined by at least an annual inspection by the Office of the State Fire Marshal.

B. An adult care residence shall comply with any local fire ordinance.

§ 5.9. Fire plans.

A. An adult care residence shall have a fire plan approved by the Office of the State Fire Marshal. The plan shall consist of the following:

1. Written procedures to be followed in the event of a fire. The local fire department or fire prevention bureau shall be consulted in preparing such a plan, if possible;

2. A drawing of each floor of each building, showing alternative exits for use in a fire, location of telephones, fire alarm boxes and fire extinguishers, if any. The drawing shall be prominently displayed on each floor of each building used by residents.

B. The telephone numbers for the fire department, rescue squad or ambulance, and police shall be posted by each telephone shown on the fire plan.

NOTE: In adult care residences where all outgoing telephone calls must be placed through a central switchboard located on the premises, this information may be posted by the switchboard rather than by each telephone, providing this switchboard is manned 24 hours each day.

C. The licensee or administrator or both and all staff members shall be fully informed of the approved fire plan, including their duties, and the location and operation of fire extinguishers and fire alarm boxes, if available.

D. The approved fire plan shall be reviewed quarterly with all staff and with all residents.

§ 5.10. Fire drills.

A. At least one fire drill shall be held each month for the staff on duty and all residents who are in the building at the time of the fire drill. During a three-month period:

1. At least one fire drill shall be held between the hours of 7 a.m. and 3 p.m.;

2. At least one fire drill shall be held between the hours of 3 p.m. and 11 p.m.; and

3. At least one fire drill shall be held between the hours of 11 p.m. and 7 a.m.

B. Additional fire drills may be held at the discretion of the administrator or licensing specialist and must be held when there is any reason to question whether all residents can meet the requirements of the approved fire plan.

C. Each required drill shall be unannounced.

D. Immediately following each required fire drill, there shall be an evaluation of the drill by the staff in order to determine the effectiveness of the drill. The licensee or administrator shall immediately correct any problems identified in the evaluation.

E. A record of required fire drills shall be kept in the residence for one year. Such record shall include the date, the hour, the number of staff participating, the number of residents, and the time required to comply with the approved fire plan.

F. Fire drills shall be timed and shall include at least the following:

1. Sounding of fire alarms;

2. Practice in building evacuation procedures;

3. Practice in alerting fire fighting authorities;

4. Simulated use of fire fighting equipment;

5. Practice in fire containment procedures; and

6. Practice of other fire safety procedures as may be required by the facility's approved fire plan.

§ 5.11. Emergency procedures.

A. An adult care residence shall have written procedures to meet other emergencies, including severe weather, loss of utilities, missing persons and severe injury.

B. The procedures required by subsection A of this section and the approved fire plan shall be discussed at orientation for new staff, for new residents, and for volunteers.

§ 5.12. Provisions for emergency calls/signaling systems.

A. All adult care residences shall have a signaling device that is easily accessible to the resident in his bedroom or in a connecting bathroom that enables the staff to be readily available to the resident.

B. In residences licensed to care for 20 or more residents under one roof, there shall be a signaling device or intercom or a telephone which terminates at the staff station and permits staff to determine the origin of the signal. If the device does not terminate at the staff station so as to permit staff to determine the origin of the signal, staff shall make rounds at least once each hour to monitor for emergencies. These rounds shall begin when the majority of the residents have gone to bed each evening and shall terminate when the majority of the residents have arisen each morning.

1. A written log shall be maintained showing the date and time rounds were made and the signature of the person who made rounds.

2. Logs for the past three months shall be retained.

3. These logs shall be subject to inspection by the department.

§ 5.13. Telephones.

A. Each building shall have at least one operable, nonpay telephone easily accessible to staff. There shall be additional telephones or extensions as may be needed to summon help in an emergency.

B. The resident shall have reasonable access to a nonpay telephone on the premises.

§ 5.14. Smoking.

A. Smoking by residents and staff shall be done only in areas designated by the facility and approved by the State Fire Marshal or local fire prevention authorities. Smoking shall not be allowed in a kitchen or food preparation areas.

B. All designated smoking areas shall be provided with suitable ashtrays.

C. Residents shall not be permitted to smoke in or on their beds. This does not apply to independent living facilities.

D. All common areas shall have smoke-free areas designated for nonsmokers.

PART VI.
ADDITIONAL REQUIREMENTS FOR ASSISTED LIVING FACILITIES.

Article 1.
General Requirements.

§ 6.1. Personnel and staffing.

A. The administrator shall be a high school graduate or shall have a General Education Development Certificate (GED) and shall have successfully completed at least two years of post secondary education or one year of courses in human services or group care administration from an accredited college or institution or a department approved curriculum specific to the administration of an adult care residence. The administrator also shall have completed at least one year of experience in caring for adults with mental or physical impairments, as appropriate to the population in care, in a group care facility. The following three exceptions apply:

1. Administrators employed prior to the effective date of these standards who do not meet the above requirement shall be a high school graduate or shall have a GED, or shall have completed at least one full year of successful experience in caring for adults in a group care facility;

2. Licensed nursing home administrators who maintain a current license from the Virginia Department of Health Professions are exempt from this standard;

3. Licensed nurses who meet the above experience requirements. The requirements in this standard are in lieu of the requirements specified in § 2.2 B 4.

B. Any designated assistant administrator as referenced in § 2.2 F, i.e., acting in place of the administrator for part or all of the 40 hours, shall meet the qualifications of the administrator, or if employed prior to the effective date of these standards, its exception, unless the designated assistant is performing as an administrator for fewer than 15 of the 40 hours referenced in § 2.2 F or for fewer than four weeks due to the vacation or illness of the administrator, then the requirements of § 2.2 B 4 shall be acceptable.

C. All direct care staff shall have satisfactorily completed, or within 30 days of employment shall enroll in and successfully complete within four months of employment, a training program consistent with department requirements, except as noted in subsections D and E of this section. Department requirements shall be met in one of the following four ways:

1. Registration as a certified nurse aide.

2. Graduation from a Board of Nursing approved educational curriculum from a Board of Nursing

accredited institution for nursing assistant, geriatric assistant or home health aide.

3. Graduation from a department approved educational curriculum for nursing assistant, geriatric assistant or home health aide. The curriculum is provided by a hospital, nursing facility, or educational institution not approved by the Board of Nursing, e.g., out-of-state curriculum. To obtain department approval:

a. The facility shall provide to the licensing representative an outline of the course content, dates and hours of instruction received, the name of the institution which provided the training, and other pertinent information.

b. The department will make a determination based on the above information and provide written confirmation to the facility when the course meets department requirements.

4. Successful completion of department approved adult care residence offered training. To obtain department approval:

a. Prior to offering the course, the facility shall provide to the licensing representative an outline of the course content, the number of hours of instruction to be given, the name and professional status of the trainer, and other pertinent information.

b. The content of the training shall be consistent with the content of the personal care aide training course of the Department of Medical Assistance Services; a copy of the outline for this course is available from the licensing representative.

c. The training shall be provided by a licensed health care professional acting within the scope of the requirements of his profession.

d. The department will make a determination regarding approval of the training and provide written confirmation to the facility when the training meets department requirements.

D. Licensed health care professionals, acting within the scope of the requirements of their profession, are not required to complete the training in subsection C of this section.

E. Direct care staff of the facility employed prior to the effective date of these standards shall either meet the training requirements in subsection C of this section within one year of the effective date of these standards, or demonstrate competency in the items listed on a skills checklist within the same time period. The following applies to the skills checklist:

1. The checklist shall include the content areas covered in the personal care aide training course. A department model checklist is available from the licensing representative.

2. A licensed health care professional, acting within the scope of the requirements of his profession, shall evaluate the competency of the staff person in each item on the checklist, document competency, and sign and date.

F. The facility shall obtain a copy of the certificate issued to the certified nurse aide, the nursing assistant, geriatric assistant or home health aide, or documentation indicating adult care residence offered training has been successfully completed. The copy of the certificate or the appropriate documentation shall be retained in the staff member's file. Written confirmation of department course or training approval shall also be retained in the staff member's file, as appropriate.

G. When direct care staff are employed who have not yet successfully completed the training program as allowed for in subsection C of this section, the administrator shall develop and implement a written plan for supervision of these individuals.

H. On an annual basis, all direct care staff shall attend at least 12 hours of training which focuses on the resident who is mentally or physically impaired, as appropriate to the population in care. This requirement is in lieu of the requirement specified in § 2.4 D.

I. Documentation of the dates of the training received annually, number of hours and type of training shall be kept by the facility in a manner that allows for identification by individual employee.

J. Each adult care residence shall retain a licensed health care professional, either by direct employment or on a contractual basis, to provide health care oversight. The licensed health care professional, acting within the scope of the requirements of his profession, shall be on-site at least once a month and more often, if needed. The responsibilities of the professional shall include:

1. Recommending in writing changes to a resident's service plan whenever the plan does not appropriately address the current health care needs of the resident.

2. Periodic monitoring of direct care staff performance of health related activities, including the identification of any significant gaps in the staff person's ability to function competently.

3. Advising the administrator of the need for staff training in health related activities or the need for other actions when appropriate to eliminate problems in competency level.

4. Providing consultation and technical assistance to staff as needed.

5. Each month, directly observing every resident requiring intensive assisted living and any other resident with identified medical or nursing needs, and recommending in writing any needed changes in the care provided or in the resident's service plan.

6. Reviewing documentation as needed and at least every 90 days regarding health care services, including medication and treatment records to assess that services are being provided in accordance with physicians' orders, and informing the administrator of any problems.

7. Each month, reviewing the current condition and the records of restrained residents to assess the appropriateness of the restraint and progress toward its reduction or elimination, and advising the administrator of any concerns.

K. A resident's need for skilled nursing treatments within the facility shall be met by facility employment of a licensed nurse or contractual agreement with a licensed nurse, or by a home health agency or by a private duty licensed nurse.

§ 6.2. Resident personal and social data.

Prior to or at the time of admission to an adult care residence, the following information on a person shall be obtained and placed in the individual's record:

1. Description of family structure and relationships;

2. Previous mental health/mental retardation services history, if any;

3. Current behavioral and social functioning including strengths and problems; and

4. Any substance abuse history.

§ 6.3. Resident care and related services.

A. There shall be at least 14 hours of scheduled activities available to the residents each week for no less than one hour each day. The activities shall be designed to meet the specialized needs of the residents and to promote maximum functioning in physical, mental, emotional, and social spheres. This requirement is in lieu of the requirement specified in § 4.11 A.

B. Facilities shall assure that all restorative care and habilitative service needs of the residents are met. Staff who are responsible for planning and meeting the needs shall have been trained in restorative and habilitative care. Restorative and habilitative care includes, but is not limited to, range of motion, assistance with ambulation, positioning, assistance and instruction in the activities of daily living, psychosocial skills training, and reorientation and reality orientation.

C. In the provision of restorative and habilitative care, staff shall emphasize services such as the following:

1. Making every effort to keep residents active, within the limitations permitted by physicians' orders.

2. Encouraging residents to achieve independence in the activities of daily living.

3. Assisting residents to adjust to their disabilities, to use their prosthetic devices, and to redirect their interests if they are no longer able to maintain past involvement in activities.

4. Assisting residents to carry out prescribed physical therapy exercises between visits from the physical therapist.

5. Maintaining a bowel and bladder training program.

D. Facilities shall assure that the results of the restorative and habilitative care are documented in the service plan.

E. Facilities shall arrange for specialized rehabilitative services by qualified personnel as needed by the resident. Rehabilitative services include physical therapy, occupational therapy and speech-language pathology services. Rehabilitative services may be indicated when the resident has lost or has shown a change in his ability to respond to or perform a given task and requires professional rehabilitative services in an effort to regain lost function. Rehabilitative services may also be indicated to evaluate the appropriateness and individual response to the use of assistive technology.

F. All rehabilitative services rendered by a rehabilitative professional shall be performed only upon written medical referral by a physician or other qualified health care professional.

G. The physician's orders, services provided, evaluations of progress, and other pertinent information regarding the rehabilitative services shall be recorded in the resident's record.

H. Direct care staff who are involved in the care of residents using assistive devices shall know how to operate and utilize the devices.

I. A licensed health care professional, acting within the scope of the requirements of his profession, shall perform an annual review of all the medications of each resident, including both prescription and over-the-counter medications. The results of the review shall be documented, signed and dated by the health care professional, and retained in the resident's record. Any potential problems shall be reported to the resident's attending physician and to the facility administrator. Action taken in response to the report shall also be documented in the resident's record.

Article 2.
Additional Requirements for Assisted Living Facilities Caring for Adults with Mental Illness or Mental Retardation or Who are Substance Abusers.

§ 6.4. Psychiatric or psychological evaluation.

A. When determining the appropriateness of admission for applicants with serious mental illness, mental retardation or a history of substance abuse, a current psychiatric or psychological evaluation may be needed. The need for this evaluation will be indicated by the UAI or based upon the recommendation of the resident's case manager or other assessor.

B. A current evaluation for an applicant with mental illness or a history of substance abuse shall be no more than 12 months old, unless the case manager or other assessor recommends a more recent evaluation.

C. A current evaluation for a person with mental retardation shall be no more than three years old, unless the case manager or other assessor recommends a more recent evaluation.

D. The evaluation shall have been completed by a person having no financial interest in the adult care residence, directly or indirectly as an owner, officer, employee, or as an independent contractor with the residence.

E. A copy of the evaluation shall be filed in the resident's record.

§ 6.5. Written services agreement.

A. The facility shall enter into a written agreement with the local community mental health, mental retardation and substance abuse services board, mental health clinic, or similar facility or agency to make services available to all residents. This agreement shall be jointly reviewed annually by the adult care residence and the service entity.

B. Services to be included in the agreement shall at least be the following:

1. Diagnostic, evaluation and referral services in order to identify and meet the needs of the resident;

2. Appropriate community-based mental health, mental retardation and substance abuse services;

3. Services and support to meet emergency mental health needs of a resident; and

4. Completion of written progress reports specified in § 6.6.

C. A copy of the agreement specified in subsections A and B of this section shall remain on file in the adult care residence.

D. For each resident the services of the local community mental health, mental retardation and substance abuse services board, mental health clinic, rehabilitative services agency, or similar facility or agent shall be secured as appropriate based on the resident's current evaluation.

§ 6.6. Written progress reports.

A. The facility shall obtain written progress reports on each resident receiving services from the local community mental health, mental retardation and substance abuse services board, mental health clinic, or a treatment facility or agent in the private sector.

B. The progress reports shall be obtained at least every six months until it is stated in a report that services are no longer needed.

C. The progress reports shall contain at a minimum:

1. A statement that continued services are or are not needed;

2. Recommendations, if any, for continued services;

3. A statement that the resident's needs can continue to be met in an adult care residence; and

4. A statement of any recommended services to be provided by the adult care residence.

D. Copies of the progress reports shall be filed in the resident's record.

§ 6.7. Obtaining recommended services.

The adult care residence shall assist the resident in obtaining the services recommended in the initial evaluation and in the progress reports.

Article 3.
Additional Requirements for Assisted Living Facilities Caring for Adults with Dementia/Serious Cognitive Deficits.

§ 6.8. Adults with dementia/serious cognitive deficits.

A. The requirements provided in subsection B of this section apply when any resident exhibits behavior indicating a serious cognitive deficit and when the resident cannot recognize danger or protect his own safety and welfare, except as noted in subdivision B 9 of this section.

B. If there is a mixed population the requirements apply to the entire facility unless specified otherwise. If there is a special care unit for residents with serious cognitive deficits, the requirements apply only to the special care unit.

1. There shall be at least two direct care staff members in each building at all times that residents are present who shall be responsible for their care and supervision.

2. During trips away from the facility, there shall be sufficient staff to provide sight and sound supervision to all residents.

3. Commencing immediately and within six months of employment, direct care staff shall complete four hours of dementia/cognitive deficit training. This training is counted toward meeting the annual training requirements for the first year.

4. Commencing immediately and within three months of employment, the administrator shall complete 12 hours of dementia/cognitive deficit training. This training is counted toward the annual training requirements for the first year.

5. Curriculum for the dementia/cognitive deficit training shall be developed by a qualified health professional or by a licensed social worker and shall include, but need not be limited to:

a. Explanation of Alzheimer's disease and related disorders;

b. Resident care techniques, such as assistance with the activities of daily living;

c. Behavior management;

d. Communication skills; and

e. Activity planning.

6. Within the first week of employment, employees other than the administrator and direct care staff shall complete one hour of orientation on the nature and needs of residents with dementia/cognitive deficits.

7. Doors leading to the outside shall have a system of security monitoring, such as door alarms, cameras, or security bracelets which are part of an alarm system, unless the door leads to a secured outdoor area.

8. The facility shall have a secured outdoor area for the residents' use or provide staff supervision while residents are outside.

9. There shall be protective devices on the bedroom and the bathroom windows of residents with dementia to prevent the windows from being opened wide enough for a resident to crawl through.

10. The facility shall provide to residents free access to an indoor walking corridor or other area which may be used for walking.

11. Special environmental precautions shall be taken by the facility to eliminate hazards to the safety and well-being of residents with dementia/cognitive deficits. Examples of environmental precautions include signs, carpet patterns and arrows which point the way; camouflage of exits; and reduction of background noise.

12. This subsection does not apply when facilities are licensed for 10 or fewer residents if no more than three of the residents exhibit behavior indicating serious cognitive deficits, when the resident cannot recognize danger or protect his own safety and welfare. The prospective resident or his personal representative shall be so notified prior to admission.

DOCUMENTS INCORPORATED BY REFERENCE

(§§ 2.7 C 1 d and 3.1 L 8 of VR 615-22-02:1)

User's Manual: Virginia Uniform Assessment Instrument (UAI), Long-Term Care Council, March 1994.

VA.R. Doc. No. R95-649; Filed August 1, 1995, 9:10 a.m.

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REPROPOSED

EDITOR'S NOTICE: The State Board of Social Services is soliciting additional public comment for 30 days on VR 615-46-02, Assessment and Case Management in Adult Care Residences. The initial 60-day public comment period was held from December 13, 1993, through February 11, 1994. In response to public comment, several revisions were made to the regulations. Also, Chapter 649 of the 1995 Acts of Assembly was enacted concerning adult care residences and revisions have been made to address these changes. The proposed regulation was previously published in 10:6 VA.R. 1450-1457 December 13, 1993.

Title of Regulation: **VR 615-46-02. Assessment and Case Management in Adult Care Residences.**

Statutory Authority: §§ 63.1-25 and 63.1-173.3 of the Code of Virginia.

Public Hearing Date: N/A -- Public comments may be submitted until September 20, 1995.
(See Calendar of Events section for additional information)

Basis: Sections 63.1-25 and 63.1-173.3 of the Code of Virginia provide to the Board of Social Services the authority to promulgate the assessment and case management regulations. The Code also provides, in the Administrative Process Act (APA), § 9-6.14:7.1, for this agency's promulgation of proposed regulations subject to the Department of Planning and Budget's and the Governor's reviews.

Purpose: The purpose of this regulation is to develop standards to support the assessment and case management of applicants and residents in adult care residences (ACRs). This proposed regulation will change the term "homes for adults" to "adult care residences" and will provide for standards for assessment, case management, and monitoring for ACRs.

The 1993 Session of the General Assembly passed House Joint Resolution 601 requiring that all public health and human resource agencies use a uniform assessment instrument, common definitions, and criteria for all publicly funded long-term care services in the Commonwealth. Also during that session, Senate Bill 1064 and House Bill 2280 established the statutory basis for the use of a uniform assessment instrument for all residents of adult care residences.

In response to concern voiced about sections of the proposed regulations, the 1995 Session of the General Assembly enacted Chapter 649 which includes requirements for assessment and case management services for residents of ACRs such as level of care criteria, determination and authorization of services, and responsibilities and qualifications of case managers, as well as requirements for licensing of ACRs.

Substance: This regulation sets forth requirements for assessment and case management in adult care residences which will result in a level of care determination and payment level for all applicants and residents in ACRs. The regulation will provide for the determination of a level of care rating for each resident and provide for reassessment and monitoring of care and services provided.

Issues: Effective February 1, 1996, all applicants to an adult care residence must be assessed using the uniform assessment instrument (UAI) prior to their admission. In addition, all current residents of ACRs must be assessed using the UAI within 12 months of the effective date of the regulation.

Addressed in the regulation are the following issues which affect recipients and providers of ACR services: case management processes, use of the UAI, service delivery, appeals procedures, and criteria for ACR admission and placement. Implementation advantages include continued assessment of care needs of each ACR resident to ensure that the facility can adequately meet those needs. This regulation will provide the state, through the Department of Social Services, with the ability to adequately protect the health and safety of ACR residents by ensuring that care needs are met. Funds have been appropriated for the additional costs associated with this regulation.

While the advantages to both the ACR resident and the state outweigh any disadvantages, there is a concern about the additional assessment workload on local departments of social services. Funding has been requested through the Department of Medical Assistance Services to accommodate the costs of additional assessments, but there will be a greater demand on social workers to assess applicants to ACRs as well as current residents. In addition, the ACR

provider community continues to express concern over the costs of complying with certain regulatory standards, particularly those in the licensing proposed regulation. There are no disadvantages to either the public or the state.

New applicants must be assessed beginning with the effective date of the regulation; currently, there are about 6,700 residents who must be assessed within 12 months of the effective date of the regulation. Localities are encouraged to coordinate these assessments between available resources (e.g., local department of social services, area agency on aging, local health department), but the local department of social services is the assessor of "last resort." In many localities, it will fall to limited local department of social services staff to administer potentially hundreds of assessments.

Impact: This regulation will impact the 572 licensed adult care residences and approximately 26,500 public and private pay residents who live in these facilities. The Department of Medical Assistance Services has prepared budget addenda for the assessment ($872,000 in administrative budget) and case management ($1,157,661 in service budget) components.

Costs are incurred when Department of Social Services staff are required to complete either an initial assessment or an annual reassessment of ACR residents. With the effective date of the regulation, new ACR applicants must be assessed using the Uniform Assessment Instrument (UAI), a form which has been mandated by the Secretary of Health and Human Resources for use by all public human services agencies who assess customers for long-term care services. There are approximately 6,700 current residents of ACRs who must be assessed within 12 months of the effective date of the regulation using the UAI. While various human services agencies within localities are encouraged to share the assessment burden, the local department of social services is the "assessor of last resort." There is currently no mechanism to link financial eligibility for an auxiliary grant with service need and appropriateness of care provided by ACRs. This regulation will provide a means to implement statewide service need criteria for placements in ACRs paid for through the Auxiliary Grants Program.

VDSS caseload standards data indicate that it takes a service worker approximately 2.07 hours to complete an intake assessment and 8.0 hours for services/case management. Given that there are about 6,700 current residents to be assessed, plus approximately 335 new applicants to ACRs in a year (based upon an historical average increase from Financial Management of about 5.0% per year), the implementation of this regulation will require approximately 70,845 hours of a human services worker time in the first year of the effective date of the regulation ((6,700 current residents plus 335 applicants) x 10.07 hours). This figure assumes that local VDSS service workers perform all of the assessments.

When the estimated number of human services worker hours is applied to the average hourly rate of a grade 10 service worker ($17.21 including salary, retirement, FICA, insurance, and administrative costs), the estimated cost of implementing this regulation is approximately $1,219,242. The Department of Medical Assistance Services (DMAS) has prepared a budget addendum for the assessment and case management components of this regulation. An assessment and case management fee will be paid to the human services agency that completes the required assessments and provides case management services. It should be noted that the figure prepared by DMAS includes supervisory and support staff. There are no costs associated with compliance to the requirements of this regulation.

Implementation of this regulation will further develop Virginia's long-term care continuum by linking financial eligibility, service need, and licensure to ensure appropriateness, uniformity, and cost effectiveness of placement of customers in ACRs. The importance of customer-centered needs assessment, placement, case management, and monitoring are obvious. The auxiliary grants state and local expenditures and caseloads continue to increase. By accurately assessing the needs of residents of ACRs, the Commonwealth will assure appropriate placement in these facilities and realize potential savings through improved targeting of auxiliary grant dollars.

This regulation does not impact disproportionately upon any locality.

Preface:

The Virginia Board of Social Services wants it noted that its voting out for Administrative Process Act publication the regulations on adult care residences on July 19, 1995, is not meant to indicate board approval and endorsement of the regulations in their entirety. A comprehensive cost impact analysis will be required prior to board action. Following the 30-day comment period, the board intends to review the comments submitted and the information on the costs of the implementation of the adult care residences regulations, then make whatever changes needed and take whatever action it determines appropriate.

Summary:

The 1993 General Assembly enacted legislation (Chapter 957) which set forth requirements for case management services for residents of adult care residences. This legislation also created two levels of care in adult care residences, established the statutory basis for the prohibition of certain medical conditions, specified licensure requirements, and changed the term "homes for adults" to "adult care residences." In response to this legislation, three sets of regulations (assessment and case management, licensure, and auxiliary grant) were published for a public comment period held between December 13, 1993, and February 11, 1994. In response to public comment, the following revisions were made to the proposed assessment and case management regulation:

1. Reduce the frequency of assessments from semi-annually to annually for all levels of care in an effort to reduce costs.

2. Eliminate reference to an implementation date and require all assessments to be completed within 12 months of the effective date of the regulations.

3. Change the requirement for a completed assessment for emergency placements from five to seven working days from the date of entrance.

4. Add a definition for a qualified assessor and include language to allow hospitals, under contract with DMAS, to assess public applicants and residents for appropriate level of care.

5. Add behavior criteria to allow persons dependent in behavior patterns to receive assisted living.

6. Clarify the definition of "maximum physical assistance" by further defining total assistance as meaning that a person does not participate in any way in performing the activity. This change will reduce confusion and distinguish between dependent (needing human or mechanical help) and total dependence.

7. Streamline case management by deleting intake and screening and service delivery functions as components of case management and focusing care plan activities on unmet needs.

8. Allow physicians to authorize emergency placement into an ACR for private pay residents.

9. To reduce duplication, delete criteria for intensive assisted living and qualifications of a case manager. Both of these are included in regulations promulgated by DMAS.

10. Specify that a UAI may be completed within 90 days prior to the date of ACR admission. If a change in the resident's condition occurs since the completion of the UAI, a new UAI is completed.

As a result of public and private concern about parts of the proposed regulations, the 1995 General Assembly enacted legislation (Chapter 649) which includes requirements for assessment and case management services for residents of adult care residences and for the administration of the Auxiliary Grant Program. This regulation establishes general standards for the assessment and case management of applicants and residents of adult care residences including information on individuals to be served, level of care criteria, determination and authorization of services, and responsibilities and qualifications of case managers. Following the enactment of Chapter 649 of the 1995 Acts of Assembly, the following changes were made to the regulation:

1. Add language authorizing local departments of social services to perform assessments in the absence of any other qualified and willing case management agencies. This, in effect, will make the local departments of social services the authorization agency for the purposes of determining level of care and ensure the provisions of assessments as required for financial eligibility.

2. Abbreviate those portions of the UAI required for private pay individuals.

3. Add definitions for "independent physician," "qualified assessor," and "total dependence."

4. Specify that the cost of administering the UAI for public pay applicants and residents shall be borne by DMAS through contractual agreements with qualified assessors.

5. Add that the fee charged by a case management agency for private pay applicants and residents may not exceed the fee paid by DMAS for public pay applicants and residents.

VR 615-46-02. Assessment and Case Management in Adult Care Residences.

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:

"Activities of daily living (ADLs)" means bathing, dressing, toileting, transferring, bowel control, bladder control, and eating/feeding. A person's degree of independence in performing these activities is a part of determining appropriate setting and services.

"Adult care residence (ACR)" means any place, establishment, or institution, public or private, operated or maintained for the maintenance or care of four or more adults who are aged, infirm, or disabled and who are cared for in a primarily residential setting, except (i) a facility or portion of a facility licensed by the State Board of Health or the Department of Mental Health, Mental Retardation and Substance Abuse Services, but including any portion of such facility not so licensed, and (ii) the home or residence of an individual who cares for or maintains only persons related to him by blood or marriage, and (iii) a facility or any portion of a facility serving infirm or disabled persons between the ages of 18 and 21, or 22 if enrolled in an educational program for the handicapped pursuant to § 22.1-214 of the Code of Virginia, when such facility is licensed by the Virginia Department of Social Services (DSS) as a child-caring institution under Chapter 10 (§ 63.1-195 et seq.) of Title 63.1 of the Code of Virginia, but including any portion of the facility not so licensed. Included in this definition are any two or more places, establishments, or institutions owned or operated by a single entity and providing maintenance or care to a combined total of four or more aged, infirm or disabled adults.

"Applicant" means an adult currently residing or planning to reside in an adult care residence.

"Arranging for services" means the process through which the case manager identifies appropriate adult care residences or other services to meet the needs of the applicant, including level of care, for applicants and recipients of adult residential care.

"Assessor" means the entity specified in this regulation as qualified to perform assessments and authorize service in an adult care residence and includes a case manager; a qualified assessor contracting with the Department of Medical Assistance Services; an employee of the ACR having the

knowledge, skills, and abilities of a case manager; and an independent physician.

"Assisted living" means a level of service provided by an adult care residence for adults who may have physical or mental impairments and require at least moderate assistance with the activities of daily living. Moderate assistance means dependency in two or more of the activities of daily living. Included in this level of service are individuals who are dependent in behavior pattern (i.e., abusive, aggressive, disruptive). Within assisted living, there are two payment levels for recipients of an auxiliary grant: regular assisted living and intensive assisted living as defined in regulations promulgated by the Department of Medical Assistance Services.

"Auxiliary Grants Program" means a state and locally funded assistance program to supplement income of a Supplemental Security Income (SSI) recipient or adult who would be eligible for SSI except for excess income, who resides in an adult care residence with an approved rate.

"Care plan" means a standardized, written description of the need or needs which cannot be met by the adult care residence and the case manager's strategy for arranging services to meet that need.

"Case management" means an activity performed by an employee of a public human service agency to locate, coordinate and monitor services for applicants and recipients of the Auxiliary Grants Program and for private pay residents who purchase the service.

"Case management agency" means a public human service agency which employs or contracts for case management.

"Case manager" means an employee of a public human service agency having a contract with the Department of Medical Assistance Services to provide case management services and who is qualified to perform case management activities.

"Community-based waiver services" means a service program administered by the Department of Medical Assistance Services under a waiver approved by the United States Secretary of Health and Human Services.

"Consultation" means the process of seeking and receiving information and guidance from appropriate human service agencies and other professionals when assessment data indicate certain social, physical and mental health conditions.

"Department" or "DSS" means the Virginia Department of Social Services.

"Dependent" means, for activities of daily living (ADLs) and instrumental activities of daily living (IADLs), the individual needs the assistance of another person or needs the assistance of another person and equipment or device to safely complete the activity. For medication administration, dependent means the individual needs to have medications administered or monitored by another person or professional staff. For behavior pattern, dependent means the person's behavior is aggressive, abusive, or disruptive.

"Discharge" means the movement of a resident out of the adult care residence.

"Emergency placement" means the temporary status of an individual in an adult care residence when the person's health and safety would be jeopardized by not permitting entry into the facility until requirements for admission have been met. An emergency placement shall occur only when the emergency is documented and approved by a Virginia adult protective services worker or case manager for public pay individuals or by an independent physician or a Virginia adult protective services worker for private pay individuals.

"Functional capacity" means the degree of independence with which an individual can perform activities of daily living and instrumental activities of daily living.

"Independent physician" means a physician who is chosen by the resident of the adult care residence and who has no financial interest in the adult care residence, directly or indirectly, as an owner, officer, or employee or as an independent contractor with the residence.

"Individualized service plan" means the written description of actions to be taken by the adult care residence to meet the assessed needs of the resident.

"Instrumental activities of daily living (IADLs)" means meal preparation, housekeeping, laundry, money management, transportation, shopping, using the telephone, and home maintenance.

"Maximum physical assistance" means that an individual has a rating of total dependence in four or more of the seven ADLs as documented on the uniform assessment instrument. An individual who can participate in any way with the performance of the activity is not considered to be totally dependent.

"Medication administration" means the degree of assistance required to take medications without dependencies imposed by the environment and is a part of determining appropriate setting and services.

"Monitoring" means the maintenance of regular contact with the resident, staff of the adult care residence, and community-based service providers to ensure that the services provided are meeting the resident's needs.

"Private pay" means a resident of an adult care facility not eligible for benefits under the Auxiliary Grants Program.

"Public human service agency" means an agency established or authorized by the General Assembly under Chapters 2 and 3 of Title 63.1, Chapter 24 of Title 2.1, Chapters 1 and 10 of Title 37.1, or Article 5 of Chapter 1 of Title 32.1 of the Code of Virginia, or hospitals operated by the state under Chapters 6.1 and 9 of Title 23 of the Code of Virginia and supported wholly or principally by public funds, including but not limited to funds provided expressly for the purposes of case management.

"Public pay" means a resident of an adult care facility eligible for benefits under the Auxiliary Grants Program.

"Qualified assessor" means an entity contracting with the Department of Medical Assistance Services (DMAS) to

perform nursing facility preadmission screening or to complete the uniform assessment instrument for a home- and community-based care waiver program including an independent physician contracting with DMAS to complete the uniform assessment instrument for residents of the adult care residence, or any hospital which has contracted with DMAS to perform nursing facility preadmission screening.

"Qualified case management agency" means an agency or organization which meets the requirements specified in these regulations.

"Relocation" means the movement of a resident from an adult care residence to another adult care residence.

"Residence" means an adult care residence.

"Residential living" means a level of service provided by an adult care residence for adults who may have physical or mental impairments and require only minimal assistance with the activities of daily living. Minimal assistance means dependency in only one activity of daily living or dependency in one or more of the selected IADLs. Included in this level of service are individuals who are dependent in medication administration as documented on the uniform assessment instrument. This definition includes independent living facilities that voluntarily become licensed.

"Selected instrumental activities of daily living (IADLs)" means meal preparation, housekeeping, laundry, and money management. A person's degree of independence in performing these activities is a part of determining appropriate services and placement.

"Total dependence" means the individual is entirely unable to participate in the performance of an activity of daily living.

"Uniform assessment instrument (UAI)" means the complete department-designated assessment form. There is an alternate version of the UAI which may be used for private pay residents; social and financial information which is not relevant because of the resident's payment status is not included on this version.

"User's Manual: Virginia Uniform Assessment Instrument (UAI)" means the department-designated handbook containing definitions and procedures for completing the department-designated assessment form.

"Virginia Department of Medical Assistance Services (DMAS)" means the single state agency designated to administer the Medical Assistance Program in Virginia.

PART II.
ASSESSMENT AND CASE MANAGEMENT SERVICES.

§ 2.1. Persons to be assessed.

A. Upon the effective date of these regulations, all residents and applicants of ACRs must be assessed using the UAI.

B. 1. Assessments of private pay residents shall be conducted by a case manager; a qualified assessor; an employee of the ACR who has the knowledge, skills, and abilities of a case manager; or by an independent physician. When a case manager completes the UAI, the case management agency may determine and charge a fee for private pay applicants and residents; the fee may not exceed the fee paid by DMAS for public pay applicants and residents.

2. The ACR must coordinate with the assessor to ensure that the UAI is completed as required.

3. Responsibilities of the case manager for private pay residents requesting the services of a case manager are limited to completing required portions of the UAI.

C. Beginning on the effective date of these regulations, all new applicants for the Auxiliary Grants Program shall be assessed by a case manager or other qualified assessor to determine the need for residential or assisted living services.

§ 2.2. Determination of services to be provided.

A. The assessment shall be conducted with the department-designated UAI which sets forth a resident's care needs. Sections of the UAI which must be completed upon admission are as follows:

1. The assessment for private pay residents shall include the following portions of the UAI: name of the individual; social security number; current address; birthdate; sex; marital status; performance on functional status, which includes ADLs, continence, ambulation, IADLs, medication administration, and behavior pattern. In lieu of completing selected parts of the department-designated UAI, the alternate two-paged UAI developed for private pay applicants and residents may be used.

2. For public pay residents, the complete department-designated UAI shall be completed in its entirety.

B. 1. The UAI shall be completed within 90 days prior to the date of admission to the ACR, except that if there has been a change in the resident's condition since the completion of the UAI which would affect the admission, a new UAI shall be completed.

2. When a resident moves to an ACR from another ACR or a long-term care setting which uses the UAI, and if there is a completed UAI on record, another UAI does not have to be completed. The transferring long-term care provider must update the UAI to indicate any change in the individual's condition.

3. In emergency placements, the UAI must be completed within seven working days from the date of entrance. An emergency placement shall occur only when the emergency is documented and approved by a Virginia adult protective services worker or case manager for public pay individuals or by a Virginia adult protective services worker or independent physician for private pay individuals.

C. The UAI shall be completed at least once every 12 months on all residents of ACRs. UAIs shall be completed as needed whenever there is a change in the resident's condition that appears to warrant a change in the resident's approved level of care. All UAIs shall be completed as required in subsection A of this section.

D. At the request of the ACR, the resident's legally authorized representative, the resident's physician, DSS, or the local department of social services, an independent assessment using the UAI shall be completed to determine whether the resident's care needs are being met in the ACR. The ACR shall assist the resident in obtaining the independent assessment as requested. If the request is for a private pay resident, and the independent assessment confirms that the resident's placement is appropriate, then the entity requesting the independent assessment may be responsible for payment of the assessment.

E. The assessor shall consult with other appropriate human service professionals as needed to complete the assessment.

F. DMAS shall reimburse for completion of assessments and authorization of ACR placement for public pay applicants and residents pursuant to this section through contractual agreements with qualified assessors. No reimbursement shall be made to any entity that does not have a valid contract with DMAS.

§ 2.3. Discharge.

Discharge is the process that ends the stay in an ACR. The case manager for public pay residents shall participate with the resident and staff of the ACR in planning for post-discharge services when the resident is returned to a home-based placement or a nursing facility. Upon notification by the ACR of the discharge of a public pay resident, the case manager shall notify the financial eligibility worker in the jurisdiction responsible for authorizing the auxiliary grant of the date of discharge. Upon change in level of care or termination of case management services, the case manager shall notify the applicant or resident in writing of the decision, with a copy of the notice to the financial eligibility worker.

§ 2.4. Authorization of services to be provided.

A. The assessor is responsible for authorizing the individual for the appropriate level of care for admission to and continued stay in an ACR.

B. The ACR must be knowledgeable of the criteria for level of care in an ACR and is responsible for discharge of the resident whenever a resident does not meet the criteria for level of care in an ACR upon admission or at any later time.

C. Functional capacity must be documented on the UAI, completed in a manner consistent with the definitions of activities of daily living and directions provided in the User's Manual: Virginia Uniform Assessment Instrument. The ratings of functional dependencies on the UAI must be based on the individual's ability to function in a community environment.

§ 2.5. Criteria for residential living.

Individuals meet the criteria for residential living as documented on the UAI when one of the following describes their functional capacity:

1. Rated dependent in only one of seven ADLs (i.e., bathing, dressing, toileting, transferring, bowel function, bladder function, and eating/feeding).

2. Rated dependent in one or more of four selected IADLs (i.e., meal preparation, housekeeping, laundry, and money management).

3. Rated dependent in medication administration.

§ 2.6. Criteria for assisted living.

Individuals meet the criteria for assisted living as documented on the UAI when one of the following describes their capacity:

1. Rated dependent in two or more of seven ADLs.

2. Rated dependent in behavior pattern (i.e., abusive, aggressive, and disruptive).

§ 2.7. Rating of levels of care on the UAI.

The rating of functional dependencies on the UAI must be based on the individual's ability to function in a community environment. The following abbreviations shall mean: I = independent; d = semi-dependent; D = dependent; and TD = totally dependent. Mechanical help means equipment or a device or both are used; human help includes supervision and physical assistance. Asterisks (*) are placed on the UAI to denote dependence in a particular function.

1. Activities of daily living.

a. Bathing.

(1) Without help (I)

(2) Mechanical help only (d)

(3) Human help only (D)*

(4) Mechanical help and human help (D)*

(5) Is performed by others (TD)*

b. Dressing.

(1) Without help (I)

(2) Mechanical help only (d)

(3) Human help only (D)*

(4) Mechanical help and human help (D)*

(5) Is performed by others (TD)*

(6) Is not performed (TD)*

c. Toileting.

(1) Without help (I)

(2) Mechanical help only (d)

(3) Human help only (D)*

(4) Mechanical help and human help (D)*

(5) Performed by others (TD)*

(6) Is not performed (TD)*

d. Transferring.

(1) Without help (I)

(2) Mechanical help only (d)

(3) Human help only* (D)

(4) Mechanical help and human help* (D)

(5) Is performed by others* (TD)

(6) Is not performed* (TD)

e. Bowel function.

(1) Continent (I)

(2) Incontinent less than weekly (d)

(3) Ostomy self-care (d)

(4) Incontinent weekly or more* (D)

(5) Ostomy not self-care* (TD)

f. Bladder function.

(1) Continent (I)

(2) Incontinent less than weekly (d)

(3) External device, indwelling catheter, ostomy, self-care (d)

(4) Incontinent weekly or more* (D)

(5) External device, not self-care* (TD)

(6) Indwelling catheter, not self-care* (TD)

(7) Ostomy, not self-care* (TD)

g. Eating/feeding.

(1) Without help (I)

(2) Mechanical help only (d)

(3) Human help only* (D)

(4) Mechanical help and human help* (D)

(5) Performed by others (includes spoon fed, syringe/tube fed, fed by IV)* (TD)

2. Behavior pattern.

a. Appropriate (I)

b. Wandering/passive less than weekly (I)

c. Wandering/passive weekly or more (d)

d. Abusive/aggressive/disruptive less than weekly* (D)

e. Abusive/aggressive/disruptive weekly or more* (D)

3. Instrumental activities of daily living.

a. Meal preparation.

(1) No help needed (I)

(2) Needs help* (D)

b. Housekeeping.

(1) No help needed (I)

(2) Needs help* (D)

c. Laundry.

(1) No help needed (I)

(2) Needs help* (D)

d. Money management.

(1) No help needed (I)

(2) Needs help* (D)

4. Medication administration.

a. Without assistance (I)

b. Administered/monitored by lay person* (D)

c. Administered/monitored by professional staff* (D)

§ 2.8. Actions to be taken upon completion of the UAI.

A. Upon completion of the rating on the UAI, the case manager or a qualified assessor shall, in the case of a public pay resident, forward to the local financial eligibility worker in the agency of jurisdiction where the individual was assessed, in the format specified by the department, the effective date of admission.

B. A copy of the UAI and care plan, a copy of the referral to the financial eligibility worker, and other relevant data shall be maintained in the record.

C. The authorization for residential or assisted living must be made by the assessor prior to the placement and must be rescinded by the case manager, DSS, or DMAS at any point that the individual is determined to no longer meet the criteria for residential or assisted living.

D. The assessor shall designate the case manager responsible for conducting the periodic reassessment for public pay residents as required in these regulations.

E. For private pay residents, the facility shall coordinate with a case manager; qualified assessor; employee of the ACR who has the knowledge, skills, and abilities of a case manager; or independent physician to ensure that reassessments are completed as required in these regulations. The ACR shall maintain in the record a copy of the resident's UAI and other relevant data.

§ 2.9. Qualifications of case managers.

A. A qualified case management agency must have signed an agreement with DMAS to deliver case management services to applicants and recipients of auxiliary grants.

B. The case management agency shall (i) have procedures for assuring the quality of case management services; (ii) ensure that case managers are competent to perform case management functions; (iii) ensure that the case manager is not the applicant's or resident's financial representative; and (iv) ensure that caseload size shall be adequate.

C. The local department of social services where the resident resides, following placement in an ACR, shall be the case management agency when there is no other qualified

case management provider willing or able to complete the UAI.

D. A qualified case manager must possess a combination of relevant work experience in human services or health care and relevant education which indicates that the individual possesses the knowledge, skills, and abilities at entry level as defined in the State Plan for Medical Assistance, Attachment 3.1, Supplement 2 (VR 460-03-3.1102). This must be documented on the case manager's job application form or supporting documentation or observable in the job or promotion interview. When the provider agency is a local department of social services, case managers shall meet the qualifications for social work/social work supervisor classification as specified in VR 615-01-90.

E. The case management process shall include assessment using the UAI, care planning, arranging for services, monitoring, and discharge.

F. The assessor shall, when the individual meets the criteria for ongoing case management services as defined in the State Plan for Medical Assistance, Attachment 3.1, Supplement 2 (VR 460-03-3.1102), develop a care plan which identifies resident-specific goals, objectives, and expected time frames for completion of the arrangement of services that the individual needs and the ACR is not expected to provide. The case manager shall provide ongoing monitoring and shall arrange for services according to this care plan.

G. The case manager conducting the initial assessment shall be responsible for the case unless the ACR resident's case is referred to and accepted by another case manager.

PART III.
UNIFORM ASSESSMENT INSTRUMENT.

§ 3.1. Uniform assessment instrument.

The UAI is designed to be a comprehensive, accurate, standardized, and reproducible assessment of individuals seeking or receiving long-term care services and shall contain the following items: full name of the individual; social security number; current address; date of birth; sex; marital status; racial/ethnic background; education; method for communication of needs; primary caregiver or emergency contact or both; usual living arrangements; problems with physical environment; use of current formal services; annual income; sources of income; legal representatives; benefits or entitlements received; types of health insurance; performance on functional status which includes ADLs, continence, ambulation and IADLs; physician information; admissions to hospitals, nursing facilities or adult care residences for medical or rehabilitation reasons; advance directives; diagnoses and medication profile; sensory functioning; joint motion; presence of fractures/dislocations, missing limbs or paralysis/paresis; nutrition; smoking history; use of rehabilitation therapies; presence of pressure ulcers; need for special medical procedures; need for ongoing medical/nursing needs; orientation; memory and judgment; behavior pattern; life stressors; emotional status; social history which includes activities, religious involvement; contact with family and friends; hospitalization for emotional problems; use of alcohol or drugs; assessment of caregivers; and an assessment summary.

PART IV.
RESIDENT APPEALS.

§ 4.1. Resident appeals.

Assessors and case managers shall advise orally and in writing all applicants and residents of ACRs for which assessment and case management services are provided of the right to appeal to DMAS the outcome of the assessment, reassessment, or determination of level of care. Applicants for auxiliary grants who are denied auxiliary grants because the assessor or case manager determines that they do not require the minimum level of services offered in the residential care level have the right to file an appeal with the Department of Social Services under § 63.1-116 of the Code of Virginia.

DOCUMENTS INCORPORATED BY REFERENCE

(§ 2.4 C of VR 615-46-02)

User's Manual: Virginia Uniform Assessment Instrument (UAI), Long-Term Care Council, March 1994.

VA.R. Doc. No. R95-650; Filed August 1, 1995, 9:09 a.m.

BOARD FOR ACCOUNTANCY

Title of Regulations: **VR 105-01-2. Board for Accountancy Regulations.**

Statutory Authority: §§ 54.1-201, 54.1-2002 and 54.1-2003 of the Code of Virginia.

Effective Date: September 20, 1995.

Summary:

The amendments reduce current educational requirements and, more specifically, eliminate the provision for specific coursework requirements. The Board for Accountancy voted to revise the proposed regulations to eliminate any confusion regarding a candidate's option to complete the required education coursework prior to, concurrent with or subsequent to the completion of the baccalaureate degree.

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 Nancy Taylor Feldman, Assistant Director, Board for Accountancy, Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, VA 23230-4917, telephone (804) 367-8590.

VR 105-01-2. Board for Accountancy Regulations.

PART I.
GENERAL.

§ 1.1. Definitions.

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

"Accredited institution" means any degree-granting college or university accredited at the time of the applicant's degree or attendance by any of the following: Middle States Association of Colleges and Schools; New England Association of Schools and Colleges; North Central Association of Colleges and Schools; Northwest Association of Schools and Colleges; Southern Association of Colleges and Schools; and Western Association of Schools and Colleges.

"Anniversary date" means September 30 of each even-numbered year.

"Certification" means the issuance of a certificate to a person who has met all the requirements of Part II of these regulations.

"Certify," "examine," "review," or *"render or disclaim an opinion,"* when referenced to financial information or the practice of public accountancy, are terms which, when used in connection with the issuance of reports, state or imply assurance of conformity with generally accepted accounting principles, generally accepted auditing standards, and review standards. The terms include forms of language disclaiming an opinion concerning the reliability of the financial information referred to or relating to the expertise of the issuer.

"Client" means a person or entity that contracts with or retains a firm for performance of accounting services.

"Contact hour" means 50 minutes of participation in a group program or 50 minutes of average completion time in a self-study program.

"Continuing Professional Education (CPE)" means an integral part of the lifelong learning required to provide competent service to the public; the formal set of activities that enables accounting professionals to maintain and increase their professional competence.

"Credit hour" means successful completion of a course of study measured in a contact hour.

"Firm" means a sole proprietorship, partnership, professional corporation, professional limited liability company or any permissible combination practicing public accountancy in Virginia.

"Group program" means an educational process designed to permit a participant to learn a given subject through interaction with an instructor and other participants.

"Holding out" means any representation that a regulant is a certified public accountant, made in connection with an offer to practice public accounting. Any such representation is presumed to invite the public to rely upon the professional skills implied by the title "certified public accountant" in connection with the services offered to be performed by the regulant. For the purposes of this definition, a representation shall be deemed to include any oral or written communication conveying that the regulant is a certified public accountant, including without limitation the use of titles on letterheads, professional cards, office doors, advertisements and listings; but, it does not include the display of the original (but not a copy) of a currently valid certificate. A person who holds a valid certificate granted to him by the board may refer to himself as a certified public accountant or CPA but is not empowered to practice public accountancy until he obtains a valid license to do so.

"Individual firm name" means a name different from the name in which the individual's license is issued.

"Interactive self-study program" means a program designed to use interactive learning methodologies that simulate a classroom learning process by employing software, other courseware, or administrative systems that provide significant ongoing, interactive feedback to the

learner regarding his learning process. Evidence of satisfactory completion of each program segment by the learner is often built into such programs. These programs clearly define lesson objectives and manage the student through the learning process by requiring frequent student response to questions that test for understanding of the material presented, providing evaluative feedback to incorrectly answered questions, and providing reinforcement feedback to correctly answered questions. Capabilities are used that, based on student response, provide appropriate ongoing feedback to the student regarding his learning progress through the program.

"Jurisdiction" means another state, territory, the District of Columbia, Puerto Rico, the U.S. Virgin Islands or Guam.

"License" means a license to practice public accounting issued under the provisions of Chapter 20 (§ 54.1-2000 et seq.) of Title 54.1 of the Code of Virginia.

"Manager" means a person who is a licensed certified public accountant designated by the members of a limited liability company to manage the professional limited liability company as provided in the articles of organization or an operating agreement.

"Member" means a person who is a licensed certified public accountant that owns an interest in a professional limited liability company.

"Noninteractive self-study program" means any self-study program that does not meet the criteria for interactive self-study programs.

"Performance of accounting services" means the performance of services by a regulant requiring the use of accounting and auditing skills, and includes the issuance of reports or financial statements, the preparation of tax returns, the furnishing of advice on accounting, auditing or tax matters, or the performance of operational or compliance audits.

"Principal" means a certified public accountant who is the sole proprietor of, or a partner, shareholder or a member in, a firm.

"Professional corporation" means a firm organized in accordance with Chapter 7 (§ 13.1-542 et seq.) of Title 13.1 of the Code of Virginia.

"Professional limited liability company" means a firm organized in accordance with Chapter 13 (§ 13.1-1070 et seq.) of Title 13.1 of the Code of Virginia.

"Professional services and engagements" means the association between a client and a firm wherein the firm performs, or offers to perform, accounting services for the client.

"Professional staff" means employees of a firm who make decisions and exercise judgment in their performance of accounting services, but excludes employees performing routine bookkeeping or clerical functions.

"Regulant" means any Virginia certificate holder, licensee, professional corporation, professional limited liability company or firm.

"Reporting cycle" means the current and two preceding reporting calendar years when meeting the requirements of § 5.1 of these regulations.

"Reporting year" means for the purposes of these regulations a calendar year.

"Self-study program" means an educational process designed to permit a participant to learn a given subject without major involvement of an instructor. Self-study programs do not include informal learning.

"Virginia approved sponsor" means an individual or business approved by the board to offer continuing professional education in accordance with these regulations.

PART II.
ENTRY.

§ 2.1. Qualifications for certification.

A. Any person applying for certification as a certified public accountant shall meet the requirements of good character and education and shall have passed both a basic and an ethics examination, as approved by the board.

~~A. Character.~~ *B.* The board may deny application to sit for the basic examination or deny certification upon a finding supported by clear and convincing evidence of a lack of good character. An applicant's history of dishonest or felonious acts, lack of fiscal integrity or acts which would constitute violations of these regulations will be considered by the board in determining character. Evidence of the commission of a single act may be sufficient to show a lack of good character.

~~B.~~ *C.* Education.

1. Each applicant shall have ~~earned one of the following~~ *completed a baccalaureate or higher degree from an accredited institution as defined in § 1.1* [~~*including*~~ *and shall have completed, at an accredited institution as defined in § 1.1, either prior to, concurrent with or subsequent to, completion of the baccalaureate degree or higher degree*]:

a. At least 24 semester hours of accounting at the undergraduate or graduate level including courses covering the subjects of financial accounting, auditing, taxation, and management accounting, and

b. At least 18 semester hours in business courses (other than accounting courses) at the undergraduate or graduate level.

~~a. A baccalaureate or higher degree from a four-year accredited institution. The applicant shall have completed the following courses or their equivalent at an accredited institution:~~

~~Courses — Semester Hours~~

~~Principles of Accounting (or introductory level Financial Accounting and Managerial Accounting) — 6~~

~~Financial Accounting/Accounting Theory (above the introductory level) — 9~~

~~Cost/Managerial Accounting (above the introductory level) — 3~~

~~Auditing 3~~

~~Taxation 3~~

~~Business (Commercial) Law (exclusive of Legal Environment of Business) 3~~

~~Computer Information Systems 3~~

~~Principles of Economics 3~~

~~Principles of Management 3~~

~~Principles of Marketing 3~~

~~Business Finance 3~~

~~Total 42~~

~~b. Provided the applicant initially applies and sits for the examination by November 30, 1993, the education requirement will be satisfied if the applicant has completed a baccalaureate or higher degree with either a major in accounting or a concentration in accounting from an accredited institution as defined in § 1.1; or~~

~~c. Provided the applicant initially applies and sits for the examination by November 30, 1993, the education requirement will be satisfied if the applicant has completed 120 semester hours of earned credit from an accredited institution of which at least 60 semester hours must be at the junior and senior level and must include the following business related courses, or their equivalent:~~

~~Courses Semester Hours~~

~~Principles of Accounting 6~~

~~Principles of Economics 3~~

~~Principles of Marketing 3~~

~~Principles of Management 3~~

~~Finance 3~~

~~Information Systems 3~~

~~Statistics 3~~

~~Business Policy 3~~

~~Financial Accounting and Accounting Theory 6~~

~~Cost/Managerial Accounting 3~~

~~Auditing 3~~

~~Taxation 3~~

~~Commercial Law (not to exceed six semester hours) 3~~

~~Business Electives 15~~

~~Total 60~~

~~d.~~ *c.* Applicants whose degrees or diplomas were earned at colleges or universities outside the United States shall have their educational credentials evaluated by a foreign academic credentials service approved by the board to determine the extent to which such credentials are equivalent to the education requirements set forth above.

Such credentials may be accepted by the board as meeting its educational requirements fully, partially, or not at all.

2. Evidence of education. Each applicant shall submit evidence of having obtained the required education in the form of official transcripts transmitted directly from the accredited institution. In unusual circumstances other evidence of education may be accepted when deemed equivalent and conclusive.

3. Education prerequisite to examination. The education requirements shall be met prior to examination. An applicant may, however, be admitted to the May examination if he will have completed the education requirements by the succeeding June 30, and to the November examination if he will have completed the education requirements by the succeeding December 31, and has filed evidence of enrollment in the required courses as specified by the board. Effective June 30, 1994, the education requirements shall be met prior to applying for the examination.

~~C.~~ *D.* Examination.

1. Each applicant for an original CPA certificate in Virginia must pass a basic written national uniform examination in auditing, business law, theory of accounting, and accounting practice and other such related subject areas as deemed appropriate by the board from time to time. Applicants who have no unexpired examination credits must sit for all parts of the basic examination. Each part of the basic examination must be passed with a grade of 75. The board may use all or any part of the Uniform Certified Public Accountant Examination and Advisory Grading Service of the American Institute of Certified Public Accountants to assist it in performing its duties.

The fee for examination shall be $117. The fee for reexamination shall be $117. The fee for proctoring out-of-state candidates shall be $75. Fees shall not be prorated and are nonrefundable except in accordance with ~~§ 2.1-C-8~~ *subdivision 8 of this subsection.*

2. Examination credits. Credits will be given for basic examination sections passed through five successive offerings subsequent to the first occasion when credit is earned, provided that:

a. No credit will be allowed until either the section principally testing accounting practice or two other sections are passed at a single sitting; and

b. The candidate sits for all sections for which credit has not previously been granted; and

c. The candidate receives a minimum grade of 50 in each section not passed, except if all sections but one are passed at a single examination, no minimum grade shall be required on the remaining section.

3. Effective with the May 1994 examination, credits will be awarded if, at a given sitting of the examination, a

candidate passes two or more, but not all, sections. The candidate shall be given credit for those sections passed, and need not sit for reexamination in those sections, provided:

a. The candidate wrote all sections of the examination at that sitting;

b. The candidate attained a minimum grade of 50 on each section not passed at each sitting;

c. The candidate passes the remaining sections of the examination within five consecutive examinations given after the one at which the first sections were passed;

d. At each subsequent sitting at which the candidate seeks to pass any additional sections, the candidate writes all sections not yet passed;

e. In order to receive credit for passing additional sections in any such subsequent sitting, the candidate attains a minimum grade of 50 on sections written but not passed on such sitting; and

f. Any candidate who has been awarded conditional credit for a section passed prior to May 1994 shall be awarded conditional credit as specified below:

(1) A candidate who has been awarded conditional credit for the accounting practice section shall be awarded conditional credit for the accounting and reporting section, and shall retain such credit until he passes the remaining sections or until the conditional status of such credit expires, whichever occurs first.

(2) A candidate who has been awarded conditional credit for either the auditing or the business law (renamed business law and professional responsibilities) section, or both, shall retain such credit until he passes the remaining sections, or until the conditional status of such credit expires, whichever occurs first.

(3) A candidate who has been awarded conditional credit for the accounting theory section shall be awarded conditional credit for the financial accounting and reporting section and shall retain such credit until he passes the remaining sections or until the conditional status of such credit expires, whichever occurs first.

4. Examination credits, exceptions. The board may, at its discretion, waive any of the above requirements for carryover examination credits for candidates who suffer documented serious personal illness or injury, or death in their immediate family, or who are prevented from meeting these requirements due to the obligation of military service or service in the Peace Corps, or for other good cause of similar magnitude approved by the board. Documentation of these circumstances must be received by the board no later than 12 months after the date of the examination missed or within 6 months of the completion of military or Peace Corps service whichever is later.

5. Conduct in basic examination. Each applicant shall follow all rules and regulations established by the board with regard to conduct at the basic examination. Such rules shall include any written instructions communicated prior to the examination date and any instructions communicated at the examination site on the date of the examination.

6. Loss of credit or eligibility. Any applicant found to be in violation of the rules and regulations governing conduct in the basic examination may lose established eligibility to sit for the examination or credit for examination parts passed.

7. Application deadline. Application to sit for the basic examination shall be made on a form provided by the board and shall be filed in accordance with the instructions on the application along with all required documents by the first Friday in March for the May examination and by the first Friday in September for the November examination.

8. Failure to appear; excused examination. An applicant who fails to appear for the basic examination or reexamination shall forfeit the fees charged for that examination or reexamination unless excused.

The board may, at its discretion, excuse an applicant for an examination until the next examination for military service when documented by orders or a letter from the commanding officer; or for serious injury, illness or physical impairment, any of which must be documented by a statement from the treating physician; or death in their immediate family, or for other good cause of similar magnitude approved by the board. The fee for the excused examination will be refunded.

§ 2.2. Original CPA certificate.

A. A CPA certificate will be granted to an applicant who has met all of the qualifications for certification outlined in § 2.1.

B. The fee for an original CPA certificate shall be $25. All fees are nonrefundable and shall not be prorated.

§ 2.3. Certificate by endorsement.

A CPA certificate will be granted to an applicant who holds a like valid and unrevoked certificate issued under the law of any jurisdiction showing that applicant is in good standing in the jurisdiction, provided:

1. The applicant meets all current requirements in Virginia at the time application is made; or

2. At the time the applicant's certificate was issued in the other jurisdiction the applicant met all requirements then applicable in Virginia; or

3. The applicant has met all requirements applicable in Virginia except the education requirement, or has passed the examination under different credit or grade provisions, and either:

a. The applicant has five years of experience in the performance of accounting services within the 10 years prior to application, or

b. The applicant has five years of experience in the performance of accounting services, one year of which was immediately prior to application and, within the 10 years prior to application, had completed 15 semester hours of accounting, auditing and related subjects at an accredited institution.

4. The fee for a certificate by endorsement shall be $90. All fees are nonrefundable and shall not be prorated.

§ 2.4. License/certificate maintenance.

Any person holding a Virginia CPA certificate shall either maintain a Virginia license to practice public accounting or file annually as a certificate holder not engaged in the practice of public accounting in Virginia and pay the required maintenance fee.

§ 2.5. Licensure.

Each certified public accountant who is engaged in or holding himself out to be engaged in the practice of public accountancy in Virginia must hold a valid license. This provision applies to professional staff who are eligible for licensure as set forth in § 2.7 as well as to sole proprietors, partners, members and shareholders.

1. To be eligible for licensure an individual shall meet the qualifications for certification outlined in § 2.1 and one of the experience requirements set forth in § 2.7.

2. The fee for an initial CPA license shall be $75. All fees are nonrefundable and shall not be prorated.

§ 2.6. Requirement for licensure; exception.

Only a certified public accountant, holding a valid Virginia license, may engage in the practice of public accounting in Virginia. However, this does not prohibit any person from affixing his signature to any statement or report for his employer's internal or management use designating the position, title, or office of the person.

§ 2.7. Experience and continuing professional education requirements for original license.

A. ~~Experience.~~ Each applicant for an original license shall have met the following experience requirements:

1. Two years of experience in public accounting with the giving of assurances and compilation services constituting not less than 800 hours of that experience with no more than 200 of such hours in compilation services, or

2. Two years of experience under the supervision of a certified public accountant in the performance of accounting services with at least 800 hours of that experience including the following:

a. Experience in applying a variety of auditing procedures and techniques to the usual and customary financial transactions recorded in the accounting records; and

b. Experience in the preparation of audit working papers covering the examination of the accounts usually found in accounting records; and

c. Experience in the planning of the program of audit work including the selection of the procedures to be followed; and

d. Experience in the preparation of written explanations and comments on the findings of the examinations and on the accounting records; and

e. Experience in the preparation and analysis of financial statements together with explanations and notes thereon; or

3. Three years of experience in the performing of accounting services which demonstrates intensive, diversified application of accounting principles, auditing standards or other technical standards pertaining to accounting and review services, tax services or management advisory services; or

4. Three years of teaching experience in upper level courses in accounting, auditing, and taxation at an accredited institution in conjunction with no less than five months experience with a public accounting firm with the giving of assurances and compilation services constituting not less than 800 hours of that experience with no more than 200 of such hours in compilation services.

B. ~~Education substituted for experience.~~ An applicant having a baccalaureate degree and courses as defined in § 2.1 ~~B~~ *C* 1 and a master's degree from an accredited institution with 15 semester hours in graduate level accounting courses exclusive of those courses defined in § 2.1 ~~B~~ *C* 1 will be credited with one year of required experience under this section.

C. ~~Continuing professional education.~~ Individuals applying for original licensure after January 1, 1992, shall have completed in addition to one of the experience requirements, a minimum of 20 credit hours of CPE in the subject areas listed in § 5.5 within the preceding 12 months prior to application for licensure. For purposes of license renewal, the calendar year following the year in which the initial license is issued shall be considered the first reporting year for CPE as outlined in § 5.1 of these regulations.

§ 2.8. Registration of professional corporations and professional limited liability companies.

A. All professional corporations and professional limited liability companies practicing public accountancy in Virginia shall be registered by the board.

B. The fee for registration shall be $50. All fees are nonrefundable and shall not be prorated.

C. All registered professional corporations and professional limited liability companies shall meet the standards set forth in § 54.1-2005 of the Code of Virginia and Part IV of these regulations.

PART III.
RENEWAL/REINSTATEMENT.

§ 3.1. Requirement for renewal.

A. Effective September 30, 1992, each license to practice public accounting or CPA certificate maintenance shall be

renewed annually. A registration certificate of a professional corporation or professional limited liability company shall be renewed biennially.

~~A.~~ *B.* Effective September 30, 1992, each license to practice public accounting shall expire annually on September 30. Maintenance fees for CPA certificates shall also be due on September 30. A registration certificate of a professional corporation or professional limited liability company shall be renewed September 30 of each even-numbered year. The board will mail a renewal notice to the regulant at the last known address of record. Failure of the regulant to receive written notice of the expiration does not relieve him of the requirement to renew or pay the required fee.

~~B.~~ *C.* Renewal fees are as follows:

1. The fee for renewal of a CPA license to practice public accounting shall be $55.

2. The fee for renewal of the registration certificate of a professional corporation shall be $50.

3. The fee for renewal of the registration certificate of a professional limited liability company shall be $50.

4. The CPA certificate maintenance fee shall be $20.

5. All fees are nonrefundable and shall not be prorated.

~~C.~~ *D.* If the required fee is not received by October 30 an additional fee of $20 for certificate maintenance, $55 for license renewal, $50 for professional corporation, and $50 for professional limited liability company registration shall be required.

~~D.~~ *E.* Applicants for renewal of the CPA certificate maintenance or license to practice public accounting shall certify on a form provided by the board that they continue to meet the standards for entry as set forth in § 2.1 A *B.*

Applicants for renewal of the license to practice public accounting shall meet the requirements of Part V. Failure to comply with Part V will result in the denial of the license renewal.

~~E.~~ *F.* The board, in its discretion, and for just cause, may deny renewal of a license to practice public accounting, registration or certificate maintenance. Upon such denial, the applicant for renewal may request that a hearing be held in accordance with the provisions of the Administrative Process Act *(§ 9-6.14:1 et seq. of the Code of Virginia).*

§ 3.2. Requirement for reinstatement.

A. If the regulant fails to renew his license to practice public accounting or registration or pay his certificate maintenance fee within six months following the expiration, he will be required to present reasons for reinstatement and the board may, in its discretion, grant reinstatement or require a requalification or reexamination or both.

B. The fee for reinstatement of the license to practice public accounting shall be $150, the fee for reinstatement of the professional corporation registration shall be $100, the fee for reinstatement of a professional limited liability company registration shall be $100, and the fee for reinstatement of the certificate maintenance shall be $50. All fees are nonrefundable and shall not be prorated.

C. Applicants for reinstatement of the CPA certificate or license to practice public accounting shall certify on a form provided by the board that they continue to meet the standards for entry as set forth in § 2.1 A *B.*

D. If the regulant has failed to renew his license to practice public accounting for a period of up to 12 months, he shall be required in accordance with Part V of these regulations to complete a minimum of 40 credit hours of Continuing Professional Education (CPE) with a minimum of eight CPE credit hours in accounting and auditing and eight CPE credit hours in taxation within the preceding 12 months prior to application. If the regulant has failed to renew his license in excess of 12 months, he shall be required to complete a continuing education program specified by the board which shall require him to complete 40 hours of CPE if he failed to renew the license for one year, 80 hours of CPE if he failed to renew the license for two years and 120 hours of CPE if he failed to renew the license for three years, minus the hours which he had taken during this time period.

E. If the regulant has failed to maintain his CPA certificate, renew his license, professional corporation or limited liability company registration for a period of 12 months or longer, a late fee, in addition to the reinstatement fees outlined in § 3.2 B, will be required.

The late fee shall be $75 for each renewal period in which the regulant failed to maintain his CPA certificate, or failed to renew his license, professional corporation or limited liability company registration.

F. The board, in its discretion, and for just cause, may deny reinstatement of a license to practice public accounting, registration or certificate maintenance. Upon such denial, the applicant for reinstatement may request that a hearing be held in accordance with the provisions of the Administrative Process Act *(§ 9-6.14:1 et seq. of the Code of Virginia).*

PART IV.
STANDARDS OF PRACTICE.

§ 4.1. Regulant accountable for service rendered.

Whenever a regulant offers or performs any services in Virginia related to the performance of accounting services regardless of the necessity to hold a license to perform that service, he shall be subject to the provisions of these regulations. A regulant shall be responsible for the acts or omissions of his staff in the performance of accounting services.

§ 4.2. Use of terms.

No firm with an office in Virginia shall use or assume the title or designation "certified public accountant," "public accountant," "CPA," or any other title, designation, phrase, acronym, abbreviation, sign, card, or device tending to indicate that it is engaged in or holding itself out to be engaged in Virginia in the practice of public accountancy unless all principals and professional staff of that firm who work in Virginia or who have substantial contact with work in Virginia and who meet the qualifications for licensure, currently hold a valid Virginia license.

§ 4.3. Notification of change of address or name.

Every regulant shall notify the board in writing within 30 days of any change of address or name.

§ 4.4. Sole proprietor name.

A sole proprietor shall use his own name as the firm name. However, a sole proprietor surviving the death or withdrawal of all other partners in a partnership may continue using the names of those partners for not more than two years after becoming a sole proprietor. A sole proprietor surviving the death or withdrawal of all other members in a professional limited liability company may continue using the names of those members for not more than two years after becoming a sole proprietor.

§ 4.5. Partnership name.

Licensees shall not practice in a partnership that includes a fictitious name, a name that indicates fields of specialization, or a name that includes the terms "company," "associates" or any similar terms or derivatives unless used to designate at least one unnamed, currently licensed partner. The name of one or more partners in a predecessor partnership, shareholders or licensed officers of a predecessor professional corporation, or members or managers of a predecessor professional limited liability company may be included in the partnership firm name of a successor partnership.

§ 4.6. Professional corporation name.

A licensee shall not practice in a professional corporation that includes a fictitious name, a name that indicates fields of specialization, or a name that includes the terms "company," "associates," or any similar terms or derivatives unless used to designate at least one unnamed, currently licensed shareholder or licensed officer. The names of one or more past shareholders or licensed officers in a predecessor professional corporation, partners in a predecessor partnership, or members or managers in a predecessor professional limited liability company may be included in the corporate firm name of a successor corporation. A shareholder surviving the death or retirement of all other shareholders may continue using the names of those shareholders, partners in a predecessor partnership, or those members in a predecessor professional limited liability company for not more than two years after becoming a sole shareholder.

§ 4.7. Professional limited liability company name.

Licensees shall not practice in a professional limited liability company that includes a fictitious name, a name that indicates fields of specialization, or a name that includes the terms "company," "associates," or any similar terms or derivatives unless used to designate at least one unnamed, currently licensed member or licensed manager. The names of one or more past shareholders or licensed officers in a predecessor professional corporation, partners in a predecessor partnership, or members or managers in a predecessor limited liability company may be included in the firm name of a successor professional limited liability company.

§ 4.8. Notification of changes in firm.

A licensee shall notify the board in writing within 30 days after occurrence of any of the following:

1. The formation of a firm and its name, location and names of partners, shareholders, officers, members or managers;

2. The admission of any new partner, shareholder, or member;

3. The change in the name of any partnership, professional corporation or professional limited liability company;

4. The change in the supervisor of any branch office;

5. The change in the number or location of Virginia offices;

6. The opening of a new office in Virginia and the name of the supervisor; and

7. Any event which would cause the firm not to be in conformity with the provisions of these regulations.

§ 4.9. Sharing an office.

When sharing office facilities with any person who is not in the same firm, the licensee shall use practices and procedures which enable a reasonable person clearly to distinguish between the practice of the licensee and the operation of the other occupation or business.

§ 4.10. Resident manager in Virginia in charge of office.

Each branch office of a firm shall be managed by a certified public accountant licensed in Virginia. No licensed certified public accountant shall manage more than one office until such time as the licensee can provide, and the board approves, a management plan to provide supervision and quality control over the work product of all offices under the supervision of the licensee.

§ 4.11. Misleading name, letterhead, publication, etc.

Nothing shall be contained in a firm's name or in any firm letterhead, publication, form, card, etc., which states or implies an ability, relationship, or condition that does not exist.

§ 4.12. Independence.

A licensed individual or a firm of which he is a partner, shareholder or member shall not express an opinion or conclusion on financial statements of an entity in such a manner as to imply that he or his firm is acting in an independent capacity when either the licensee or his firm during the period of a professional engagement or at time of expressing an opinion has any of the following interests in that entity:

1. Has *acquired* or has committed to acquire any direct or material indirect financial interest in the entity; or

2. Held the position of trustee, executor, or administrator of any trust or estate, if such trust or estate has or has committed to acquire any direct or material indirect financial interest in the entity; or

3. Held ownership of any joint closely-held business investment with the entity or any officer, director, or principal stockholder thereof which was material in relation to the net worth of the licensee; or

4. Has a relationship with the entity as a promoter, underwriter, or voting trustee, director or officer, or in any capacity equivalent to that of a member of management or of an employee; or

5. Has any loan to or from the entity, or from any officer, director, or principal stockholder thereof except loans made by a financial institution under normal lending procedures, terms and requirements such as: loans obtained by the licensee or firm which are not material in relation to the net worth of the borrower; or home mortgages; or other secured loans, except those secured solely by a guarantee of the firm or its licensees.

§ 4.13. Integrity and objectivity.

A regulant shall not knowingly misrepresent facts or subordinate his judgment to others. In tax practice, a regulant may resolve doubt in favor of his client as long as there is reasonable support for his position.

§ 4.14. Commissions.

A regulant shall not pay a commission to obtain a client, nor shall he accept a commission for a referral to a client of products or services of others. Payments for the purchase of all, or part, of an accounting practice, retirement payments to persons formerly engaged in the practice of public accountancy, or payments to the heirs or estates of such persons are permitted.

§ 4.15. Contingent fees.

A regulant shall not engage or offer to engage in the performance of accounting services for a fee which is contingent upon his findings or results of his services. This regulation does not apply either to services involving taxes in which the sole findings are those of the tax authorities or to the performance of accounting services for which the fees are to be fixed by courts or other public authorities.

§ 4.16. Incompatible occupations.

A regulant shall not concurrently engage in any other business or occupation which impairs his independence or objectivity in the performance of accounting services.

§ 4.17. Competence.

A regulant shall not undertake performance of accounting services which he cannot reasonably expect to complete with due professional competence, including compliance, when applicable, with these regulations.

§ 4.18. Auditing standards.

A regulant shall not permit his name to be associated with financial statements in such a manner as to imply that he is acting as an independent certified public accountant unless he has complied with applicable generally accepted auditing standards in current use at the time his services were provided. Departures from compliance with generally accepted auditing standards must be justified.

§ 4.19. Accounting principles.

A regulant shall not express an opinion that financial statements are presented in conformity with generally accepted accounting principles if such statements contain any departure from generally accepted accounting principles in current use at the time the services were provided, which departure has a material effect on the statements taken as a whole. Any such dep arture is permissible only if the regulant can demonstrate that, due to unusual circumstances, the financial statements would otherwise be misleading. In such cases, his report must describe the departure, the approximate effects thereof, if practicable, and the reasons why compliance with the principles would result in a misleading statement.

§ 4.20. Other technical standards.

A regulant shall comply with other technical standards pertaining to accounting and review services, tax services and management advisory services in current use at the time services were provided. Departure from compliance with other technical standards must be justified.

§ 4.21. Forecasts or projections.

No regulant shall vouch for the achievability of any forecast or projection.

§ 4.22. Confidential client information.

A regulant shall not, without the consent of his client, disclose any confidential information pertaining to his client obtained in the course of the performance of accounting services, except in response to a subpoena or summons enforceable by order of a court, in response to any inquiry made by the board or its agents, by a government agency, or by a recognized organization of certified public accountants, or by the client himself or his heirs, successors or authorized representative, or in connection with a quality control review of the regulant's practice.

§ 4.23. Client's records.

A regulant shall furnish to his firm's client or former client, within a reasonable time upon request:

1. A copy of the client's tax return or a copy thereof; or

2. A copy of any report, or other document, issued by the regulant or his firm to or for the client and not formally withdrawn by the regulant or his firm prior to the request; or

3. Any accounting or other record belonging to the client, or obtained from or on behalf of the client, which the regulant or another member of his firm removed from the client's premises or had received for the client's account; or

4. A copy of the regulant's working papers, to the extent that such working papers include records which would ordinarily constitute part of the client's books and records not otherwise available to the client. Examples would include worksheets in lieu of books of original entry or general or subsidiary ledgers such as a list of accounts receivable or depreciation schedule. All journal entries

and supporting details would also be considered client's records; or

5. With respect to subdivisions 1, 2 and 4 of this section, it shall not be considered a violation of this section if a regulant declines to deliver to a client any of the foregoing until the client has paid any amounts owed for those services to which subdivisions relate.

§ 4.24. Acting through others.

A regulant shall not permit others to carry out on his behalf, acts which, if carried out by the regulant would place him in violation of these regulations. A regulant shall not perform services for a client who is performing the same or similar services for another, if the regulant could not perform those services under these rules.

§ 4.25. Advertising.

A regulant shall not make any false, fraudulent, misleading, deceptive, or unfair statement or claim, including but not limited to:

1. A misrepresentation of fact; or

2. Failure to make full disclosure of any relevant fact; or

3. Representation of services of exceptional quality not supported by verifiable facts; or

4. A representation that might lead to unjustified expectation of higher level of performance or of favorable results.

§ 4.26. Solicitation.

A regulant shall not by any direct personal communication solicit an engagement for the performance of accounting services if the communication is overreaching or contains use of coercion, duress, compulsion, intimidation, threats, or harassment.

§ 4.27. Response to board communication.

A regulant shall respond by registered or certified mail within 30 days of the mailing of any communication from the board when requested.

§ 4.28. Revocation, suspension, and fines.

The board may suspend, deny renewal, or revoke any certificate, license, or registration, or may fine the holder thereof, upon a finding of any conduct reflecting adversely upon the regulant's fitness to engage in the performance of accounting services or for violation of any of the board's rules and regulations.

§ 4.29. Practice inspection and continuing professional education.

In lieu of or in addition to any remedy provided in § 4.28 the board may require an inspection of a regulant's practice, require completion of specified continuing education, restrict regulant's area of practice, or impose such other sanctions as it deems appropriate.

§ 4.30. Petition for reinstatement or modification of a penalty.

No petition shall be considered while the petitioner is under sentence for a criminal offense related to the practice of accountancy, including any period during which the petitioner is on court imposed probation or parole for such offense. Otherwise, a person whose certificate or license has been revoked or suspended, or who has been subjected to any penalty may petition the board for reinstatement or modification of any penalty, no sooner than one year from the effective date of that decision. The petition shall be accompanied by at least two verified recommendations from licensees who have had personal knowledge of the activities of the petitioner since the time the disciplinary penalty was imposed. The board may consider all activities of the petitioner dating from the time the disciplinary action was taken; the offense for which the petitioner was disciplined; the petitioner's rehabilitative efforts and restitution to damaged parties; and the petitioner's general reputation for truth and professional ability.

§ 4.31. Ownership of records.

All statements, records, schedules, working papers, and memoranda made by a regulant incident to rendering services to a client in the performance of accounting services other than records specified in § 4.23, shall become the property of the regulant's firm absent an express agreement between the firm and the client to the contrary. No such statement, record, schedule, working paper or memorandum covered by this section or in § 4.23 shall be sold, transferred, or bequeathed, to anyone other than a regulant without the consent of the client.

§ 4.32. Acts discreditable.

A regulant shall not commit an act discreditable to the profession of accountancy.

§ 4.33. Single act.

Evidence of the commission of a single act prohibited by these regulations shall be sufficient to justify a finding of violation, without evidence of a general course of conduct.

PART V.
CONTINUING PROFESSIONAL EDUCATION.

§ 5.1. CPE requirements for license renewal.

Effective January 1, 1992, all licensees shall be required to complete and maintain 120 credit hours of continuing professional education (CPE) during each reporting cycle. At a minimum, a licensee shall complete 20 CPE credit hours during each calendar year. Credits shall be reported to the board by January 31 of the year following the year in which credits were earned.

For each three-year reporting cycle, the licensee shall have completed a minimum of 16 credit hours in accounting and auditing and a minimum of 16 credit hours in taxation as defined by § 5.5. The licensee shall not receive credit for more than 24 credit hours of personal development as defined by § 5.5 during each reporting cycle. In order to receive CPE credit for a license renewal, all credit hours shall be from an approved sponsor as set forth in § 5.4.

The board shall approve sponsors of CPE courses and not individual courses. A CPE course provided by an approved sponsor shall meet the CPE requirements set forth in the Rules and Regulations for Continuing Professional Education Sponsors and will be so designated. An investigation of an approved sponsor may be initiated based on a complaint or other information.

§ 5.2. Requirements for retaining records.

It is the responsibility of the licensee to retain evidence of satisfactory completion of CPE credit hours for a period of five years. Such documentation shall be in the form of the certificate of completion provided by the approved sponsor or verification from the accredited institution offering the course. If upon request, the licensee cannot provide such documentation, the licensee shall be subject to a fine which shall not exceed $1,000 in accordance with § 54.1-202 of the Code of Virginia.

§ 5.3. Requirements for reporting credit hours.

All CPE credit hours shall be reported to the board on a form provided by the board and subject to a possible audit. The date forms are received, not postmarked, by the board shall be the date used to determine compliance with the CPE reporting requirements.

Failure to complete or report CPE credit hours by January 31 of each succeeding year will result in the following late filing fees:

1. A $100 late filing fee shall be required for all reporting forms received after January 31 but before June 1.

2. A $250 late filing fee shall be required for all reporting forms received after May 31 but before August 1.

3. A $500 late filing fee shall be required for all reporting forms when received after July 31. A license renewal shall be issued to the regulant upon receipt by the board of the late filing fee and evidence of compliance with § 5.1.

4. CPE credit hours taken during the late filing period to meet the requirement of the previous year shall not be reported for any succeeding year.

5. Individuals failing to meet the CPE requirements may be subject to requalification including possible reexamination and submission of experience qualifications.

6. The board may, at its discretion, waive or defer CPE requirements and late fees for licensees who suffer documented serious illness or injury, or who are prevented from meeting those requirements due to the obligation of military service or service in the Peace Corps, or for other good cause of similar magnitude approved by the board.

§ 5.4. Acceptable continuing professional education credit.

The board shall recognize the following as acceptable CPE credit:

1. Courses from sponsors approved by the board in accordance with the board's Rules and Regulations for Continuing Professional Education Sponsors; or

2. Courses from sponsors of continuing professional education programs listed in good standing with the National Registry of CPE Sponsors maintained by the National Association of State Boards of Accountancy (NASBA); or

3. Courses from accredited institutions as defined by § 1.1 of these regulations when offering college courses in the regular course curriculum. CPE credit for completing a college course in the college curriculum will be granted based on the number of credit hours the college grants for successful completion of the course. One semester hour of college credit is 15 CPE credit hours; on quarter hour of college credit is 10 CPE credit hours; or

4. Auditing of college courses from accredited institutions as defined by § 1.1 of these regulations. Licensees auditing a college course shall be granted one CPE credit hour for each contact hour of courses within the fields of study outlined in § 5.5 of these regulations. Attendance at two-thirds of scheduled sessions of audited courses shall be documented by the course instructor to receive CPE credit for the hours attended; or

5. Service as a lecturer or instructor in courses which increase the licensee's professional competence and qualifies for CPE credit for participants as defined in §§ 5.4 and 5.5. One credit hour shall be given for each 50-minute period of instruction. For the instructor's preparation time, there will be awarded two additional hours of CPE for each credit hour of instruction. The instructor shall retain evidence to support the request for credit. The instructor shall be given no credit for subsequent sessions involving substantially identical subject matter. The maximum credit given for preparation as an instructor may not exceed 50% of the CPE credit hours reported each year with a maximum of 20 credit hours in any one reporting year; or

6. Successful completion of a self-study course offered by an approved sponsor. CPE credit hours will be established by the sponsor according to the type of CPE self-study program and pre-tests to determine average completion time. Interactive self-study programs shall receive CPE credit equal to the average completion time. Noninteractive self-study programs shall receive CPE credit equal to one-half of the average completion time. An interactive self-study program that takes an average of two contact hours to complete shall be recommended for two CPE credit hours. A noninteractive self-study program that takes an average of two contact hours to complete shall be recommended for one CPE credit hour.

§ 5.5. Acceptable CPE subject areas.

~~A.~~ All acceptable CPE shall be in subject areas within the following six fields of study:

1. Accounting and auditing which includes accounting and financial reporting subjects, the body of knowledge dealing with recent pronouncements of authoritative

accounting principles issued by the standard-setting bodies, and any other related subject generally classified within the accounting discipline. It also includes auditing subjects related to the examination of financial statements, operations systems, and programs; the review of internal and management controls; and on the reporting on the results of audit findings, compilations, and review.

A minimum of 16 credit hours in accounting and auditing shall be completed in each three-year reporting cycle.

2. Advisory services which includes all advisory services provided by professional accountants -- management, business, personal, and other. It includes Management Advisory Services and Personal Financial Planning Services. This section also covers an organization's various systems, the services provided by consultant practitioners, and the engagement management techniques that are typically used. The systems include those dealing with planning, organizing, and controlling any phase of individual financial activity and business activity. Services provided encompass those for management, such as designing, implementing, and evaluating operating systems for organization, as well as business advisory services and personal financial planning.

3. Management which includes the management needs of individuals in public practice, industry, and government. Some subjects concentrate on the practice management area of the public practitioner such as organizational structures, marketing services, human resource management, and administrative practices. For individuals in industry, there are subjects dealing with the financial management of the organization, including information systems, budgeting, and asset management, as well as items covering management planning, buying and selling businesses, contracting for goods and services, and foreign operations. For licensees in government, this curriculum embraces budgeting, cost analysis, human resource management, and financial management in federal, state and local governmental entities. In general, the emphasis in this field is on the specific management needs of licensees and not on general management skills.

4. Personal development which includes such skills as communications, managing the group process, and dealing effectively with others in interviewing, counseling, and career planning. Public relations and professional ethics are also included.

A maximum of 24 credit hours may be awarded in personal development in each reporting cycle.

5. Specialized knowledge and application which includes subjects related to specialized industries, such as not-for-profit organizations, health care, oil and gas. An industry is defined as specialized if it is unusual in its form of organization, economic structure, source(s) of financing, legislation or regulatory requirements, marketing or distribution, terminology, technology; and either employs unique accounting principles and practices, encounters unique tax problems, requires unique advisory services, or faces unique audit issues.

6. Taxation which includes subjects dealing with tax compliance and tax planning. Compliance covers tax return preparation and review and IRS examinations, ruling requests, and protests. Tax planning focuses on applying tax rules to prospective transactions and understanding the tax implications of unusual or complex transactions. Recognizing alternative tax treatments and advising the client on tax saving opportunities are also part of tax planning.

A minimum of 16 credit hours in taxation shall be completed in each three-year reporting cycle.

§ 5.6. NASBA approved sponsors.

A. The board shall annually review the NASBA Registry's Standards for Approval.

B. A NASBA approved sponsor removed from the Registry for failure to comply with NASBA standards will no longer qualify as a Virginia approved sponsor. In such cases, the sponsor may apply to the board for approval as a Virginia approved sponsor.

NOTICE: The forms used in administering the Board for Accountancy Regulations are not being published due to the large number; however, the name of each form is listed below. The forms are available for inspection at the Department of Professional and Occupational Regulation, 3600 W. Broad Street, Richmond, Virginia. 23230, or at the Office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Room 262, Richmond, Virginia 23219.

Virginia Initial Application for Uniform CPA Examination, Rev. 12/92

Virginia Reexamination Application for Uniform CPA Examination, Rev. 12/93

Uniform CPA Examination, Grade Reporting and Statistical Questionnaire

Uniform CPA Examination - Official Admission Notice

Virginia Information for Applicants for Uniform CPA Examination, Rev. 12/93

Code List for Colleges and Universities, Rev. 11/93

The Orientation Program for the CPA Examination

Application for Original CPA Certificate, Rev. 7/1/93

Application for Original License to Practice Public Accountancy in Virginia, VSBA 5, Rev. 7/1/93

Record of Experience

Application for Licensing of a Virginia CPA, VSBA 9, Rev. 7/1/93

Application for a Virginia CPA Certificate by Endorsement, VSBA R-1, Rev. 3/18/94

Certification of Grades, VSBA 7

Certification of Original Certificate, VSBA R 2

Employment Verification, VSBA 6

Application for Reinstatement of License to Practice Public Accountancy, Maintenance of CPA Certificate or Registration of Professional Corporation or Professional Limited Liability Company, VSBA 2, Rev. 7/1/93

Application for Registration as a Professional Corporation Practicing Public Accountancy, Rev. 7/1/93

Application for Registration as a Professional Limited Liability Company Practicing Public Accountancy, VSBA 10, Rev. 7/1/93

VA.R. Doc. No. R95-659; Filed August 2, 1995, 11:58 a.m.

DEPARTMENT OF HEALTH (STATE BOARD OF)

REGISTRAR'S NOTICE: The amendments to the following regulation are exempt from the Administrative Process Act in accordance with § 9-6.14:4.1 C 3, which excludes regulations which consist only of changes in style or form or corrections of technical errors. The Department of Health will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revisions.

* * *

As a result of a final order issued by the Danville Circuit Court, three provisions of the Biosolids Use Regulations were suspended for an additional 30-day public comment period. A notice announcing this action was published in the July 10, 1995, issue of the Virginia Register. Comments were received through August 9, 1995. The suspension of those provisions shall expire upon action by the Board of Health to readopt or modify them. The suspended provisions are as follows:

- The limitations of Class I biosolids use and recordkeeping requirements for Class I biosolids use set forth in §§ 3.11 C and D. (See 11:7 VA.R. 1055-1056 12/26/94.)

- Metals concentrations for selenium, cadmium, and molybdenum found in Table 8. (See 11:7 VA.R. 1064 12/26/94)

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: September 20, 1995.

Summary:

In accordance with § 9-6.14:4.1 C 3 of the Code of Virginia, amendments are being made to the Biosolids Use Regulations to correct technical errors.

Agency Contact: Copies of the regulation may be obtained from C.M. Sawyer, Division of Wastewater Engineering, Department of Health, P.O. Box 2448, Richmond, VA 23218, telephone (804) 786-1755.

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 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 schedules of compliance, prohibitions, 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 dedicated sites, located or operated separately from a treatment works, utilized for sewage sludge management,

including but not limited to, 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 utilization, assimilation or pollutant removal. 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 that is readily thickened by gravity thickeners.

"Process" means a system, or an arrangement of equipment 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 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 § 1.13 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.I-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 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:

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. 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. 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. 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. 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:

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.

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.

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 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 facilities or land application sites unless

otherwise provided for by these regulations. Conditions may be imposed on the issuance of any permit, and construction, modification, or operation shall be in compliance with these conditions.

As described in this section, the requirement to formally obtain a construction permit 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 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; (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.

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 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 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 whether or not the proposed design selected by the owner requires 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 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. 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 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 facilities, including substantial modifications (new location of storage

on site, or increasing design capacity by more than 20%) from that previously approved shall identify the proposed 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 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 facilities. 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; (ii) special additive materials such as paper, wood, stone, sand, gravel and combinations of additive materials; (iii) miscellaneous appurtenances utilized; (iv) chemicals required. Specifications shall address instructions 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 facilities 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~~ *Part IV*).

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 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~~ *Part IV*).

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~~ *Part IV*).

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 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~~ *Part V*).

§ 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 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, 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~~ *Parts IV and V*). 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 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~~ *Parts IV and V*). 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 § 1.12. 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 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.

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 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 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. A permit application submitted by an owner or owner's agent shall contain complete information 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. Applications can be obtained from any field office.

B. The operational plan for the facilities must address the special conditions for the technical operational, monitoring, and reporting requirements that the applicant must satisfy. A construction permit and an operation permit shall be obtained in accordance with these regulations for construction of the facilities. Approval of the operational plan constitutes issuance of an operation permit. Operation of the facilities may not proceed until the owner is 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 January 25, 1995, shall continue in force until expired, reissued amended, or terminated in accordance with the certificate or these regulations. All owners holding Virginia Pollution Abatement Permits as of 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 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 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 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 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. 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 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 and comply with, any additional requirements 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. 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 1.
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 shall include minimum tests and their frequencies 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. The information furnished with either the operation and maintenance manual, sludge management plan, or operational plan, should 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 *and*

verify the treatment classification achieved (Table 3). All special sampling methods should be identified. Biosolids use site sampling and 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 date analysis was performed;

4. Individual that performed laboratory analysis;

5. The analytical techniques/methods used;

6. The results of such analysis.

The owner shall normally maintain monitoring records for a minimum of three years. This period of retention may be extended during the course of any unresolved litigation regarding the discharge of pollutants at the request of the commissioner.

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 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 quality control shall be in accordance with the sludge management plan, or operation plan in accordance with § 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 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.

Article 2.
Operation and Maintenance Manuals.

§ 2.6. General.

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, for information and guidance purposes, the manual should contain additional schedules which supplement these required schedules.

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 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 permit requirements. Permit noncompliance shall be prevented in those situations in which the larget 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 described in the operation and maintenance manual. 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 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 0.5 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 7000	12 per year

Note: 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.

B. 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 required treatment and quality characteristics and the maximum allowable land application loading rates shall be established for biosolids use. In addition, *operational* 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. Table 4 shows a sample operating report for documenting the minimum required information. Unless otherwise provided, ~~such reports~~ *a report summary* 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 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. The sampling procedures and protocols 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 better than single grab samples because they define representative "average" levels of sludge characteristics. 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.

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, 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	Minimum Number of Grab Samples	
Area (Acres)	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 a 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 for application sites of 10 acres or more receiving frequent applications. For 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 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 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 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 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, splitring 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 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.

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 ANALYSIS[1]

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 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

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** 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* 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* 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:

Additional VS Reduction = VSD1 - VSD2/VSD1 - (VSD1)(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 ~~21°C~~ *20°C*.

c. Less than 38% reduction by aerobic digestion if additional treatment (additional 30 days or more at ~~22°C~~ *20°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 ~~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 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.

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

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

	Infrequent (2)	Frequent Below Agronomic Rates (3)	Frequent at Agronomic Rates (4)	Waste-water (5)
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 (mg/100g)			*	*
Exchangeable Sodium (mg/100g)			*	*
Exchangeable Calcium (mg/100)			*	*
Exchangeable Magnesium (mg/100g)	*		*	*
Copper (ppm)			*	*
Nickel (ppm			*	*
Zinc (ppm)			*	*
Cadmium			*	*
Lead (ppm)			*	*
Chromium (ppm)			*	
Manganese (ppm)			*	
Molybdenum			*	
Selenium			*	
Particle Size Analysis or			*	*
USDA Textural Estimate (%) Hydraulic Conductiviity (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 oading 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) Supernatent from storage and handling facilities.

TABLE 6
SUGGESTED GROUNDWATER MONITORING PARAMETERS AND MONITORING FREQUENCY

Annual Monitoring	Quarterly Monitoring
Total Kjeldahl Nigrogen	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). Such design information is based on the assumption that each unit operation is the sole stabilization process employed at the treatment works. 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. Conventional sludge treatment consists of two anaerobic digesters, or enclosed reactors, typically provided, so that each digester may be used as a first stage or primary reactor 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 for emergency use to allow the digester 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 l,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 l5 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 l000 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
Maxi-mum Dia-meter (ft.)									
Dis-charge	4	5	6	7	8	9	10	11	12
(Mini-mum) Number of Points									
Gas Flow (CFM)	95	95	95	150	150	150	200	250	300
(Minimum Gas Flow)									

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 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.~~ *D.* Sludge composting.

1. General design. Conventionally designed compost facilities receive treated dewatered sludge to be mixed with a bulking agent prior to composting. The conventional mixing operation 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 is usually covered to prevent ambient precipitation from directly contacting the mix materials.

Where conveyors are used to move the compost mix to the compost ing 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 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 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. 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 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 2l 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. 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 should provide for up to six months storage of biosolids compost with a similar 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 minimize additional heat input to start up the system. Measures for the adequate control of odors should be provided.

Multiple units should be provided unless nuisance-free storage or alternate stabilization methods are available. 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#oF 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. 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 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 l2 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 l2.5 or more and maintain the mixture pH above l2.5 for 30 minutes.

3. The sludge shall not be altered or further distributed for two hours after alkaline treatment.

Class I treatment 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 the mixture is maintained at a sufficient temperature over a measured contact period to ensure pasteurization.

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.

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 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 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 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 § 1.14 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.

Sections 3.5 through 3.9 provide minimum criteria which will be used for 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 §§ 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 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.

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~~ *Part IV*)

§ 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.

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 that the sludge generated at his facility is nonhazardous.

C. Sludge treatment. Sludges shall be subjected to a treatment process sequence designed to reduce both the pathogen content and the solids content to the appropriate level for the selected 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 (§ 3.15). The level of pathogen control achieved by nonconventional treatment must be verified by microbiological monitoring (Table 3).

For land application, Class B pathogen, 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 (i) heat treatment and drying, (ii) thermophilic composting, (iii) alkaline treatment. 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 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-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 defined as sludges with less than 15% total solids, (ii) dewatered sludge normally defined as sludges with 15% to 30% total solids; (iii) dried sludge 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, with the information specified in Table A-1. The responsibility for obtaining and maintaining the agreement(s) lies with the party who is the holder of the permit. Site management controls shall include for access limitations relative to the level of pathogen control 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. The commissioner may also require certain dewatered sludges exceeding l5% 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~~ *Part IV.*

§ 3.9. Storage facilities.

A. Three types of storage may be integrated into a complete sludge management plan including: (i) "emergency storage" involving immediate implementation of storage for any sludge which becomes necessary due to unforeseen circumstances, (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, (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 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. Temporary storage may be utilized at the land application site due to unforeseen climatic factors which 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 routine storage 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 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.~~ *D.* Routine storage. Routine storage facilities shall be provided for all land application projects if no alternative means of management is available during nonapplication periods. 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, 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 be provided with a minimum 750-feet 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 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, and the inclusion of an effective windbreak in the overall design.

2. Design capacity. 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~~ *Part IV.*

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 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~~ *Part IV.* 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 l0 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 Department of Environmental Quality.

7. Recordkeeping. A manifest system shall be developed, implemented and maintained and be available for inspection during operations as part of the overall daily recordkeeping for the project (see ~~Appendix~~ A *Part IV*).

§ 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 and shall be treated or managed to provide an acceptable level of vector attraction reduction.

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 per meability. Depth to bedrock or restrictive layers should be a minimum of 18 inches. Depth to the seasonal water table should exceed 18 inches 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 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 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); (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. Acceptable nutrient management 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 16 and March 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 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 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 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 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; (ii) 200-foot vegetative (i.e., not bare ground) buffer is maintained from surface water courses; (iii) entire application site is not bare ground and the site soils are characterized as well drained.

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	10 ft.
Rock outcrops and sinkholes	25 ft.
Agricultural drainage ditches with slopes equal to or less than 2.0%	10 ft.

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. 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 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 fiber 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 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 shall be based on nitrogen uptake rates and yields as recommended in information provided by the Virginia Department of Forestry.

b. Operations.

(1) Field management.

(a) 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 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 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. 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 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 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 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 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 A pathogen control standard. 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 to home vegetable gardens 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 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, including soil additives or compost in bulk use quantities, shall be required to obtain a written approval issued by the State Health commissioner. 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. 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. 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. 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 wights 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 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 river or water supply source; and

7. Description of site use(s).

Only the information listed in subdivisions 1 through 4 shall be necessary for submission by a biosolids distributer.

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 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 as 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 (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 is routinely discharged into the municipal system. 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 for agricultural use shall be unrestricted up to the agronomic rate for infrequent applications. The accumulated amount of heavy metals 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 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 may involve the temperature of the gas stream measured at the point where the gas stream leaves the dryer. Indirect drying 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 with one of the following: (i) mixture temperature of 55°C for a minimum period of 12 hours, (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 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 as removed and transported for land application in accordance with the management practices specified. Class II treatment processes may include one or more of the following operations:

1. Anaerobic digestion. A process whereby biosolids are 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 I5°C to 40 days at 20°C.

3. Low-temperature composting. A process using the within-vessel, 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.

5. Air drying. Biosolids treated by methods similar to those listed above, but not meeting Class II or III treatment standards are 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 are 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 are 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 of 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) 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 sludge with more than 50% waste activated biosolids by weight, to produce a pH of 12 after two hours of contact.

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 as 60Cobalt and 137Cesium, at dosages of at least I.0 megarad at 20°C.

F. Vector attraction reduction parameters. 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 vector 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. 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 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 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, 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 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 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 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. Site buffers separating operations by 500 feet or more from residences or other concentrations of human activity.

5. Nonpoint source pollution to surface waters 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 that 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 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 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 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 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~~ *trace elements*.

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 contain 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 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. 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.

TABLE 8

A. RECOMMENDED CEILING ~~POLLUTANT~~ LIMITS FOR THE TRACE ~~METAL~~ *ELEMENT* CONTENT OF BIOSOLIDS ACCEPTABLE FOR LAND APPLICATION

~~POLLUTANT~~ *TRACE ELEMENT*	CONCENTRATION (mg/Kg) *DRY WEIGHT)*
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~~ *TRACE ELEMENT* CONCENTRATIONS FOR APPLICATION OF EXCEPTIONAL QUALITY BIOSOLIDS TO LAWNS OR HOME GARDENS IN RESIDENTIAL LOCATIONS

~~POLLUTANT~~ *TRACE ELEMENT*	*CONCENTRATION IN MILLIGRAMS PER KILOGRAMS (DRY WEIGHT)*
Arsenic	41 ~~(1)~~*
Cadmium	21
Chromium	1200
Copper	1500
Lead	300
Mercury	17
Molybdenum	41 ~~(1)~~*
Nickel	420
Selenium	32
Zinc	2800

Note: ~~(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~~ *TRACE ELEMENTS* THAT CAN BE APPLIED TO SOILS USED FOR CROP PRODUCTION~~((~~[1]

~~Metal~~ *TRACE ELEMENT*

	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.

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 above ground food crops with harvested parts that touch the biosolids/ soil mixture can be harvested.	14 Months	18 Months	14 Months	18 Months
Time lapse before food crops with harvested parts below the land surface can be harvested	20 Months	26 Months	38 Months	42 Months
Harvesting food crops, feed crops and fiber crops	1 Month	1 Month	1 Month	1 Month
Grazing and feeding harvested crops to animals whose products are consumed by humans (4)	1 Month	2 Months	1 Month	2 Months
Grazing or feeding harvested crops to animals whose products are not consumed by humans	1 Month	1 Month	1 Month	1 Month
Harvesting turf for placement on land with a high potential for public exposure or a lawn (5)	12 Months	12 Months	12 Months	12 Months

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 §1.14.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.

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		35		25		20
Late season (7)	40	34	34	30	25		18		15
Canola (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) 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-sorghrum 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 (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(10)

Notes: **(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.

(10) Where yield data is available utilize 0.5 pounds per bushel.

TABLE 12

A. ESTIMATED NITROGEN MINERALIZATION RATES FOR BIOSOLIDS

Biosolids Type	Years After Application		
	First	Second	Third
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

Management Practice	Percent Ammonia Volatilized	
	Biosolids pH < 10	Biosolids pH > 10
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:

$$AAR = N/(0.0026)$$

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.

TABLE 14

A. Recommended Lime Application Rates Needed to Adjust Initial Soil pH to 6.5 for the lower coastal plains soils.

	*Soil Type**	
Initial Soil pH	*Sandy*	*Loamy*
	Lime, Tons/AC	
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.

	*Soil Type**	
Initial Soil pH	*Sandy*	*Loamy*
	Lime, Tons/AC	
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~~ *1.25*	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. 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 § 1.24, 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.

(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, evapotransporation, 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: (i) 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. Recordkeeping.

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 con ditioning 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 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 foilage 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 three 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

Field:_____
Acres:_____

Year	Crop	Crop Needs $N\text{-}P_2O_5\text{-}K_2O$	Biosolids Supplied $N\text{-}P_2O_5\text{-}K_2O$	Balance Needed From Fertilizer $N\text{-}P_2O_5\text{-}K_2O$	Notes
1992	Corn	140-50-80	140-70-10	O-O-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 deeded 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 ....., I9....

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 ....., I9... .

SIGNED: ..... of the ..... Circuit Clerks Office

PART V.
PERMIT ISSUANCE FORMS

§ 5.1. Permit issuance forms.

A. 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~~ *part*.

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.

DOCUMENTS INCORPORATED BY REFERENCE

(VR 355-17-200)

Glossary Water and Wastewater Control Engineering, 1969, American Public Health Association.

United States Environmental Protection Agency Guidelines Establishing Test Procedures for Analysis of Pollutants, 1989, National Technical Information Service, United States Department of Commerce.

Sampling Procedures and Protocols Used for the National Sewage Sludge Survey, EPA Office of Water Regulations and Standards, March 1988, National Technical Information Service, United States Department of Commerce.

Standard Methods for the Examination of Water and Wastewater, 18th Edition, 1992, American Public Health Association.

Environemental Regulations and Technology - Control of Pathogens and Vector Attraction in Biosolids, EPA-625/R-92/013, December 1992, United States Environmental Protection Agency.

VA.R. Doc. No. R95-645; Filed July 28, 1995, 10:55 a.m.

APPLICATION FOR A BIOSOLIDS USE CONSTRUCTION OR OPERATION PERMIT

For Department Use Only

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.: _____

☐ INTERIM ☐ FINAL

DATE ISSUED: _____ 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 supernatent 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 Construction Permit

_____ is Hereby Granted Permission to Construct

a Biosolids Use/Treatment Works that will consist of _____

_____

_____

and that will have a Design Capacity of _____

at _____ 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 §1.17 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: _____

_____

_____

_____

Project Description Sheet Attached ( ) Yes ( ) No

PERMIT NO. _____

EFFECTIVE DATE _____

RECOMMENDED _____
Director, Division of Wastewater Engineering

RECOMMENDED _____
Director, Office of Water Programs

APPROVED _____
State Health Commissioner

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 _____

_____ 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. _____

EFFECTIVE DATE _____

RECOMMENDED _____
Director, Division of Wastewater Engineering

RECOMMENDED _____
Director, Office of Water Programs

APPROVED _____
State Health Commissioner

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 §1.19 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: dates 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

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT (BOARD OF)

Title of Regulation: **VR 394-01-21. Virginia Uniform Statewide Building Code, Volume I - New Construction Code/1993.**

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

Effective Date: September 20, 1995.

Summary:

This amendment provides, in the Uniform Statewide Building Code, building regulations for installation of acoustical treatment measures for construction of residential buildings and structures, or portions thereof, in areas affected by above average noise levels, from aircraft, due to their proximity to flight operations at nearby airports. The enforcement of these amendments is on a local option basis.

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 George W. Rickman, Jr., Regulatory Coordinator, Department of Housing and Community Development, 501 North 2nd Street, Richmond, VA 23219, telephone (804) 371-7170.

VR 394-01-21. Virginia Uniform Statewide Building Code, Volume I - New Construction Code/1993.

CHAPTER 1.
ADOPTION, ADMINISTRATION AND ENFORCEMENT.

SECTION 100.0.
GENERAL.

100.1. Title. These regulations shall be known as Volume I - New Construction Code of the 1993 edition of the Virginia Uniform Statewide Building Code. Except as otherwise indicated, USBC, and code, as used herein, shall mean Volume I - New Construction Code of the 1993 edition of the Virginia Uniform Statewide Building Code.

Note: See Volume II - Building Maintenance Code for maintenance regulations applying to existing buildings.

100.2. Authority. The USBC is adopted under authority granted the Board of Housing and Community Development by the Uniform Statewide Building Code Law, Chapter 6 (§ 36-97 et seq.) of Title 36 of the Code of Virginia.

100.3. Purpose and scope. The purpose of the USBC is to ensure safety to life and property from all hazards incident to building design, construction, use, repair, removal or demolition. Buildings shall be permitted to be constructed at the least possible cost consistent with nationally recognized standards for health, safety, energy conservation, water conservation, adequate egress facilities, sanitary equipment, light and ventilation, fire safety, structural strength, and physically handicapped and aged accessibility. As provided in the Uniform Statewide Building Code Law, Chapter 6 (§ 36-97 et seq.) of Title 36 of the Code of Virginia, the USBC supersedes the building codes and regulations of the counties, municipalities and other political subdivisions and state agencies, relating to any construction, reconstruction, alterations, conversion, repair or use of buildings and installation of equipment therein. The USBC does not supersede zoning ordinances or other land use controls that do not effect the manner of construction or materials to be used in the construction, alteration or repair of a building.

100.4. Adoption. The 1993 edition of the USBC was adopted by order of the Board of Housing and Community Development on December 13, 1993. This order was prepared according to requirements of the Administrative Process Act. The order is maintained as part of the records of the Department of Housing and Community Development, and is available for public inspection.

100.5. Effective date. The 1993 edition of the USBC shall become effective on April 1, 1994.

100.6. Application. The USBC shall apply to all buildings, structures and associated equipment which are constructed, altered, repaired or converted in use after April 1, 1994. Buildings and structures that were designed within one year prior to April 1, 1994, shall be subject to the previous edition of the code provided that the permit application is submitted by April 1, 1995. This provision shall also apply to subsequent amendments to this edition of the code based on the effective date of the amendments.

100.6.1. Industrialized buildings and manufactured homes. Industrialized buildings registered under the Virginia Industrialized Building Safety Law and manufactured homes labeled under the Federal Manufactured Housing Construction and Safety Standards shall be exempt from the USBC; however, the building official shall be responsible for issuing permits, inspecting the site work and installation of industrialized buildings and manufactured homes, and issuing certificates of occupancy for such buildings when all work is completed satisfactorily.

100.7. Exemptions. The following buildings, structures and equipment are exempted from the requirements of the USBC:

1. Farm buildings and structures not used for residential purposes; however, such buildings and structures lying within a flood plain or in a mudslide-prone area shall be subject to the applicable flood proofing or mudslide regulations.

2. Equipment installed by a provider of publicly regulated utility service and electrical equipment used for radio and television transmission. The exempt equipment shall be under the exclusive control of the public service agency and located on property by established rights; however, the buildings, including their service equipment, housing such public service agencies shall be subject to the USBC.

3. Manufacturing and processing machines and the following service equipment:

a. All electrical equipment connected after the last disconnecting means.

b. All plumbing appurtenance connected after the last shutoff valve or backflow protection device.

c. All plumbing appurtenance connected before the equipment drain trap.

d. All gas piping and equipment connected after the outlet shutoff valve.

4. Parking lots and sidewalks; however, parking lots and sidewalks which form part of an accessible route, as defined by the Americans With Disabilities Act Accessibility Guidelines shall comply with the requirements of Chapter 11.

5. Recreational equipment such as swing sets, sliding boards, climbing bars, jungle gyms, skateboard ramps, and similar equipment when such equipment is a residential accessory use not regulated by the Virginia Amusement Device Regulations.

SECTION 101.0.
REFERENCE STANDARDS AND AMENDMENTS.

101.1. Adoption of model codes and standards. The following model building codes and all portions of other model codes and standards that are referenced in this Code are hereby adopted and incorporated in the USBC. Where differences occur between provisions of the USBC and the referenced model codes or standards, the provisions of the USBC shall apply. Where differences occur between the technical provisions of the model codes and their referenced standards, the provisions of the model code shall apply.

The referenced model codes are:

THE BOCA NATIONAL BUILDING CODE/1993 EDITION

(also referred to herein as BOCA Code)

Published by:

Building Officials and Code Administrators International, Inc.

4051 West Flossmoor Road

Country Club Hills, Illinois 60478-5795

Telephone No. (708) 799-2300

Note: The following major subsidiary model codes are among those included by reference as part of the BOCA National Building Code/1993 Edition:

BOCA National Plumbing Code/1993 Edition

BOCA National Mechanical Code/1993 Edition

NFiPA National Electrical Code/1993 Edition

The permit applicant shall have the option to select as an acceptable alternative for detached one and two family dwellings and one family townhouses not more than three stories in height and their accessory structures the following standard:

CABO ONE AND TWO FAMILY DWELLING CODE/1992 EDITION and 1993 Amendments (also referred to herein as One and Two Family Dwelling Code) Jointly published by:

Building Officials and Code Administrators International, Inc.

Southern Building Code Congress International, Inc. and

International Conference of Building Officials.

101.2. General administrative and enforcement amendments to referenced codes. All requirements of the referenced model codes that relate to fees, permits, certification of fitness, unsafe notices, unsafe conditions, maintenance, disputes, condemnation, inspections, existing buildings, existing structures, certification of compliance, approval of plans and specifications and other procedural, administrative and enforcement matters are deleted and replaced by the provisions of Chapter 1 of the USBC.

Note: The purpose of this provision is to eliminate overlap, conflict and duplication by providing a single standard for administration and enforcement of the USBC.

101.3. Amendments to the BOCA Code. The amendments noted in Addendum 1 of the USBC shall be made to the specified chapters and sections of the BOCA National Building Code/1993 Edition for use as part of the USBC.

101.4. Amendments to the One and Two Family Dwelling Code. The amendments noted in Addendum 2 of the USBC shall be made to the indicated chapters and sections of the One and Two Family Dwelling Code/1992 Edition and 1993 Amendments for use as part of the USBC.

SECTION 102.0.
LOCAL BUILDING DEPARTMENTS.

102.1. Responsibility of local governments. Enforcement of the USBC Volume I shall be the responsibility of the local building department in accordance with § 36-105 of the Code of Virginia. Whenever a local government does not have such a building department, it shall enter into an agreement with another local government or with some other agency, or a state agency approved by the Virginia Department of Housing and Community Development for such enforcement. The local building department and its employees may be designated by such names or titles as the local government considers appropriate.

102.2. Building official. Each local building department shall have an executive official in charge, hereinafter referred to as the building official.

102.2.1. Appointment. The building official shall be appointed in a manner selected by the local government having jurisdiction. After appointment, he shall not be removed from office except for cause after having been afforded a full opportunity to be heard on specific and relevant charges by and before the appointing authority. The local government shall notify the Training and Certification Office within 30 days of the appointment or release of the building official. A Virginia certified building official shall complete an orientation course approved by the Department of Housing and Community Development within 90 days after appointment. A building official not certified by Virginia shall attend the core program of the Virginia Building Code Academy, or an approved regional academy, within 90 days after appointment.

102.2.2. Qualifications. The building official shall have at least five years of building experience as a licensed

professional engineer or architect, building inspector, contractor or superintendent of building construction, with at least three years in responsible charge of work, or shall have any combination of education and experience which would confer equivalent knowledge and ability. The building official shall have general knowledge of sound engineering practice in respect to the design and construction of buildings, the basic principles of fire prevention, the accepted requirements for means of egress and the installation of elevators and other service equipment necessary for the health, safety and general welfare of the occupants and the public. The local governing body may establish additional qualification requirements.

102.2.3. Certification. The building official shall be certified in accordance with Part III of the Virginia Certification Standards (VR 394-01-2) within three years after the date of employment.

Exception: An individual employed as the building official in any locality in Virginia prior to April 1, 1983, shall be exempt from certification while employed as the building official in that jurisdiction. This exemption shall not apply to subsequent employment as the building official in another jurisdiction.

102.3. Qualifications of technical assistants. A technical assistant shall have at least three years of experience in general building construction. Any combination of education and experience which would confer equivalent knowledge and ability shall be deemed to satisfy this requirement. The local governing body may establish additional qualification requirements.

102.3.1. Certification of technical assistants. Any person employed by, or under contract to, a local governing body for determining compliance with the USBC shall be certified in his trade field within three years after the date of employment in accordance with Part III of the Virginia Certification Standards (VR 394-01-2).

Exception: An individual employed as the building, electrical, plumbing, mechanical, fire protection systems inspector or plans examiner in Virginia prior to March 1, 1988, shall be exempt from certification while employed as the technical assistant in that jurisdiction. This exemption shall not apply to subsequent employment as a technical assistant in another jurisdiction.

102.4. Relief from personal responsibility. The local building department personnel shall not be personally liable for any damages sustained by any person in excess of the policy limits of errors and omissions insurance, or other equivalent insurance obtained by the locality to insure against any action that may occur to persons or property as a result of any act required or permitted in the discharge of official duties while assigned to the department as employees. The building official or subordinates shall not be personally liable for costs in any action, suit or proceedings that may be instituted in pursuance of the provisions of the USBC as a result of any act required or permitted in the discharge of official duties while assigned to the department as employees, whether or not said costs are covered by insurance. Any suit instituted against any officer or employee because of an act performed by that officer or employee in the discharge of official duties and under the provisions of the USBC may be defended by the department's legal representative.

102.5. Control of conflict of interests. The minimum standards of conduct for building officials and technical assistants shall be in accordance with the provisions of the State and Local Government Conflict of Interests Act, Chapter 40.1 (§ 2.1-639.1 et seq.) of Title 2.1 of the Code of Virginia.

SECTION 103.0.
DUTIES AND POWERS OF THE BUILDING OFFICIAL.

103.1. General. The building official shall enforce the provisions of the USBC as provided herein and as interpreted by the State Building Code Technical Review Board in accordance with § 36-118 of the Code of Virginia.

103.2. Modifications. The building official may grant modifications to any of the provisions of the USBC upon application by the owner or the owner's agent provided the spirit and intent of the USBC are observed and public health, welfare and safety are assured.

Note: The current editions of many nationally recognized model codes and standards are referenced by the Uniform Statewide Building Code. Future amendments do not automatically become part of the USBC; however, the building official should give consideration to such amendments in deciding whether a requested modification should be granted. See State Building Code Technical Review Board Interpretation Number 64/81 issued November 16, 1984.

103.2.1. Supporting data. The building official may require the application to include architectural and engineering plans and specifications that include the seal of a professional engineer or architect. The building official may also require and consider a statement from a professional engineer, architect or other competent person as to the equivalency of the proposed modification.

103.2.2. Records. The application for modification and the final decision of the building official shall be in writing and shall be officially recorded with the copy of the certificate of use and occupancy in the permanent records of the local building department.

103.3. Delegation of duties and powers. The building official may delegate duties and powers subject to any limitations imposed by the local government, but shall be responsible that any powers and duties delegated are carried out in accordance with the USBC.

103.4. Department records. The building official shall keep records of applications received, permits and certificates issued, reports of inspections, notices and orders issued and such other matters as directed by the local government. A copy of the certificate of use and occupancy and a copy of any modification of the USBC issued by the building official shall be retained in the official records, as long as the building to which it relates remains in existence. Other records may be disposed of in accordance with the provisions of the Virginia Public Records Act (§ 42.1-76 et seq. of the Code of Virginia), (i) after one year in the case of buildings under 1,000 square feet in area and one and two family

dwellings of any area, or (ii) after three years in the case of all other buildings.

SECTION 104.0.
FEES.

104.1. Fees. Fees may be levied by the local governing body in order to defray the cost of enforcement and appeals in accordance with § 36-105 of the Code of Virginia.

104.2. When payable. A permit shall not be issued until the fees prescribed by the local government have been paid to the authorized agency of the jurisdiction, nor shall an amendment to a permit be approved until any required additional fee has been paid. The local government may authorize delayed payment of fees.

104.3. Fee schedule. The local government shall establish a fee schedule. The schedule shall incorporate unit rates which may be based on square footage, cubic footage, cost of construction or other appropriate criteria.

104.4. Refunds. In the case of a revocation of a permit or abandonment or discontinuance of a building project, the local government shall provide fee refunds for the portion of the work which was not completed.

104.5. Fee levy. Local governing bodies shall charge each permit applicant an additional 1.0% of the total fee for each building permit. This additional 1.0% levy shall be transmitted quarterly to the Department of Housing and Community Development and shall be used to support the training programs of the Virginia Building Code Academy.

Exception: Localities which maintain training academies that are accredited by the Department of Housing and Community Development may retain such levy.

104.5.1. Levy adjustment. The Board of Housing and Community Development shall annually review the percentage of this levy and may adjust the percentage not to exceed 1.0%. The annual review shall include a study of the operating costs for the previous year's Building Code Academy, the current balance of the levy collected, and the operational budget projected for the next year of the Building Code Academy.

104.5.2. Levy cap. Annual collections of this levy which exceed $500,000, or any unobligated fund balance greater than one-third of that fiscal year's collections shall be credited against the levy to be collected in the next fiscal year.

SECTION 105.0.
APPLICATION FOR CONSTRUCTION PERMIT.

105.1. When permit is required. Written application shall be made to the building official when a construction permit is required. A permit shall be issued by the building official before any of the following actions subject to the USBC may be commenced:

1. Constructing, enlarging, altering, repairing, or demolishing a building or structure.

2. Changing the use of a building either within the same use group or to a different use group when the new use requires greater degrees of structural strength, fire protection, exit facilities, ventilation or sanitary provisions.

3. Installing or altering any equipment which is regulated by this code.

4. Removing or disturbing any asbestos containing materials during demolition, alteration, renovation of or additions to buildings or structures.

Exceptions:

1. Ordinary repairs which do not involve any violation of the USBC shall be exempt from this provision. Ordinary repairs shall not include the removal, addition or relocation of any wall or partition, or the removal or cutting of any structural beam or bearing support, or the removal, addition or relocation of any parts of a building affecting the means of egress or exit requirements. Ordinary repairs shall not include the removal, disturbance, encapsulation, or enclosure of any asbestos containing material. Ordinary repairs shall not include additions, alterations, replacement or relocation of the plumbing, mechanical, or electrical systems, or other work affecting public health or general safety. The term "ordinary repairs" shall mean the replacement of the following materials with like materials:

a. Painting.

b. Roofing when not exceeding 100 square feet of roof area.

c. Glass when not located within specific hazardous locations as defined in Section 2405.2 of the BOCA Code and all glass repairs in Use Group R-3 and R-4 buildings.

d. Doors, except those in fire-rated wall assemblies or exitways.

e. Floor coverings and porch flooring.

f. Repairs to plaster, interior tile work, and other wall coverings.

g. Cabinets installed in residential occupancies.

h. Wiring and equipment operating at less than 50 volts.

2. A permit is not required to install wiring and equipment which operates at less than 50 volts provided the installation is not located in a noncombustible plenum, or is not penetrating a fireresistance rated assembly.

3. Detached utility sheds 150 square feet or less in area and eight feet six inches or less in wall height when accessory to any Use Group building except Use Groups H and F.

105.1.1. Authorization of work. The building official may authorize work to commence pending receipt of written application.

105.2. Who may apply for a permit. Application for a permit shall be made by the owner or lessee of the building or agent of either, or by the licensed professional engineer, architect,

contractor or subcontractor (or their respective agents) employed in connection with the proposed work. If the application is made by a professional engineer, architect, contractor or subcontractor (or any of their respective agents), the building official shall verify that the applicant is either licensed to practice in Virginia, or is exempt from licensing under the Code of Virginia. The full names and addresses of the owner, lessee and the applicant, and of the responsible officers if the owner or lessee is a corporate body, shall be stated in the application. The building official shall accept and process permit applications through the mail. The building official shall not require the permit applicant to appear in person.

105.3. Form of application. The application for a permit shall be submitted on forms supplied by the building official.

105.4. Description of work. The application shall contain a general description of the proposed work, its location, the use of all parts of the building, and of all portions of the site not covered by the building, and such additional information as may be required by the building official.

105.5. Plans and specifications. The application for the permit shall be accompanied by not less than two copies of specifications and of plans drawn to scale, with sufficient clarity and dimensional detail to show the nature and character of the work to be performed. Such plans and specifications shall include the seal and signature of the architect or engineer under whose supervision they were prepared, or if exempt under the provisions of state law, shall include the name, address, and occupation of the individual who prepared them. When quality of materials is essential for conformity to the USBC, specific information shall be given to establish such quality. In cases where such plans and specifications are exempt under state law, the building official may require that they include the signature and seal of a professional engineer or architect.

Exceptions:

1. The building official may waive the requirement for filing plans and specifications when the work involved is of a minor nature.

2. Detailed plans may be waived by the building official for buildings in Use Group R-4, provided specifications and outline plans are submitted which satisfactorily indicate compliance with the USBC.

Note: Information on the types of construction exempted from the requirement for a professional engineer's or architect's seal and signature is included in Addendum 9.

105.5.1. Site plan. The application shall also contain a site plan showing to scale the size and location of all the proposed new construction and all existing buildings on the site, distances from lot lines, the established street grades and the proposed finished grades. The building official may require that the application contain the elevation of the lowest floor of the building. It shall be drawn in accordance with an accurate boundary line survey. In the case of demolition, the site plan shall show all construction to be demolished and the location and size of all existing buildings and construction that are to remain on the site. In the case of alterations, renovations, repairs and installation of new equipment, the building official may waive submission of the site plan or any parts thereof.

105.6. Plans review. The building official shall examine all plans and applications for permits within a reasonable time after filing. If the application or the plans do not conform to the requirements of the USBC, the building official shall reject such application in writing, stating the reasons for rejection. Any plan review comments requiring additional information, engineering details, or stating reasons for rejection of plans and specifications, shall be made in writing either by letter or a plans review form from the building official's office, in addition to notations or markings on the plans.

105.7. Approved plans. The building official shall stamp "Approved" or provide an endorsement in writing on both sets of approved plans and specifications. One set of such approved plans shall be retained by the building official. The other set shall be kept at the building site, open to inspection by the building official at all reasonable times.

105.8. Approval of partial plans. The building official may issue a permit for the construction of foundations or any other part of a building before the plans and specifications for the entire building have been submitted, provided adequate information and detailed statements have been filed indicating compliance with the pertinent requirements of the USBC. The holder of such permit for the foundations or other part of a building shall proceed with construction operations at the holder's risk, and without assurance that a permit for the entire building will be granted.

105.9. Engineering details. The building official may require adequate details of structural, mechanical, plumbing, and electrical work to be filed, including computations, stress diagrams and other essential technical data. All engineering plans and computations shall include the signature of the professional engineer or architect responsible for the design. For buildings more than two stories in height, the building official may require that plans indicate where floor penetrations will be made for pipes, wires, conduits, and other components of the electrical, mechanical and plumbing systems. The plans shall show the material and methods for protecting such openings so as to maintain the required structural integrity, fireresistance ratings, and firestopping affected by such penetrations.

105.10. Asbestos inspection in buildings to be renovated or demolished. A local building department shall not issue a building permit allowing a building to be renovated or demolished until the local building department receives a certification from the owner or his agent that the affected portions of the building have been inspected for the presence of asbestos by an individual licensed to perform such inspections pursuant to § 54.1-503 of the Code of Virginia and that no asbestos-containing materials were found or that appropriate response actions will be undertaken in accordance with the requirements of the Clean Air Act National Emission Standard for the Hazardous Air Pollutant (NESHAPS) (40 CFR 61, Subpart M), and the asbestos worker protection requirements established by the U.S. Occupational Safety and Health Administration for construction workers (29 CFR 1926.58). Local educational agencies that are subject to the requirements established by the Environmental Protection Agency under the Asbestos

Hazard Emergency Response Act (AHERA) shall also certify compliance with 40 CFR 763 and subsequent amendments thereto.

Exceptions: The provisions of this section shall not apply to single-family dwellings or residential housing with four or fewer units unless the renovation or demolition of such buildings is for commercial or public development purposes. The provisions of this section shall not apply if the combined amount of regulated asbestos-containing material involved in the renovation or demolition is less than 260 linear feet on pipes or less than 160 square feet on other facility components or less than 35 cubic feet off facility components where the length or area could not be measured previously.

105.10.1. Replacement of roofing, floorcovering, or siding materials. To meet the inspection requirements of Section 105.10 except with respect to schools, asbestos inspection of renovation projects consisting only of repair or replacement of roofing, floorcovering, or siding materials may be satisfied by:

1. A statement that the materials to be repaired or replaced are assumed to contain asbestos and that asbestos installation, removal, or encapsulation will be accomplished by a licensed asbestos contractor or a licensed asbestos roofing, flooring, siding contractor; or

2. A certification by the owner that sampling of the material to be renovated was accomplished by an RFS inspector as defined in § 54.1-500 of the Code of Virginia and analysis of the sample showed no asbestos to be present.

105.10.2. Reoccupancy. An abatement area shall not be reoccupied until the building official receives certification from the owner that the response actions have been completed and final clearances have been measured. The final clearance levels for reoccupancy of the abatement area shall be 0.01 or fewer asbestos fibers per cubic centimeter if determined by Phase Contrast Microscopy analysis (PCM) or 70 or fewer structures per square millimeter if determined by Transmission Electron Microscopy analysis (TEM).

105.11. Amendments to application. Amendments to plans, specifications or other records accompanying the application for permit may be filed at any time before completion of the work for which the permit is issued. Such amendments shall be considered part of the original application and shall be filed as such.

105.12. Time limitation of application. An application for a permit for any proposed work shall be considered to have been abandoned six months after notification by the building official that the application is defective unless the applicant has diligently sought to resolve any problems that are delaying issuance of the permit; except that for reasonable cause, the building official may grant one or more extensions of time.

SECTION 106.0.
PROFESSIONAL ENGINEERING AND ARCHITECTURAL SERVICES.

106.1. Special professional services; when required. The building official may require representation by a professional engineer or architect for buildings and structures which are subject to special inspections as required by Section 1705.0.

106.2. Attendant fees and costs. All fees and costs related to the performance of special professional services shall be the responsibility of the building owner.

SECTION 107.0.
APPROVAL OF MATERIALS AND EQUIPMENT.

107.1. Approval of materials; basis of approval. The building official shall require that sufficient technical data be submitted to substantiate the proposed use of any material, equipment, device or assembly. If it is determined that the evidence submitted is satisfactory proof of performance for the use intended, the building official may approve its use subject to the requirements of the USBC. In determining whether any material, equipment, device or assembly complies with the USBC, the building official shall approve items listed by nationally recognized independent testing laboratories or may consider the recommendations of engineers and architects licensed in this state.

107.2. Used materials and equipment. Used materials, equipment and devices may be used provided they have been reconditioned, tested or examined and found to be in good and proper working condition and approved for use by the building official.

107.3. Approved materials and equipment. All materials, equipment, devices and assemblies approved for use by the building official shall be constructed and installed in accordance with the conditions of such approval.

SECTION 108.0.
INTERAGENCY COORDINATION - FUNCTIONAL DESIGN.

108.1. Functional design approval. Pursuant to § 36-98 of the Code of Virginia, certain state agencies have statutory authority to approve functional design and operation of building related activities not covered by the USBC. The building official may refuse to issue a permit until the applicant has supplied certificates of functional design approval from the appropriate state agency or agencies. State agencies with functional design approval are listed in Addendum 4. For purposes of coordination, the local governing body may require reports to the building official by other departments as a condition for issuance of a building permit or certificate of use and occupancy. Such reports shall be based upon review of the plans or inspection of the project as determined by the local governing body.

SECTION 109.0.
CONSTRUCTION PERMITS.

109.1. Issuance of permits. If the building official is satisfied that the proposed work conforms to the requirements of the USBC and all applicable laws and ordinances, a permit shall be issued as soon as practicable. The building official may authorize work to commence prior to the issuance of the permit.

109.2. Signature on permit. The signature of the building official or authorized representative shall be attached to every permit.

109.3. Separate or combined permits. Permits for two or more buildings on the same lot may be combined. Permits for the installation of equipment such as plumbing, electrical or mechanical systems may be combined with the structural permit or separate permits may be required for the installation of each system. Separate permits may also be required for special construction considered appropriate by the local government.

109.4. Annual permit. The building official may issue an annual permit for alterations to an already approved equipment installation.

109.4.1. Annual permit records. The person to whom an annual permit is issued shall keep a detailed record of all alterations to an approved equipment installation made under such annual permit. Such records shall be accessible to the building official at all times or shall be filed with the building official when so requested.

109.5. Posting of permit. A copy of the building permit shall be posted on the construction site for public inspection until the work is completed.

109.6. Previous permits. No changes shall be required in the plans, construction or designated use of a building for which a permit has been properly issued under a previous edition of the USBC, provided the permit has not been revoked or suspended in accordance with Section 109.7 or 109.8.

109.7. Revocation of permits. The building official may revoke a permit or approval issued under the provisions of the USBC in case of any false statement or misrepresentation of fact in the application or on the plans on which the permit or approval was based.

109.8. Suspension of permit. Any permit issued shall become invalid if work on the site authorized by the permit is not commenced within six months after issuance of the permit, or if the authorized work on the site is suspended or abandoned for a period of six months after the time of commencing the work; however, permits issued for building equipment such as plumbing, electrical and mechanical work shall not become invalid if the building permit is still in effect. It shall be the responsibility of the permit applicant to prove to the building official that work has not been suspended or abandoned. Upon written request the building official may grant one or more extensions of time not to exceed six months per extension.

109.9. Compliance with code. The permit shall be a license to proceed with the work in accordance with the application and plans for which the permit has been issued and any approved amendments thereto and shall not be construed as authority to omit or amend any of the provisions of the USBC, except by modification pursuant to Section 103.2.

SECTION 110.0.
INSPECTIONS.

110.1. Right of entry. The building official may inspect buildings for the purpose of enforcing the USBC in accordance with the authority granted by § 36-105 of the Code of Virginia. The building official and assistants shall carry proper credentials of office when inspecting buildings and premises in the performance of duties under the USBC.

Note: Section 36-105 of the Code of Virginia provides, pursuant to enforcement of the USBC, that any building may be inspected at any time before completion. It also permits local governments to provide for the reinspection of buildings.

110.2. Preliminary inspection. Before issuing a permit, the building official may examine all buildings and sites for which an application has been filed for a permit to construct, enlarge, alter, repair, remove, demolish or change the use thereof.

110.3. Minimum inspections. Inspections shall include but are not limited to the following:

1. The bottom of footing trenches after all reinforcement steel is set and before any concrete is placed.

2. The installation of piling. The building official may require the installation of pile foundations be supervised by the owner's professional engineer or architect or by such professional service as approved by the building official.

3. Reinforced concrete beams, or columns and slabs after all reinforcing is set and before any concrete is placed.

4. Structural framing and fastenings prior to covering with concealing materials.

5. All electrical, mechanical and plumbing work prior to installation of any concealing materials.

6. Required insulating materials before covering with any materials.

7. Upon completion of the building, and before issuance of the certificate of use and occupancy, a final inspection shall be made to ensure that any violations have been corrected and all work conforms with the USBC.

110.3.1. Special inspections. Special inspections required by this code shall be limited to only those required by Section 1705.0.

110.4. Notification by permit holder. It shall be the responsibility of the permit holder or the permit holder's representative to notify the building official when the stages of construction are reached that require an inspection under Section 110.3 and to confirm continuation of work per Section 109.8 or for other inspections as directed by the building official. All ladders, scaffolds and test equipment required to complete an inspection or test shall be provided by the property owner, permit holder or their representative.

110.5. Inspections to be prompt. The building official shall respond to inspection requests without unreasonable delay. The building official shall approve the work in writing or give written notice of defective work to the permit holder or the agent in charge of the work. Such defects shall be corrected and reinspected before any work proceeds that would conceal them.

Note: A reasonable response time should normally not exceed two working days.

110.6. Approved inspection agencies. The building official may accept reports from individuals or inspection agencies which satisfy qualifications and reliability requirements, and shall accept such reports under circumstances where the building official is unable to make the inspection by the end of the following working day. Inspection reports shall be in writing and shall be certified by the individual inspector or by the responsible officer when the report is from an agency. An identifying label or stamp permanently affixed to the product indicating that factory inspection has been made shall be accepted instead of the written inspection report, if the intent or meaning of such identifying label or stamp is properly substantiated.

110.7. In-plant inspections. When required by the provisions of this code, materials or assemblies shall be inspected at the point of manufacture or fabrication. The building official shall require the submittal of an evaluation report of each prefabricated assembly, indicating the complete details of the assembly, including a description of the assembly and its components, the basis upon which the assembly is being evaluated, test results, and other data as necessary for the building official to determine conformance with this code.

110.8. Coordination with other agencies. The building official shall cooperate with fire, health and other state and local agencies having related maintenance, inspection or functional design responsibilities, and shall coordinate required inspections for new construction with the local fire official whenever the inspection involves provisions of the BOCA National Fire Prevention Code.

SECTION 111.0.
WORKMANSHIP.

111.1. General. All construction work shall be performed and completed so as to secure the results intended by the USBC.

SECTION 112.0.
VIOLATIONS.

112.1. Code violations prohibited. No person, firm or corporation shall construct, alter, extend, repair, remove, demolish or use any building or equipment regulated by the USBC, or cause same to be done, in conflict with or in violation of any of the provisions of the USBC.

112.2. Notice of violation. The building official shall serve a notice of violation on the person responsible for the construction, alteration, extension, repair, removal, demolition or use of a building in violation of the provisions of the USBC, or in violation of plans and specifications approved thereunder, or in violation of a permit or certificate issued under the provisions of the USBC. Such order shall reference the code section that serves as the basis for the violation and direct the discontinuance and abatement of the violation. Such notice of violation shall be in writing and be served by either delivering a copy of the notice to such person by mail to the last known address, delivering the notice in person or by delivering it to and leaving it in the possession of any person in charge of the premises, or by posting the notice in a conspicuous place at the entrance door or accessway if such person cannot be found on the premises.

112.3. Prosecution of violation. If the notice of violation is not complied with, the building official shall request, in writing, the legal counsel of the jurisdiction to institute the appropriate legal proceedings to restrain, correct or abate such violation or to require the removal or termination of the use of the building in violation of the provisions of the USBC. Compliance with a notice of violation notwithstanding, the building official may request legal proceedings be instituted for prosecution when a person, firm or corporation is served with three or more notices of violation within one calendar year for failure to obtain a required construction permit prior to commencement of work regulated under the USBC.

112.4. Violation penalties. Violations are a misdemeanor in accordance with § 36-106 of the Code of Virginia. Violators, upon conviction, may be punished by a fine of not more than $2,500.

112.5. Abatement of violation. Conviction of a violation of the USBC shall not preclude the institution of appropriate legal action to require correction or abatement of the violation or to prevent other violations or recurring violations of the USBC relating to construction and use of the building or premises.

SECTION 113.0.
STOP WORK ORDER.

113.1. Notice to owner. When the building official finds that work on any building is being executed contrary to the provisions of the USBC or in a manner endangering the general public, an order may be issued to stop such work immediately. The stop work order shall be in writing. It shall be given to the owner of the property involved, or to the owner's agent, or to the person doing the work. It shall state the conditions under which work may be resumed. No work covered by a stop work order shall be continued after issuance, except under the conditions stated in the order.

113.2. Application of order limited. The stop work order shall apply only to the work that was being executed contrary to the USBC or in a manner endangering the general public, provided other work in the area would not cause concealment of the work for which the stop work order was issued.

SECTION 114.0.
POSTING BUILDINGS.

114.1. Use group and form of sign. Prior to its use, every building designed for Use Groups B, F, H, M or S shall be posted by the owner with a sign approved by the building official. It shall be securely fastened to the building in a readily visible place. It shall state the use group, the live load, the occupancy load, and the date of posting.

114.2. Occupant load in places of assembly. Every room constituting a place of assembly or education shall have the approved occupant load of the room posted on an approved sign in a conspicuous place, near the main exit from the room. Signs shall be durable, legible, and maintained by the owner or the owner's agent. Rooms or spaces which have multiple-use capabilities shall be posted for all such uses.

114.3. Street numbers. Each structure to which a street number has been assigned shall have the number displayed so as to be readable from the public right of way.

SECTION 115.0.
CERTIFICATE OF USE AND OCCUPANCY.

115.1. When required. Any building or structure constructed under this code shall not be used until a certificate of use and occupancy has been issued by the building official. Final inspection approval(s) shall serve as the certificate of use or occupancy for any addition or alteration to a building or structure which already has a valid certificate of use or occupancy.

115.2. Temporary use and occupancy. The holder of a permit may request the building official to issue a temporary certificate of use and occupancy for a building, or part thereof, before the entire work covered by the permit has been completed. The temporary certificate of use and occupancy may be issued provided the building official determines that such portion or portions may be occupied safely prior to full completion of the building.

115.3. Contents of certificate. When a building is entitled thereto, the building official shall issue a certificate of use and occupancy. The certificate shall state the purpose for which the building may be used in its several parts. When the certificate is issued, the building shall be deemed to be in compliance with the USBC. The certificate of use and occupancy shall specify the use group, the type of construction, the occupancy load in the building and all parts thereof, the edition of the USBC under which the building permit was issued, and any special stipulations, conditions and modifications.

115.4. Changes in use and occupancy. A building hereafter changed from one use group to another, in whole or in part, whether or not a certificate of use and occupancy has heretofore been issued, shall not be used until a certificate for the changed use group has been issued.

115.5. Existing buildings. A building constructed prior to the USBC shall not be prevented from continued use. The building official shall issue a certificate of use and occupancy upon written request from the owner or the owner's agent, provided there are no violations of Volume II of the USBC and the use of the building has not been changed.

115.6. Suspension or revocation of certificate of occupancy: The building official may suspend or revoke the certificate of occupancy for failure to correct repeated violations in apparent disregard for the provisions of the USBC.

SECTION 116.0.
APPEALS.

116.1. Local Board of Building Code Appeals (BBCA). Each jurisdiction shall have a BBCA to hear appeals as authorized herein or it shall enter into an agreement with the governing body of another county or municipality or with some other agency, or a state agency approved by the Department of Housing and Community Development, to act on appeals. The BBCA shall also hear appeals under Volume II of the USBC, the Building Maintenance Code, if the jurisdiction has elected to enforce that code. The jurisdiction may have separate BBCAs provided that each BBCA complies with this section. An appeal case decided by a separate BBCA shall constitute an appeal in accordance with this section and shall be final unless appealed to the State Building Code Technical Review Board (TRB).

116.2. Membership of BBCA. The BBCA shall consist of at least five members appointed by the jurisdiction and having terms of office established by written policy. Alternate members may be appointed to serve in the absence of any regular members and, as such, shall have the full power and authority or the regular members. Regular and alternate members may be reappointed. Written records of current membership, including a record of the current chairman and secretary, shall be maintained in the office of the jurisdiction. In order to provide continuity, the terms of the members may be of different length so that less than half will expire in any one-year period.

116.2.1. Chairman. The BBCA shall annually select one of its regular members to serve as chairman. In the event of the absence of the chairman at a hearing, the members present shall select an acting chairman.

116.2.2. Secretary. The jurisdiction shall appoint a secretary to the BBCA to maintain a detailed record of all proceedings.

116.3. Qualifications of BBCA members. BBCA members shall be selected by the jurisdiction on the basis of their ability to render fair and competent decisions regarding application of the USBC and shall, to the extent possible, represent different occupational or professional fields relating to the construction industry. Employees or officials of the jurisdiction shall not serve as members of the BBCA. At least one member should be an experienced builder and one member a licensed professional engineer or architect.

116.4. Disqualification of member. A member shall not hear an appeal in which that member has a conflict of interest in accordance with the State and Local Government Conflict of Interests Act, Chapter 40.1 (§ 2.1-639 et seq.) of Title 2.1 of the Code of Virginia.

116.5. Application for appeal. The owner of a building or structure, the owner's agent or any other person involved in the design or construction of the building or structure may appeal a decision of the building official concerning the application of the USBC or his refusal to grant a modification to the provisions of the USBC covering the manner of construction or materials to be used in the erection, alteration or repair of that building or structure. The applicant shall submit a written request for appeal to the BBCA within 90 calendar days from the receipt of the decision to be appealed. The application shall contain the name and address of the owner of the building or structure and the person appealing if not the owner. A copy of the written decision of the building official shall be submitted along with the application for appeal and maintained as part of the record. The application shall be stamped or otherwise marked by the BBCA to indicate the date received. Failure to submit an application for appeal within the time limit established by this section shall constitute acceptance of the building official's decision.

116.6. Notice of meeting. The BBCA shall meet within 30 calendar days after the date of receipt of the application for

appeal. Notice indicating the time and place of the hearing shall be sent to the parties in writing to the addresses listed on the application at least 14 calendar days prior to the date of the hearing. Less notice may be given if agreed upon by the applicant.

116.7. Hearing procedures. All hearings before the BBCA shall be open to the public. The appellant, the appellant's representative, the jurisdiction's representative and any person whose interests are affected shall be given an opportunity to be heard. The chairman shall have the power and duty to direct the hearing, rule upon the acceptance of evidence and oversee the record of all proceedings. 116.7.1. Postponement. When five members of the BBCA are not present to hear an appeal, either the appellant or the appellant's representative shall have the right to request a postponement of the hearing. The BBCA shall reschedule the appeal within 30 calendar days of the postponement.

116.8. Decision. The BBCA shall have the power to reverse or modify the decision of the building official by a concurring vote of a majority of those present.

116.8.1. Resolution. The decision of the BBCA shall be by resolution signed by the chairman and retained as part of the record by the BBCA. The following wording shall be part of the resolution:

"Upon receipt of this resolution, any person who was a party to the appeal may appeal to the State Building Code Technical Review Board by submitting an application to the State Building Code Technical Review Board within 21 calendar days. Application forms are available from the Office of the State Building Code Technical Review Board, 501 North Second Street, Richmond, Virginia 23219, (804) 371-7170."

Copies of the resolution shall be furnished to all parties.

116.9. Appeal to the TRB. After final determination by the BBCA, any person who was a party to the local appeal may appeal to the TRB. Appeals by an involved state agency from the decision of the building official for state-owned buildings shall be made directly to the TRB. Application shall be made to the TRB within 21 calendar days of receipt of the decision to be appealed. Failure to submit an application for appeal within the time limit established by this section shall constitute an acceptance of the BBCA's resolution or building official's decision.

116.9.1. Information to be submitted. Copies of the decision of the building official and the resolution of the BBCA shall be submitted with the application for appeal. Upon request by the office of the TRB, the jurisdiction shall submit a copy of all pertinent information from the record of the BBCA. In the case of state-owned buildings, the involved state agency shall submit a copy of the building official's decision and other relevant information.

116.9.2. Decision of TRB. Procedures of the TRB are in accordance with Article 2 (§ 36-108 et seq.) of Chapter 6 ~~(§ 36-107.1 et seq.)~~ of Title 36 of the Code of Virginia. Decisions of the TRB shall be final if no appeal is made therefrom and the building official shall take action accordingly.

SECTION 117.0.
EXISTING BUILDINGS AND STRUCTURES.

117.1. Additions, alterations, and repairs. Additions, alterations or repairs to any structure shall conform to that required of a new structure without requiring the existing structure to comply with all of the requirements of this code. Additions, alterations or repairs shall not cause an existing structure to become unsafe or adversely affect the performance of the building. Any building plus new additions shall not exceed the height, number of stories and area specified for new buildings. Alterations or repairs to an existing structure which are structural or adversely affect any structural member or any part of the structure having a fireresistance rating shall be made with materials required for a new structure.

Exception: Existing materials and equipment may be replaced with materials and equipment of a similar kind or replaced with greater capacity equipment in the same location when not considered a hazard.

Note 1: Alterations after construction may not be used by the building official as justification for requiring any part of the old building to be brought into compliance with the current edition of the USBC. For example, replacement of worn exit stair treads that are somewhat deficient in length under current standards does not, of itself, mean that the stair must be widened. It is the intent of the USBC that alterations be made in such a way as not to lower existing levels of health and safety.

Note 2: The intent of this section is that when buildings are altered by the addition of equipment that is neither required nor prohibited by the USBC, only those requirements of the USBC that regulate the health and safety aspects thereof shall apply. For example, a partial automatic alarm system may be installed when no alarm system is required provided it does not violate any of the electrical safety or other safety requirements of the code.

117.1.1. Damage, restoration or repair in flood hazard zones. Buildings located in any flood hazard zone which are altered or repaired shall comply with the floodproofing requirements applicable to new buildings in the case of damages or cost of reconstruction or restoration which equals or exceeds 50% of the market value of the building before either the damage occurred or the start of construction of the improvement.

Exceptions:

1. Improvements required under Volume II of the USBC necessary to assure safe living conditions.

2. Alterations of historic buildings provided the alteration would not preclude the building's continued designation as an historic building.

117.1.2. Requirements for accessibility. Buildings and structures which are altered or to which additions are added shall comply with applicable requirements of Chapter 11.

117.2. Conversion of building use. No change shall be made in the use of a building which would result in a change in the use group classification unless the building complies with all applicable requirements for the new use group classification in accordance with Section 105.1(2). An

application shall be made and a certificate of use and occupancy shall be issued by the building official for the new use. Where it is impractical to achieve exact compliance with the USBC the building official shall, upon application, consider issuing a modification under the conditions of Section 103.2 to allow conversion.

117.3. Alternative method of compliance. Compliance with the provisions of Chapter 34 for repair, alteration, change of use of, or additions to existing buildings shall be an acceptable method of complying with this code.

SECTION 118.0.
MOVED BUILDINGS.

118.1. General. Any building moved into or within the jurisdiction shall be brought into compliance with the USBC unless it meets the following requirements after relocation.

1. No change has been made in the use of the building.

2. The building complies with all state and local requirements that were applicable to it in its previous location and that would have been applicable to it if it had originally been constructed in the new location.

3. The building has not become unsafe during the moving process due to structural damage or for other reasons.

4. Any alterations, reconstruction, renovations or repairs made pursuant to the move have been done in compliance with the USBC.

118.2. Certificate of use and occupancy. Any moved building shall not be used until a certificate of use and occupancy is issued for the new location.

SECTION 119.0.
UNSAFE BUILDINGS.

119.1. Right of condemnation before completion. Any building under construction that fails to comply with the USBC through deterioration, improper maintenance, faulty construction, or for other reasons, and thereby becomes unsafe, unsanitary, or deficient in adequate exit facilities, and which constitutes a fire hazard, or is otherwise dangerous to human life or the public welfare, shall be deemed either a public nuisance or an unsafe building. Any such unsafe building shall be made safe through compliance with the USBC or shall be taken down and removed, as the building official may deem necessary.

119.1.1. Inspection of unsafe buildings; records. The building official shall examine every building reported as unsafe and shall prepare a report to be filed in the records of the department. In addition to a description of unsafe conditions found, the report shall include the use of the building, and nature and extent of damages, if any, caused by a collapse or failure.

119.1.2. Notice of unsafe building. If a building is found to be unsafe the building official shall serve a written notice on the owner, the owner's agent or person in control, describing the unsafe condition and specifying the required repairs or improvements to be made to render the building safe, or requiring the unsafe building or portion thereof to be taken down and removed within a stipulated time. Such notice shall require the person thus notified to declare without delay to the building official the acceptance or rejection of the terms of the notice.

119.1.3. Posting of unsafe building notice. If the person named in the notice of unsafe building cannot be found after diligent search, such notice shall be sent by registered or certified mail to the last known address of such person. A copy of the notice shall be posted in a conspicuous place on the premises. Such procedure shall be deemed the equivalent of personal notice.

119.1.4. Disregard of notice. Upon refusal or neglect of the person served with a notice of unsafe building to comply with the requirement of the notice to abate the unsafe condition, the legal counsel of the jurisdiction shall be advised of all the facts and shall be requested to institute the appropriate legal action to compel compliance.

119.1.5. Vacating building. When, in the opinion of the building official, there is actual and immediate danger of failure or collapse of a building, or any part thereof, which would endanger life, or when any building or part of a building has fallen and life is endangered by occupancy of the building, the building official may order the occupants to vacate the building forthwith. The building official shall cause a notice to be posted at each entrance to such building reading as follows. "This Structure is Unsafe and its Use or Occupancy has been Prohibited by the Building Official." No person shall thereafter enter such a building except for one of the following purposes: (i) to make the required repairs; (ii) to take the building down and remove it; or (iii) to make inspections authorized by the building official.

119.1.6. Temporary safeguards and emergency repairs. When, in the opinion of the building official, there is immediate danger of collapse or failure of a building or any part thereof which would endanger life, or when a violation of this code results in a fire hazard that creates an immediate, serious and imminent threat to the life and safety of the occupants, he shall cause the necessary work to be done to the extent permitted by the local government to render such building or part thereof temporarily safe, whether or not legal action to compel compliance has been instituted.

119.2. Right of condemnation after completion. Authority to condemn unsafe buildings on which construction has been completed and a certificate of occupancy has been issued, or which have been occupied, may be exercised after official action by the local governing body pursuant to § 36-105 of the Code of Virginia.

119.3. Abatement or removal. Whenever the owner of a building that has been deemed to be a public nuisance or unsafe, pursuant to Section 119.1 or Section 119.2, fails to comply with the requirements of the notice to abate, the building official may cause the building to be razed or removed.

Note: A local governing body may, after official action pursuant to § 15.1-29.21 or 15.1-11.2 of the Code of Virginia, maintain an action to compel a responsible party to abate, raze, or remove a public nuisance. If the public nuisance presents an imminent and immediate threat to life or property, then the governing body of the county, city or town may abate, raze, or remove such

public nuisance, and a county, city or town may bring an action against the responsible party to recover the necessary costs incurred for the provision of public emergency services reasonably required to abate any such public nuisance.

SECTION 120.0.
DEMOLITION OF BUILDINGS.

120.1. General. Demolition permits shall not be issued until the following actions have been completed:

1. The owner or the owner's agent has obtained a release from all utilities having service connections to the building stating that all service connections and appurtenant equipment have been removed or sealed and plugged in a safe manner.

2. Any certificate required by Section 105.10 has been received by the building official.

3. The owner or owner's agent has given written notice to the owners of adjoining lots and to the owners of other lots affected by the temporary removal of utility wires or other facilities caused by the demolition.

120.2. Hazard prevention. When a building is demolished or removed, the established grades shall be restored and any necessary retaining walls and fences shall be constructed as required by the provisions of Chapter 33 of the BOCA Code.

ADDENDUM 1.

AMENDMENTS TO THE BOCA NATIONAL BUILDING CODE/1993 EDITION.

As provided in Section 101.3 of the Virginia Uniform Statewide Building Code, the amendments noted in this addendum shall be made to the BOCA National Building Code/1993 Edition for use as part of the USBC.

CHAPTER 1.
ADMINISTRATION AND ENFORCEMENT.

Entire chapter is deleted and replaced by Chapter 1, Adoption, Administration and Enforcement, of the Virginia Uniform Statewide Building Code.

CHAPTER 2.
DEFINITIONS.

(A) Change the following definitions in Section 202.0, General Definitions, to read:

"Building" means a combination of any materials, whether portable or fixed, having a roof to form a structure for the use or occupancy by persons or property; provided, however, that farm buildings not used for residential purposes and frequented generally by the owner, members of his family, and farm employees shall be exempt from the provisions of the USBC, but such buildings lying within a flood plain or in a mudslide-prone area shall be subject to flood proofing regulations or mudslide regulations, as applicable. The word building shall be construed as though followed by the words "or part or parts and fixed equipment thereof" unless the context clearly requires a different meaning. The word "building" includes the word "structure."

Dwellings:

"Boarding house" means a building arranged or used for lodging, with or without meals, for compensation and not occupied as a single family unit.

"Dormitory" means a space in a building where group sleeping accommodations are provided for persons not members of the same family group, in one room, or in a series of closely associated rooms.

"Hotel" means any building containing six or more guest rooms, intended or designed to be used, or which are used, rented or hired out to be occupied or which are occupied for sleeping purposes by guests.

"Multi-family apartment house" means a building or portion thereof containing more than two dwelling units and not classified as a one- or two-family dwelling.

"One-family dwelling" means a building containing one dwelling unit.

"Two-family dwelling" means a building containing two dwelling units.

"Jurisdiction" means the local governmental unit which is responsible for enforcing the USBC under state law.

"Mobile unit" means a structure of vehicular, portable design, built on a chassis and designed to be moved from one site to another, subject to the Industrialized Building and Manufactured Home Safety Regulations, and designed to be used without a permanent foundation.

"Owner" means the owner or owners of the freehold of the premises or lesser estate therein, a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, or lessee in control of a building.

"Structure" means an assembly of materials forming a construction for use including stadiums, gospel and circus tents, reviewing stands, platforms, stagings, observation towers, radio towers, water tanks, trestles, piers, wharves, swimming pools, amusement devices, storage bins, and other structures of this general nature. The word structure shall be construed as though followed by the words "or part or parts thereof" unless the context clearly requires a different meaning.

(B) Add these new definitions to Section 202.0, General Definitions:

"Family" means an individual or married couple and the children thereof with not more than two other persons related directly to the individual or married couple by blood or marriage; or a group of not more than eight unrelated persons, living together as a single housekeeping unit in a dwelling unit.

"Farm building" means a structure located on a farm utilized for the storage, handling or production of agricultural, horticultural and floricultural products normally intended for sale to domestic or foreign markets and buildings used for the maintenance, storage or use of animals or equipment related thereto.

"Historic building" means any building that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Federal Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

3. Individually listed on the Virginia Department of Historic Resources' inventory of historic places; or

4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified by the Virginia Department of Historic Resources.

"Local government" means any city, county or town in this state, or the governing body thereof.

"Manufactured home" means a structure subject to federal regulations, which is transportable in one or more sections; is eight body feet or more in width and 40 body feet or more in length in the traveling mode, or is 320 or more square feet when erected on site; is built on a permanent chassis; is designed to be used as a single family dwelling, with or without a permanent foundation when connected to the required utilities; and includes the plumbing, heating, air conditioning, and electrical systems contained in the structure.

"Night club" means a place of assembly that provides exhibition, performance or other forms of entertainment; serves food or alcoholic beverages or both; and provides music and space for dancing.

"Plans" means all drawings that together with the specifications, describe the proposed building construction in sufficient detail and provide sufficient information to enable the building official to determine whether it complies with the USBC.

"Public nuisance" means, for the purposes of this code, any public or private building, wall or structure deemed to be dangerous, unsafe, unsanitary, or otherwise unfit for human habitation, occupancy or use, or the condition of which constitutes a menace to the health and safety of the occupants thereof or to the public.

"Skirting" means a weather-resistant material used to enclose the space from the bottom of a manufactured home to grade.

"Specifications" means all written descriptions, computations, exhibits, test data and other documents that together with the plans, describe the proposed building construction in sufficient detail and provide sufficient information to enable the building official to determine whether it complies with the USBC.

CHAPTER 3.
USE OR OCCUPANCY.

(A) Add an exception to Section 308.2 to read as follows:
Exception: Group homes licensed by the Virginia Department of Mental Health, Mental Retardation and Substance Abuse Services which house no more than eight mentally ill, mentally retarded, or developmentally disabled persons, with one or more resident counselors, shall be classified as Use Group R-3.

(B) Reserved.

CHAPTER 4.
SPECIAL USE AND OCCUPANCY.

(A) Add an exception to Section 417.6 to read as follows:

Exception: The storage, dispensing and utilization of flammable and combustible liquids, in excess of the exempt amounts, at automotive service stations shall be in accordance with the fire prevention code listed in Chapter 35.

(B) Change Section 420.0 to read as follows:

SECTION 420.0.
MOBILE UNITS AND MANUFACTURED HOMES.

420.1. General. Mobile units, as defined in Section 202.0, shall be designed and constructed to be transported from one location to another and not mounted on a permanent foundation. Manufactured homes shall be designed and constructed to comply with the Federal Manufactured Housing Construction and Safety Standards and used with or without a permanent foundation.

420.2. Support and anchorage of mobile units. The manufacturer of each mobile unit shall provide with each unit specifications for the support and anchorage of the mobile unit. The manufacturer shall not be required to provide the support and anchoring equipment with the unit. Mobile units shall be supported and anchored according to the manufacturer's specifications. The anchorage shall be adequate to withstand wind forces and uplift as required in Chapter 16 for buildings and structures, based upon the size and weight of the mobile unit.

420.3. Support and anchorage of manufactured homes. The manufacturer of the home shall provide with each manufactured home printed instructions specifying the location, required capacity and other details of the stabilizing devices to be used with or without a permanent foundation (i.e., tiedowns, piers, blocking, footings, etc.) based upon the design of the manufactured home. Manufactured homes shall be supported and anchored according to the manufacturer's printed instructions or supported and anchored by a system conforming to accepted engineering practices designed and engineered specifically for the manufactured home. Footings or foundations on which piers or other stabilizing devices are mounted shall be carried down to the established frost lines. The anchorage system shall be adequate to resist wind forces, sliding and uplift as imposed by the design loads.

420.3.1. Hurricane zone. Manufactured homes installed or relocated in the hurricane zone shall be of Hurricane and Windstorm Resistive design in accordance with the Federal Manufactured Housing Construction and Safety Standards and shall be anchored according to the manufacturer's specifications for the hurricane zone. The hurricane zone includes the following counties and all cities located therein,

contiguous thereto, or to the east thereof. Accomack, King William, Richmond, Charles City, Lancaster, Surry, Essex, Mathews, Sussex, Gloucester, Middlesex, Southampton, Greensville, Northumberland, Westmoreland, Isle of Wight, Northampton, York, James City, New Kent, King & Queen and Prince George.

420.3.2. Flood hazard zones. Manufactured homes and mobile units which are located in a flood hazard zone shall comply with the requirements of Section 3107.1.

Exception: Manufactured homes installed on sites in an existing manufactured home park or subdivision shall be permitted to be placed no less than 36 inches above grade in lieu of being elevated at or above the base flood elevation provided no manufactured home at the same site has sustained flood damage exceeding 50% of the market value of the home before the damage occurred.

420.4. Used mobile/manufactured homes. When used manufactured homes or used mobile homes are being installed or relocated and the manufacturer's original installation instructions are not available, installations complying with the applicable portions of NCSBCS/ANSI A225.1 listed in Chapter 35 shall be accepted as meeting the USBC.

420.5. Skirting. Manufactured homes installed or relocated shall have skirting installed within 60 days of occupancy of the home. Skirting materials shall be durable, suitable for exterior exposures, and installed in accordance with the manufacturer's installation instructions. Skirting shall be secured as necessary to ensure stability, to minimize vibrations, to minimize susceptibility to wind damage, and to compensate for possible frost heave. Each manufactured home shall have a minimum of one opening in the skirting providing access to any water supply or sewer drain connections under the home. Such openings shall be a minimum of 18 inches in any dimension and not less than three square feet in area. The access panel or door shall not be fastened in a manner requiring the use of a special tool to open or remove the panel or door. On-site fabrication of the skirting by the owner or installer of the home shall be acceptable, provided that the material meets the requirements of the USBC.

(C) Add new Section 422.0 to read as follows:

SECTION 422.0.
MAGAZINES.

422.1. Magazines. Magazines for the storage of explosives, ammunition and blasting agents shall be constructed in accordance with the Statewide Fire Prevention Code as adopted by the Board of Housing and Community Development.

(D) Add new Section 423.0 to read as follows:

SECTION 423.0.
STORAGE TANKS.

423.1. General. The installation, upgrade, or closure of any storage tanks containing an accumulation of regulated substances, shall be in accordance with the Storage Tank Regulations adopted by the State Water Control Board. Storage tanks containing flammable or combustible liquids shall also comply with the applicable requirements of Sections 417.0 and 418.0.

CHAPTER 9.
FIRE PROTECTION SYSTEMS.

(A) Change Section 904.9 Exceptions to read as follows:

The following exceptions may be applied only when adequate water supply is not available at the proposed building site.

For the purposes of this section "adequate" means the necessary water pressure and volume provided by a water purveyor.

Exceptions.

1. Buildings which do not exceed two stories, including basements which are not considered as a story above grade, and with a maximum of 12 dwelling units per fire area. Each dwelling unit shall have at least one door opening to an exterior exit access that leads directly to the exits required to serve that dwelling unit.

2. Buildings where all dwelling units or bedrooms are not more than three stories above the lowest level of exit discharge and not more than one story below the highest level of exit discharge of exits serving the dwelling unit or bedrooms of a dormitory or boarding house and every two dwelling units or bedrooms of a dormitory or boarding house are separated from other dwelling units or bedrooms of a dormitory or boarding house in the building by fire separation assemblies (see Sections 709.0 and 713.0) having a fireresistance rating of not less than two hours.

(B) Add new Section 904.12 to read as follows:

904.12. Use Group B, when more than 50 feet in height. Fire suppression systems shall be installed in buildings and structures of Use Group B, when more than 50 feet in height and less than 75 feet in height according to the following conditions:

1. The height of the building shall be measured from the point of the lowest grade level elevation accessible by fire department vehicles at the building or structure to the floor of the highest occupiable story of the building or structure.

2. Adequate public water supply is available to meet the needs of the suppression system.

3. Modifications for increased allowable areas and reduced fire ratings permitted by Sections 503.3, 504.2, 506.3, 705.2.3, 705.3.1, 720.7.1, 720.7.2, 803.4.3, and any others not specifically listed shall be granted.

4. The requirements of Section 403.0 for high-rise buildings, such as, but not limited to voice alarm systems, central control stations, and smoke control systems, shall not be applied to buildings and structures affected by this section.

(C) Change Section 917.4.6 to read as follows:

917.4.6. Use Group R-2. A fire protective signaling system shall be installed and maintained in all buildings of Use Group R-2 where any dwelling unit or bedroom is located

three or more stories above the lowest level of exit discharge or more than one story below the highest level of exit discharge of exits serving the dwelling unit or bedroom.

(D) Add new Section 917.8.3 to read as follows:

917.8.3. Smoke detectors for the deaf and hearing impaired. Smoke detectors for the deaf and hearing impaired shall be provided as required by § 36-99.5 of the Code of Virginia.

CHAPTER 10.
MEANS OF EGRESS.

(A) Reserved.

(B) Change Section 1017.4.1 Exception 6 to read as follows:

6. Devices such as double cylinder dead bolts which can be used to lock doors to prevent egress shall be permitted on egress doors in Use Groups B, F, M or S. These doors may be locked from the inside when all of the following conditions are met:

a. The building is occupied by employees only and all employees have ready access to the unlocking device.

b. The locking device is of a type that is readily distinguished as locked, or a "DOOR LOCKED" sign with red letters on white background is installed on the locked doors. The letters shall be six inches high and 3/4 of an inch wide.

c. A permanent sign is installed on or adjacent to lockable doors stating "THIS DOOR TO REMAIN UNLOCKED DURING PUBLIC OCCUPANCY." The sign shall be in letters not less than one-inch high on a contrasting background.

(C) Add new Section 1017.4.4.1.

1017.4.4.1. Exterior sliding doors. In dwelling units of Use Group R-2 buildings, exterior sliding doors which are one story or less above grade, or shared by two dwelling units, or are otherwise accessible from the outside, shall be equipped with locks. The mounting screws for the lock case shall be inaccessible from the outside. The lock bolt shall engage the strike in a manner that will prevent its being disengaged by movement of the door.

Exception: Exterior sliding doors which are equipped with removable metal pins or charlie bars.

(D) Add new Section 1017.4.4.2.

1017.4.4.2. Entrance doors. Entrance doors to dwelling units of Use Group R-2 buildings shall be equipped with door viewers with a field of vision of not less than 180 degrees.

Exception: Entrance doors having a vision panel or side vision panels.

CHAPTER 11.
ACCESSIBILITY.

Entire Chapter 11 is deleted and replaced with the following new Chapter 11.

1101.1. General. This chapter establishes requirements for accessibility by individuals with disabilities to be applied during the design, construction and alteration of buildings and structures.

1101.2. Where required. The provisions of this chapter shall apply to all buildings and structures, including their exterior sites and facilities.

Exceptions:

1. Buildings of Use Group R-3 and accessory structures and their associated site and facilities.

2. Buildings and structures classified as Use Group U.

3. Those buildings or structures or portions thereof which are expressly exempted in the standards incorporated by reference in this section.

4. Those buildings or structures or portions thereof which are used exclusively for either private club or religious worship activities.

1101.2.1. Identification of parking spaces. All spaces reserved for the use of handicapped persons shall be identified by an above grade sign with the bottom edge no lower than four feet nor higher than seven feet above the parking surface.

1101.3. Referenced standards. The following standards or parts thereof are hereby incorporated by reference for use in determining compliance with this section:

1. Title 24 Code of Federal Regulations, Chapter 1 - Fair Housing Accessibility Guidelines, Sections 2 through 5, 56 F.R. 9499-9515 (March 6, 1991).

2. Title ~~24~~ *28* Code of Federal Regulations, Part 36 - Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities, Subpart A - General, § 36.104 Definitions and Subpart D - New Construction and Alterations, 56 F.R. 35593-35594 and 35599-35602 (July 26, 1991).

CHAPTER 12.
INTERIOR ENVIRONMENT.

(A) Add the following definitions to Section 1202.1:

"Day-night average sound level (Ldn)" means a 24-hour energy average sound level expressed in dBA, with a ten decibel penalty applied to noise occurring between 10 p.m. and 7 a.m.

"Sound transmission class (STC) rating" means a single number rating characterizing the sound reduction performance of a material tested in accordance with ASTM E 90-90, "Laboratory Measurement of Airborne Sound Transmission Loss of Building Partitions."

~~(A)~~ *(B)* Add new Section 1208.5 as follows:

1208.5. Insect screens. Every door and window or other outside opening used for ventilation purposes serving any building containing habitable rooms, food preparation areas, food service areas, or any areas where products used in food for human consumption are processed, manufactured, packaged or stored, shall be supplied with approved tight fitting screens of not less than 16 mesh per inch.

(C) Add new Section 1214.4 as follows:

1214.4. Aircraft noise attenuation. Pursuant to the provisions of § 15.1-491.03 of the Code of Virginia a local governing body may implement Section 1214.4.1.

1214.4.1. Acoustical isolation requirement. All residential use group buildings or portions thereof constructed or placed within an airport noise zone shall be constructed in accordance with the requirements of Section 1214.4.1.1 or Section 1214.4.1.2.

1214.4.1.1. Minimum sound transmission. Buildings located within airport noise zones shall be provided with minimum sound transmission class (STC) rated assemblies as follows:

1. 65-69 Day-Night average sound level (Ldn) zone; roof/ceiling and exterior walls 39 STC, doors and windows 25 STC.

2. 70-74 Ldn zone; roof/ceiling and exterior walls 44 STC, doors and windows 33 STC.

3. 75 or greater Ldn zone; roof/ceiling and exterior walls 49 STC, doors and windows 38 STC.

Note: For the purpose of this section STC ratings for doors and windows shall be determined by addition of the STC value of components used.

1214.4.1.2. Sound isolation design. Buildings located within airport noise zones shall be designed and constructed to limit the interior noise level to 45 Ldn maximum. Sound isolation design shall be permitted to include exterior structures, terrain and permanent plantings. The sound isolation design shall be certified by a licensed architect or engineer.

~~(B)~~ *(D)* Add new Section 1216.0 as follows:

SECTION 1216.0.
HEATING FACILITIES.

1216.1. Residential buildings. Every owner of any structure who rents, leases, or lets one or more dwelling units or guest rooms on terms, either expressed or implied, to furnish heat to the occupants thereof shall supply sufficient heat during the period from October 1 to May 15 to maintain a room temperature of not less than 65°F (18°C), in all habitable spaces, bathrooms, and toilet rooms during the hours between 6:30 a.m. and 10:30 p.m. of each day and maintain a temperature of not less than 60°F (16°C) during other hours. The temperature shall be measured at a point three feet (914 mm) above the floor and three feet (914 mm) from exterior walls.

Exception: When the exterior temperature falls below 0°F (-18°C) and the heating system is operating at its full capacity, a minimum room temperature of 60°F (16°C) shall be maintained at all times.

1216.2. Other structures. Every owner of any structure who rents, leases, or lets the structure or any part thereof on terms, either express or implied, to furnish heat to the occupant thereof; and every occupant of any structure or part thereof who rents or leases said structure or part thereof on terms, either express or implied, to supply its own heat, shall supply sufficient heat during the period from October 1 to May 15 to maintain a temperature of not less than 65°F (18°C), during all working hours in all enclosed spaces or rooms where persons are employed and working. The temperature shall be measured at a point three feet (914 mm) above the floor and three feet (914 mm) from exterior walls.

Exceptions:

1. Processing, storage and operations areas that require cooling or special temperature conditions.

2. Areas in which persons are primarily engaged in vigorous physical activities.

CHAPTER 13.
ENERGY CONSERVATION.

Entire Chapter 13 is deleted and replaced with the following new Chapter 13.

1301.1. General. This chapter establishes the requirements for energy conservation to be applied during the design, construction and alteration of buildings and structures.

1301.2. Scope. The provisions of this chapter shall apply to all buildings and structures.

1301.3. Referenced standard. The following standard is hereby incorporated by reference for use in determining compliance with this section:

CABO Model Energy Code (MEC) 1993 Edition

CHAPTER 16.
STRUCTURAL LOADS.

(A) Revise Section 1612.1 by adding Exception 5 to read:

5. Buildings assigned to seismic performance Category B, according to Section 1612.1.7 and seismic hazard exposure group I according to Section 1612.1.5, which comply with all of the following, need only comply with Section 1612.3.6.1.

a. The height of the building does not exceed four stories.

b. The height of the building does not exceed 40 feet.

c. A_vS is less than 0.10 and the soil profile type has been verified.

d. If the building is more than one story in height, it does not have a vertical irregularity of Type 5 in Table 1612.3.4.2.

(B) Revise Section 1612.3.5.2 by adding an exception to read:

Exception: Regular or irregular buildings assigned to Category B which are seismic hazard exposure group I are not required to be analyzed for seismic forces for the building as a whole, providing all of the following apply:

1. The height of the building does not exceed four stories.

2. The height of the building does not exceed 40 feet.

3. A_vS is less than 0.10 and the soil profile type has been verified.

4. If the building is more than one story in height, it does not have a vertical irregularity of Type 5 in Table 1612.3.4.2.

(C) Revise Section 1612.3.6.2 by adding an exception to read:

Exception: Category B buildings which are seismic hazard exposure group I which are exempt from a seismic analysis for the building as a whole by Section 1612.3.5.2 need only comply with Section 1612.3.6.1.

CHAPTER 17.
STRUCTURAL TESTS AND INSPECTIONS.

(A) Add new Section 1701.4 to read as follows:

1701.4. Lead based paint. Lead based paint with a lead content of more than .06% by weight shall not be applied to any interior or exterior surface of a dwelling, dwelling unit or child care facility, including fences and outbuildings at these locations.

(B) Change Section 1705.1 to read as follows:

1705.1. General. The permit applicant shall provide special inspections where application is made for construction as described in this section. The special inspectors shall be provided by the owner and shall be qualified and approved for the inspection of the work described herein.

Exception: Special inspections are not required for buildings or structures unless the design involves the practice of professional engineering or architecture as required by §§ 54.1-401, 54.1-402 and 54.1-406 of the Code of Virginia.

(C) Delete Section 1705.12, Special cases.

CHAPTER 21.
MASONRY.

Revise Section 2104.2 by adding an exception to read:

Exception: Category B buildings which are seismic hazard exposure group I which are exempt from a seismic analysis for a building as a whole by Section 1612.3.5.2 are permitted to be designed in accordance with the requirements of either Section 2101.1.1 or 2101.1.2.

CHAPTER 23.
WOOD.

Add new Section 2310.2.3 to read as follows:

2310.2.3. Acceptance. Fire retardant-treated plywood shall not be used as roof sheathing without providing the building official with nationally recognized test results, satisfactory past product performance, or equivalent indicators of future product performance that address longevity of service under typical conditions of proposed installation as well as the degree to which it retards fire, structural strength, and other characteristics.

CHAPTER 27.
ELECTRIC WIRING, EQUIPMENT AND SYSTEMS.

(A) Change Section 2701.1 to read as follows:

2701.1. Scope. The provisions of this chapter shall control the design and construction of all new installations of electrical conductors, equipment and systems in buildings or structures, and all alterations to existing wiring systems therein to ensure safety. All such installations shall conform to the provisions of NFiPA 70 listed in Chapter 35 as amended below:

Change Section 550-23(a) Exception 2 by deleting item (a).

(B) Add Section 2701.5 to read as follows:

2701.5. Telephone outlets. Each dwelling unit shall be prewired to provide at least one telephone outlet. All dwelling unit telephone wiring shall be a minimum of two-pair twisted wire cable. In multifamily dwellings, the telephone wiring shall terminate inside or outside of the building at a point prescribed by the telephone company.

CHAPTER 28.
MECHANICAL SYSTEMS.

(A) Change Section 2801.2 to read as follows:

2801.2. Mechanical code. All mechanical equipment and systems shall be constructed, installed and maintained in accordance with the mechanical code listed in Chapter 35, as amended below:

1. Delete Chapter 17, Air Quality.

2. Add note to M-601.1 to read as follows:

Note: Boilers and pressure vessels constructed under this chapter shall also be inspected and have a certificate of inspection issued by the Department of Labor and Industry.

3. Change Section M-813.3 to read as follows:

M-813.3. Compressed natural gas vehicular fuel systems. Compressed natural gas (CNG) fuel dispensing systems for CNG vehicles shall be designed and installed in accordance with NFiPA 52 listed in Chapter 21. The referenced standard within NFiPA 52 Section 2-11.5 and 6-1.2.6., shall be AGA/CGA NGV 1, Compressed Natural Gas Vehicles (NGV) Fueling Connection Devices.

CHAPTER 29.
PLUMBING SYSTEMS.

(A) Change Section 2901.1 to read as follows:

2901.1. Scope. The design and installation of plumbing systems, including sanitary and storm drainage, sanitary facilities, water supplies and storm water and sewage disposal in buildings shall comply with the requirements of this chapter and the plumbing code listed in Chapter 35 (BOCA National Plumbing Code/1993) as amended below:

1. Change Section P-304.1 to read as follows:

P-304.1. General. The water distribution and drainage system of any building in which plumbing fixtures are installed shall be connected to public water main and sewer respectively, if available. Where a public water main is not available, an individual water supply shall be provided. Where a public sewer is not available, a private sewage

disposal system shall be provided conforming to the regulations of the Virginia Department of Health.

2. Change Section P-304.3 to read as follows:

P-304.3. Public systems available. A public water supply system or public sewer system shall be deemed available to premises used for human occupancy if such premises are within (number of feet and inches as determined by the local government) measured along a street, alley, or easement, of the public water supply or sewer system, and a connection conforming with the standards set forth in the USBC may be made thereto.

3. Change Section P-309.4 to read as follows:

P-309.4. Freezing. Water service piping and sewers shall be installed below recorded frost penetration but not less than (number of feet and inches to be determined by the local government) below grade for water piping and (number of feet and inches to be determined by the local government) below grade for sewers. In climates with freezing temperatures, plumbing piping in exterior building walls or areas subjected to freezing temperatures shall be adequately protected against freezing by insulation or heat or both.

4. Delete Section P-312.0, Toilet Facilities for Workers.

5. Add new Section P-606.2.3 to read as follows:

P-606.2.3. Alarms. Malfunction alarms shall be provided for sewage pumps or sewage ejectors rated at 20 gallons per minute or less when used in Use Group R-3 buildings.

6. Delete Section P-1205.0, Accessible Plumbing Facilities.

7. Add new Section P-1503.3:

P-1503.3. Public water supply and treatment. The approval, installation and inspection of raw water collection and transmission facilities, treatment facilities and all public water supply transmission mains shall be governed by the Virginia Waterworks Regulations. The internal plumbing of buildings and structures, up to the point of connection to the water meter shall be governed by this code. Where no meter is installed, the point of demarcation shall be at the point of connection to the public water main; or, in the case of an owner of both public water supply system and the building served, the point of demarcation is the point of entry into the building.

Note: See Memorandum of Agreement between the Board of Housing and Community Development and the Virginia Department of Health, signed July 21, 1980.

8. Add Note to P-1508.4 to read as follows:

Note: Water heaters which have a heat input of greater than 200,000 BTU per hour, a water temperature of over 210°F, or contain a capacity of more than 120 gallons shall be inspected and have a certificate of inspection issued by the Department of Labor and Industry.

9. Delete Chapter 16, Individual Water Supply.

(B) Change Section 2905.3 to read as follows:

2905.3. Private water supply. When public water mains are not used or available, a private source of water supply may be used. The State Department of Health shall approve the location, design and water quality of the source prior to the issuance of the permit. The building official shall approve all plumbing, pumping and electrical equipment associated with the use of a private source of water.

(C) Change Section 2906.1 to read as follows:

2906.1. Private sewage disposal. When water closets or other plumbing fixtures are installed in buildings which are not located within a reasonable distance of a sewer, suitable provisions shall be made for disposing of the building sewage by some method of sewage treatment and disposal satisfactory to the administrative authority having jurisdiction. When an individual sewage system is required, the control and design of this system shall be as approved by the State Department of Health, which must approve the location and design of the system and septic tanks or other means of disposal. Approval of pumping and electrical equipment shall be the responsibility of the building official. Modifications to this section may be granted by the local building official, upon agreement by the local health department, for reasons of hardship, unsuitable soil conditions or temporary recreational use of a building. Temporary recreational use buildings shall mean any building occupied intermittently for recreational purposes only.

CHAPTER 31.
SPECIAL CONSTRUCTION.

(A) Delete Section 3102.4.1, New signs.

(B) Delete Section 3102.4.4, Construction Documents and Owner's Consent.

(C) Delete Section 3107.10, Alterations and Repairs.

CHAPTER 33.
SITEWORK, DEMOLITION AND CONSTRUCTION.

~~(A)~~ *(B)* Change Section 3301.1 to read as follows:

3301.1. Scope. The provisions of this article shall apply to all construction operations in connection with the erection, alteration, repair, removal or demolition of buildings and structures. It is applicable only to the protection of the general public. Occupational health and safety protection of building-related workers are regulated by the Virginia Occupational Safety and Health Standards for the Construction Industry, which are issued by the Virginia Department of Labor and Industry.

CHAPTER 35.
REFERENCED STANDARDS.

Add the following standard:

NCSBCS/ANSI A225.1-87 Manufactured Home Installations

(referenced in Section 420.4).

ADDENDUM 2.

AMENDMENTS TO THE CABO ONE AND TWO FAMILY DWELLING CODE/1992 EDITION AND 1993 AMENDMENTS.

As provided in Section 101.4 of the Virginia Uniform Statewide Building Code, the amendments noted in this addendum shall be made to the CABO One and Two Family Dwelling Code/1992 Edition and 1993 Amendments for use as part of the USBC.

Chapter 1.
Administrative.

Any requirements of Sections R-101 through R-117 that relate to administration and enforcement of the CABO One and Two Family Dwelling Code are superseded by Chapter 1, Adoption, Administration and Enforcement of the USBC.

Chapter 2.
Building Planning.

(A) Change Section R-203.5 to read as follows:

R-203.5. Residential buildings. Every owner of any structure who rents, leases, or lets one or more dwelling units or guest rooms on terms, either expressed or implied, to furnish heat to the occupants thereof shall supply sufficient heat during the period from October 1 to May 15 to maintain a room temperature of not less than 65°F (18°C), in all habitable spaces, bathrooms, and toilet rooms during the hours between 6:30 a.m. and 10:30 p.m. of each day and maintain a temperature of not less than 60°F (16°C) during other hours. The temperature shall be measured at a point three feet (914 mm) above the floor and three feet (914 mm) from exterior walls.

Exception: When the exterior temperature falls below 0°F (-18°C) and the heating system is operating at its full capacity, a minimum room temperature of 60°F (16°C) shall be maintained at all times.

(B) Add Section R-203.6, Insect Screens:

R-203.6. Insect Screens. Every door and window or other outside opening used for ventilation purposes serving any building containing habitable rooms, food preparation areas, food service areas, or any areas where products used in food for human consumption are processed, manufactured, packaged or stored, shall be supplied with approved tight fitting screens of not less than 16 mesh per inch.

(C) Change Section R-206 to read as follows:

SECTION R-206.
SANITATION.

Every dwelling unit shall be provided with a water closet, lavatory and a bathtub or shower. Each dwelling unit shall be provided with a kitchen area and every kitchen area shall be provided with a sink of approved nonabsorbent material. All plumbing fixtures shall be connected to a sanitary sewer or to an approved private sewage disposal system. All plumbing fixtures shall be connected to an approved water supply and provided with hot and cold running water, except water closets may be provided with cold water only. Modifications to this section may be granted by the local building official, upon agreement by the local health department, for reasons of hardship, unsuitable soil conditions or temporary recreational use of the building.

(D) Add to Section R-211:

Key operation is permitted from a dwelling unit provided the key cannot be removed when the door is locked from the side from which egress is to be made.

(E) Change Section R-214.2 to read as follows:

R-214.2. Guardrails. Porches, balconies or raised floor surfaces located more than 30 inches above the floor or grade below shall have guardrails not less than 36 inches in height.

Required guardrails on open sides of stairways, raised floor areas, balconies and porches shall have intermediate rails or ornamental closures which will not allow passage of an object six inches or more in diameter.

(F) Change Section R-215.1 to read:

R-215.1. Smoke detectors required. Smoke detectors shall be installed outside of each separate sleeping area in the immediate vicinity of the bedrooms and on each story of the dwelling, including basements and cellars, but not including crawl spaces and uninhabitable attics. In dwellings or dwelling units with split levels, a smoke detector need be installed only on the upper level, provided the lower level is less than one full story below the upper level, except that if there is a door between levels then a detector is required on each level. All detectors shall be connected to a sounding device or other detectors to provide, when activated, an alarm which will be audible in all sleeping areas. All detectors shall be approved and listed and shall be installed in accordance with the manufacturers instructions. When one or more sleeping rooms are added or created in existing dwellings, the addition shall be provided with smoke detectors located as required for new dwellings.

(G) Add new Section R-218.4 as follows:

Section R-218.4. Aircraft Noise Attenuation. All use group R-4 buildings shall comply with USBC Volume I - 1993, Section 1214.4, where applicable.

~~(G)~~ *(H)* Add new Section R-223:

SECTION R-223.
TELEPHONE OUTLETS

Each dwelling unit shall be prewired to provide at least one telephone outlet. All dwelling unit telephone wiring shall be a minimum of two-pair twisted wire cable. The telephone wiring shall terminate on the exterior of the building at a point prescribed by the telephone company.

~~(H)~~ *(I)* Add new Section R-224:

SECTION R-224.
LEAD BASED PAINT

Lead based paint with a lead content of more than .06% by weight shall not be applied to any interior or exterior surface of a dwelling, dwelling unit or child care facility, including fences and outbuildings at these locations.

Chapter 3.
Foundations.

Add Section R-301.6 to read as follows:

R-301.6. Floodproofing. All buildings or structures located in areas prone to flooding as determined by the governing body having jurisdiction shall be floodproofed in accordance with the provisions of Section 3107.0 of the 1993 BOCA National Building Code.

PART VII.
ENERGY CONSERVATION.

Revise Part VII as follows:

The energy conservation requirements shall conform to Chapter 13 of the USBC, Volume I.

VA.R. Doc. No. R95-644; Filed July 27, 1995, 12:51 p.m.

LONGWOOD COLLEGE

REGISTRAR'S NOTICE: Longwood College 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 Regulations: **VR 446-01-01. Motor Vehicle Parking and Traffic Rules and Regulations.**

Statutory Authority: § 23-188 of the Code of Virginia.

Effective Date: July 21, 1995.

Summary:

The regulation is designed to outline the college's parking policies, procedures and parking citation appeals process for faculty, staff, students, and visitors. Since the regulations were published as proposed regulations, the Board of Visitors approved several changes to the regulations. Specifically, several of the decal fees were increased, the criteria for ticket citations was condensed from 11 to five, and towing of private vehicles was eliminated.

Agency Contact: Copies of the regulation may be obtained from Brenda L. Atkins, Special Assistant to the President for Legislative Relations, Longwood College, 201 High Street, Farmville, VA 23909, telephone (804) 395-2027.

VR 446-01-01. Motor Vehicle Parking and Traffic Rules and Regulations.

§ 1. General provisions.

A. Faculty, staff, commuter students, and residential students with sophomore, junior, or senior status are permitted to have vehicles on campus. The College reserves the right to restrict parking on campus for appropriate special events, activities, and conditions. The College, however, cannot guarantee a parking space.

B. The College is not liable for damages or losses resulting from vandalism or larceny from any vehicle parked on the campus.

C. Decals and hanging tags shall be displayed at all times. Faculty and staff will be issued hanging tags that must be displayed on the rear view mirror; students will be issued decals that must be displayed on the vehicle's left rear window. No parking decal may be taped inside the vehicle.

1. Only the current decal may be displayed. Invalid decals must be removed.

2. Decals must be secured with their own adhesive. Scotch tape, etc. may not be used.

3. Student decals are nontransferable to other vehicles. Additional vehicles must have their own decals.

4. Hanging tags must be displayed per instructions.

5. All changes concerning the vehicle must be reported to the Parking Coordinator immediately (e.g., tag number change, residence change, new car).

D. The costs of decals vary to accommodate various categories of staff and students. Motorcycles have the same status as automobiles. Charges per academic year are as follows:

1. All students	*[~~$20.00~~ 30.00]*
2. Student teachers	*[~~$10.00~~ 15.00]*
3. Summer session students	*$ 5.00*
4. Faculty/staff (full time)	*[~~$25.00~~ 30.00]*
5. Faculty/staff (part time)	*[~~$12.50~~ 15.00]*
6. Noncollege affiliated	*[~~$25.00~~ 30.00]*
7. Temporary (one month)	*$ 3.00*

A replacement decal/tag will be provided free of charge when the remains of the old decal are taken to the Campus Police or with presentation of parking registration fee receipt.

E. Temporary permits for up to one month may be obtained for $3.00 from the Campus Police Office. Car registration is required at the time of class registration or whenever the vehicle is brought on campus.

F. Temporary permits are not intended to enable individuals to delay registering their vehicles. If vehicles are brought to campus after Cashiering and Student Accounts has closed, the driver must call Campus Police at 804-395-2612 or 804-395-2091 for permission to park without registration until 10 a.m. the next working day.

G. If a vehicle is disabled, the driver must call Campus Police for 48-hour authorization. This 48 hours allows sufficient time for vehicles to be repaired, moved, or towed.

H. Faculty and staff decals are transferable to other family vehicles registered for faculty/staff use. Only one registered vehicle per decal may be present on campus at any time.

I. If a student uses another family member's vehicle during the year, additional decals must be purchased. If a student uses a faculty/staff member's vehicle on campus, a student decal may be issued for the vehicle. Student drivers are restricted from using faculty/staff parking areas. Only one

registered vehicle per student may be present on campus at any time, except during peak check-in or check-out periods.

J. Hampden-Sydney students taking classes at Longwood may park in authorized commuter student areas with a valid Hampden-Sydney decal displayed.

K. A limited number of visitor parking spaces are available on campus. Students, faculty, and staff of the College may not use these spaces as they are not considered visitors to the campus.

L. Visitor parking spaces are designated at the Craft House for use by prospective students. Admissions will call the Campus Police to register vehicles in these spaces.

M. If a guest is to be on campus anytime during the day, Monday to Friday, the host must call the Campus Police by 8 a.m. to register the vehicle license number of the visitor's car. Guests should park their vehicles in the area provided for the host (e.g., guests of resident students should park in areas designated for resident student parking). Failure to register a guest's vehicle is not grounds for citation appeal.

N. Loading/unloading locations have been designated throughout the campus. Parking in these areas is limited to 10 minutes with the use of hazard lights. During peak times of check-in and check-out, Campus Police will be available to provide assistance. Drivers are duly warned that the Town of Farmville may still issue citations for violations during these peak times.

O. Persons requiring use of handicapped spaces on campus or Town of Farmville streets or both must receive a permit from the Town Manager's Office or the Department of Motor Vehicles. Temporary (five day) handicapped permits may be obtained from Campus Police and are valid only on college property. Written requests from attending physicians indicating type and duration of disability must accompany temporary handicap permit requests.

P. The Campus Police Office is charged with the enforcement of all parking regulations. Student Services is charged with the enforcement of all traffic and parking appeals.

Q. Parking citations for unregistered or improperly parked vehicles will be issued whenever the College is open.

R. Automobiles parked illegally in areas listed below will be issued a parking citation, [~~be towed at the owner's expense,~~ or] have a wheel lock installed, or [~~a combination of the three~~ both]:

[~~1. Fire lanes;~~

~~2. Handicapped spaces, without appropriate decal/tag;~~

~~3. Loading zones, without hazard lights on;~~

~~4. Commuting student lots by resident students;~~

~~5. Students in faculty/staff parking areas, during prohibited hours;~~

~~6. Any parking area designated as "towing zone";~~

~~7. Visitor spaces;~~

~~8. Blocking traffic;~~

~~9. Blocking building entrances;~~

~~10. On grass/lawn; or~~

~~11. Yellow curbs~~

Ticket Citation	Fine
1. Parking outside designated zone	$25.00
2. Parking in a prohibited zone (parking on grass, yellow curb, loading zone or blocking traffic)	$20.00
3. Parking in a fire lane	$50.00
4. Parking in a handicap space	$50.00
5. No decal/improper decal	$10.00

]

S. During weekday business hours (7 a.m. - 8 p.m.), certain parking areas are restricted for faculty/staff, resident student, or commuter student use only. These areas are denoted by signs, paint on curbing, or areas denoted on the parking map.

T. Town, county, and state laws must be observed when parking on the Longwood College campus.

U. Parking in fire zones, loading zones, and areas where the curbs are painted yellow is strictly prohibited.

V. Student parking on Race Street is restricted to the College side of the street only.

W. Parking on the Town of Farmville streets is at the driver's risk. College parking decals do not authorize parking in the Town of Farmville "Resident Only" parking areas. The Farmville police patrol these areas and will issue citations of their own if violations are observed.

X. Parking citations must be paid in full or appealed within five full working days (Monday-Friday). A late fee or fine may be assessed beginning on the sixth working day after the citation, or on the sixth working day after the due date on the appeal form, at a rate of $1.00 per working day for 15 consecutive days. Following 15 consecutive working days, no additional late fees will accrue.

Y. Parking citations paid by 3 p.m. of the following business day will be reduced to half of the fine assessed.

Z. Drivers are expected to pay fines in a timely fashion. A stop code may be placed against a student when he is a repeat offender. At the discretion of the Director of Student Services, repeat offenses may also result in loss of parking privileges, ~~the vehicle may be towed,~~ a wheel lock may be installed, a $50 fine may be assessed, or disciplinary action may be taken. A repeat offender is a student who accumulates three or more unpaid parking citations within the academic year. A stop code places a "freeze" on all academic records.

AA. Seniors will be stop coded prior to graduation unless all fines have been paid.

BB. If a student accumulates three or more unpaid parking citations, a wheel lock may be installed on the student's vehicle and a fine of $40 will be assessed. [~~Following this, the student's vehicle may be towed at the owner's expense ($25) and the wheel lock reinstalled. If a vehicle is towed and impounded, the Campus Police reserve the right to inventory the contents of the vehicle to maintain the integrity of its contents.~~] The wheel lock will not be removed until all fines and late fees are paid.

§ 2. Registration of motor vehicles.

A. All vehicles utilizing campus parking facilities including motorcycles and motorbikes, must be registered with the Longwood College Campus Police. All outstanding parking citations must be paid prior to vehicle registration.

B. The operator of each vehicle will be issued an appropriate decal/tag. The purchase of a decal entitles individuals to park only in those areas designated for the respective decal/tag. The purchase of a decal does not guarantee a parking space. It is a violation to purchase additional decals for distribution to other individuals.

C. Acceptance of a decal/tag by an individual attests to that person's complete understanding of this regulation.

D. Since parking regulations will be enforced starting the first day of the semester, vehicles should be registered prior to the start of the semester. (For presemester vehicle registration, contact the Parking Coordinator at 804-395-2612.) Following the opening of school, vehicles may be registered in the following manner: (i) pay the fee at the Cashiering and Student Accounts Office; (ii) take the payment receipt, the state vehicle registration card, and complete the registration form and receive a decal. Registered vehicles must be owned by the student or a member of the student's immediate family. A map highlighting the major lots by type of decal is made a part of these regulations.

§ 3. Categories of decals and tags.

The categories of decals/tags issued by the Campus Police are listed below:

1. Faculty/staff (blue hanging tags). All faculty, administrative personnel, classified and hourly employees of the college, are eligible to register motor vehicles and will be issued a blue hanging tag, and can park in any area where the curbs are painted blue.

2. Resident sophomore (yellow decal). All individuals classified as sophomore residential students by the Registrar of the College who reside in college administered housing, qualify as a resident and will be issued a yellow decal and can park in the Vernon Street Lot and the Cole Store Lot.

3. Resident junior/senior (purple decal). All individuals classified as a junior or senior by the Registrar can park in any area where the curb is painted white.

4. Commuter students (red decal). Those individuals classified as students by the Registrar of the College who do not reside in college administered housing will receive a red decal and can park in any area where the curb is painted red.

5. Noncollege affiliated (green decal). Noncollege affiliated green decals are issued to ARA Dining Services employees and allow these individuals to park in areas where curbs are painted green.

§ 4. Parking Citation Appeals Committee.

A. The purpose of the Parking Citation Appeals Committee is to review all appealed parking citations and make recommendations to the Director of Student Services.

B. An appeal for each citation issued must be submitted in writing on an "appeals form" within five working days of the date on the citation. If appeal is denied, then a date for citation payment will be established.

C. Appeals forms are available in the Campus Police Office and the Student Services Office. A completed form must be returned to the Student Services Office or to the Campus Police within five working days of the date on the citation.

D. The following are generally not considered acceptable arguments when appealing traffic citations: inability to pay fines assessed, using flashers in an illegal area, and forgetting to pay citations when due.

E. Appeals are decided in one of the following ways:

1. Appeal denied;

2. Appeal accepted;

3. Appeal denied, fee waived; or

4. Appeal denied, fee reduced.

§ 5. Campus Police assistance.

A. Requested emergency service will be denied if the requesting party refuses to release the Campus Police and the college from liability should damage to the vehicle result from the service.

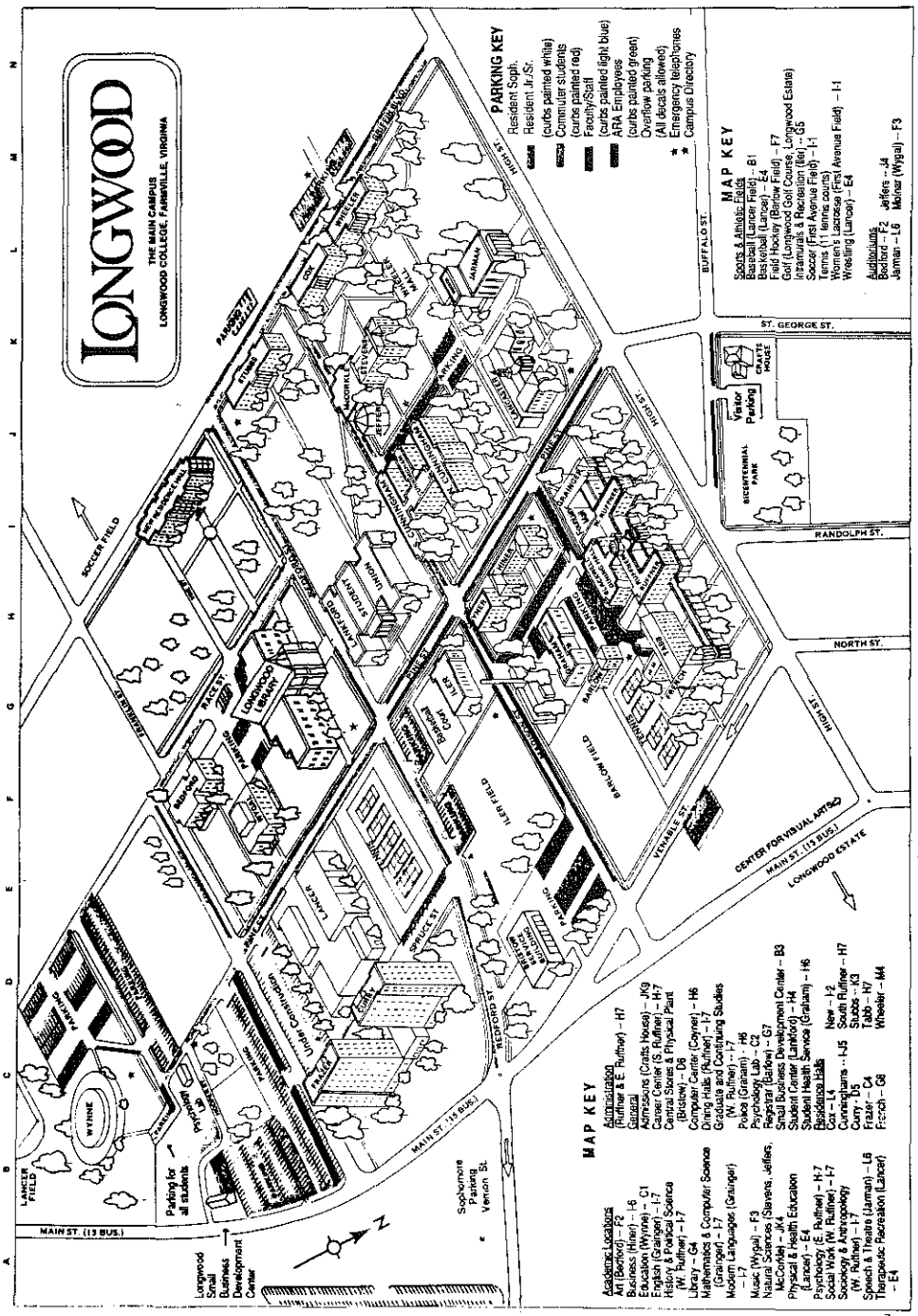
B. Owners of inoperative vehicles should contact a service station or garage for assistance and should advise Campus Police if parked in an illegal area. (See § 1 G.)

VA.R. Doc. No. R95-640; Filed July 24, 1995, 4:28 p.m.

VISITOR PARKING is available next to the Longwood Library and on streets adjacent to campus controlled by the Town of Farmville. Prospective students may park in the lot beside the Crafts House also. If parking is a problem, please go to the Campus Police for assistance (Graham Building - H6).

PARKING FOR PERSONS WITH DISABILITIES is available next to the Campus Directory sign and throughout campus. For more information, contact the Campus Police.

NOTE: COLOR CODING FOR GENERAL REFERENCE ONLY.



DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

REGISTRAR'S NOTICE: The following regulatory action is exempt from the Administrative Process Act in accordance with § 9-6.14:4.1 C 3, which excludes regulations consisting only of changes in style or form or corrections of technical errors. The Department of Medical Assistance Services will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: **VR 460-02-2.8100. Requirements for Advance Directives (REPEALED).**

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

Effective Date: September 21, 1995.

Summary:

The purpose of this action is to repeal a duplicative regulation. The removal of this regulation is essential to avoid any potential policy conflicts resulting from duplicate regulations.

The advantage of this action for all parties is to avoid any potential policy conflicts regarding advance directives. This policy appears twice in the State Plan, but has only been updated in the new location. The section being repealed (Attachment 2.8 A) should have been removed when Attachment 4.34 A was added to the Plan. Because the policy has been revised, the two attachments are now no longer identical. The attachments do not conflict, but only the new version is complete and accurate.

Agency Contact: Victoria P. Simmons or Roberta J. Jonas, Regulatory Coordinators, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 371-8850.

VA.R. Doc. No. R95-646; Filed July 31, 1995, 10:08 a.m.

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REGISTRAR'S NOTICE: The amendments to the following regulation are exempt from the Administrative Process Act in accordance with § 9-6.14:4.1 C 3, which excludes regulations which consist only of changes in style or form or corrections of technical errors. The Department of Medical Assistance Services will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: **VR 460-03-2.6101:1. Income Eligibility Levels (Supplement 1 to Attachment 2.6-A).**

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

Effective Date: October 1, 1995.

Summary:

This regulation provides technical and stylistic changes to Attachment 2.6 A, Supplement 1, Income Eligibility Levels (VR 460-03-2.6101:1) to eliminate duplicative and unnecessary work by striking specific income eligibility levels which are tied to the annual changes in the Federal Poverty Income Guidelines. References to the Federal Poverty Income Guidelines are retained.

Sections 1902(a)(10)(E)(iii), 1902(l), 1902(l)(1)(D), 1902(m), and (1905)(s) of the Social Security Act require states to base Medicaid eligibility on percentages of the Federal Poverty Income Guidelines for certain categories of eligibile individuals. Each year when the annual Federal Poverty Income Guidelines are published, states must revise the financial eligibility income standards for the affected categories. The updated guidelines are published in a Federal Register notice and are effective on the date of the Register publication.

The changes in this regulation will not affect the eligibility of the categories of individuals listed. Each year when the Federal Poverty Income Guidelines are increased, the eligibility income standards are also increased based on the percentages contained within this regulation. There are no localities which are uniquely affected by these regulations as they apply statewide. The agency projects no negative issues involved in implementing this regulatory change.

The changes in this regulation do not represent a change in policy, and therefore will have no impact. The fiscal impact of increasing the Federal Poverty Guidelines annually is accounted for in the Utilization and Inflation Amendment to the Appropriations Act.

Agency Contact: Copies of the regulation may be obtained from Victoria P. Simmons or Roberta J. Jonas, Regulatory Coordinators, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 371-8850.

VR 460-03-2.6101:1. Income Eligibility Levels.

A. Mandatory categorically needy.

1. AFDC-related groups other than poverty level pregnant women and infants.

Family Size	Need Standard	Payment Standard	Maximum Payment Amounts
	See Table 1	See Table 2	

STANDARDS OF ASSISTANCE

GROUP I

Size of Assistance Unit	Table 1 (100%)	Table 2 (90%)
1	$ 146	$ 131
2	229	207
3	295	265
4	358	322
5	422	380
6	473	427
7	535	482
8	602	541
9	657	591
10	718	647
Each person above 10	61	56

MAXIMUM REIMBURSABLE PAYMENT $403

GROUP II

Size of Assistance Unit	Table 1 (100%)	Table 2 (90%)
1	$ 174	$ 157
2	257	231
3	322	291
4	386	347
5	457	410
6	509	458
7	570	512
8	636	572
9	692	623
10	754	678
Each person above 10	61	56

MAXIMUM REIMBURSABLE PAYMENT $435

GROUP III

Size of Assistance Unit	Table 1 (100%)	Table 2 (90%)
1	$ 243	$ 220
2	327	294
3	393	354
4	457	410
5	542	488
6	593	534
7	655	590
8	721	650
9	779	701
10	838	755
Each person above 10	61	56

MAXIMUM REIMBURSABLE PAYMENT $518

2. Pregnant women and infants under 1902(a)(10)(i)(IV) of the Act:

Effective April 1, 1990, based on the following percentage of the official federal income poverty level

☒ 133 % ☐ ____ percent (specify (no more than 185%)

~~Family Size~~	~~Income Level~~
~~1~~	~~$ 9,789~~
~~2~~	~~$13,087~~
~~3~~	~~$16,386~~
~~4~~	~~$19,684~~
~~5~~	~~$22,982~~

3. Children under § 1902(a)(10)(i)(VI) of the Act (children who have attained age 1 but have not attained age 6), the income eligibility level is 133% of the federal poverty level (as revised annually in the Federal Register) for the size family involved.

4. For children under § 1902(a)(10)(i)(VII) of the Act (children who were born after September 30, 1983, and have attained age 6 but have not attained age 19), the income eligibility level is 100% of the federal poverty level (as revised annually in the Federal Register) for the size family involved.

B. Optional categorically needy groups with income related to federal poverty level.

1. Pregnant woman and infants. The levels for determining income eligibility for optional groups of pregnant women and infants under the provisions of §§ 1902(a)(1)(A)(ii)(IX) and 1902(l)(2) of the Act are as follows:

Based on.....% of the official federal income poverty level (no less than 133% and no more than 185%).

Family Size	Income Level
1	$
2	$
3	$
4	$
5	$

2. Children between ages 6 and 8. The levels for determining income eligibility for groups of children who are born after September 30, 1983, and who have attained 6 years of age but are under 8 years of age under the provisions of § 1902(1)(2) of the Act are as follows:

Based on...% (no more than 100%) of the official federal income poverty line.

Family Size	Income Level
1	$
2	$
3	$
4	$
5	$
6	$
7	$
8	$
9	$
10	$

N/A - Erroneous Group

3. Aged and disabled individuals. The levels for determining income eligibility for groups of aged and disabled individuals under the provisions of § 1902(m)(4) of the Act are as follows: Based on.....% on the official federal income poverty line.

Family Size	Income Level
1	$
2	$
3	$
4	$
5	$

If an individual receives a Title II benefit, any amount attributable to the most recent increase in the monthly insurance benefit as a result of a Title II COLA is not counted as income during a "transition period" beginning with January, when the Title II benefit for December is received, and ending with the last day of the month following the month of publication of the revised annual federal poverty level.

For individuals with Title II income, the revised poverty levels are not effective until the first day of the month following the end of the transition period.

For individuals not receiving Title II income, the revised poverty levels are effective no later than the beginning of the month following the date of publication.

C. Qualified Medicare beneficiaries with incomes related to federal poverty level.

The levels for determining income eligibility for groups of qualified Medicare beneficiaries under the provisions of § 1905(p)(2)(A) of the Act are as follows:

1. Non-§ 1902(f) states:

a. Based on the following percentage of the official federal income poverty level:

Effective Jan. 1, 1989:	☐ 85%	☐.....% (no more than 100)
Effective Jan. 1, 1990:	☐ 90%	☐.....% (no more than 100)
Effective Jan. 1, 1991:	100%	
Effective Jan. 1, 1992:	100%	

b. Levels:

Family Size	Income Level
1	$
2	$

2. § 1902(f) states which as of January 1, 1987, used income standards more restrictive than SSI. (VA did not apply a more restrictive income standard as of January 1, 1987.)

~~a.~~ Based on the following percentage of the official federal income poverty level:

Effective Jan. 1, 1989:	☒ 85%	☐.....% (no more than 100)
Effective Jan. 1, 1990:	☐ 85%	☒ 90% (no more than 100)
Effective Jan. 1, 1991:	☐ 95%	☒ 100% (no more than 100)
Effective Jan. 1, 1992:	100%	

~~b. Levels:~~

~~Family Size~~	~~Income Level~~
~~1~~	~~$7,360~~
~~2~~	~~$9,840~~

D. Income levels - medically needy.

1. ☒ Applicable to all groups

☐ Applicable to all groups except those specified below. Excepted group income levels are also listed on an attached page 3.

(1) Family Size	(2) Net income level for maintenance for 12 months	(3) Amount by which Column (2) exceeds limits specified in 42 CFR 435.1007[1]	(4) Net Income level for persons living in rural areas for ___ months	(5) Amount by which Column (4) exceeds limits specified in 42 CFR 435.1007[1]
☐ urban only				
☒ urban and rural	See subdivision 2 of this subsection for required income levels			
1	$	$	$	$
2	$	$	$	$
3	$	$	$	$
4	$	$	$	$
For each additional person, add:	$	$	$	$

2. ☒ Applicable to all groups

☐ Applicable to:

(1) Family Size	(2) Net income level protected for maintenance	(5) Amount by which column 2 exceeds limits for specified in 42 CFR 435.1007
☐ urban only		
☒ urban and rural		

	Group I	Group II	Group III	
1	$2,600	$3,000	$3,900	$0
2	3,400	$3,700	$4,800	$0
3	$3,900	$4,300	$5,300	$0
4	$4,400	$4,800	$5,800	$0
5	$4,900	$5,300	$6,300	$0
6	$5,400	$5,800	$6,800	$0
7	$5,900	$6,300	$7,300	$0
8	$6,500	$6,900	$7,800	$0
9	$7,100	$7,500	$8,500	$0
10	$7,800	$8,200	$9,100	$0
For each additional person, add:	$600	$600	$600	$0

*NOTE: As authorized in § 4718 of OBRA '90.

Grouping of Localities

GROUP I

Counties

Accomack
Alleghany
Amelia
Amherst
Appomattox

[1] The agency has methods for excluding from its claim for FFP payments made on behalf of individuals whose income exceeds these limits.

Bath
Bedforth
Bland
Botetourt
Brunswick
Buchanan
Buckingham
Campbell
Caroline
Carroll
Charles City
Charlotte
Clarke
Craig
Culpeper
Cumberland
Dickenson
Dinwiddie
Essex
Fauquier
Floyd
Fluvanna
Franklin
Frederick
Giles
Gloucester
Goochland
Grayson
Greene
Greensville
Halifax
Hanover
Henry
Highland
Isle of Wight
James City
King George
King and Queen
King William
Lancaster
Lee
Louisa
Lunenburg
Madison
Matthews
Mecklenburg
Middlesex
Nelson
New Kent
Northampton
Northumberland
Nottoway
Orange
Page
Patrick
Pittsylvania
Powhatan
Prince Edward
Prince George
Pulaski
Rappahannock
Richmond
Rockbridge
Russell
Scott
Shenandoah
Smyth
Southampton
Spotsylvania
Stafford
Surry
Sussex
Tazewell
Washington
Westmoreland
Wise
Wythe
York

Cities

Bristol
Buena Vista
Clifton Forge
Danville
Emporia
Franklin
Galax
Norton
Poquoson
Suffolk

GROUP II

Counties

Albemarle
Augusta
Chesterfield
Henrico
Loudoun
Roanoke
Rockingham
Warren

Cities

Chesapeake
Covington
Harrisonburg
Hopewell
Lexington
Lynchburg
Martinsville
Newport News
Norfolk
Petersburg
Portsmouth
Radford
Richmond
Roanoke
Salem
Staunton
Virginia Beach
Williamsburg
Winchester

GROUP III

Counties

Arlington
Fairfax
Montgomery
Prince William

Cities

Alexandria
Charlottesville
Colonial Heights
Fairfax
Falls Church
Fredericksburg
Hampton
Manassas
Manassas Park
Waynesboro

(1) Family Size	(2) Net income level for maintenance for 12 months	(3) Amount by which Column (2) exceeds limits specified in 42 CFR 435.1007[1]	(4) Net Income level for persons living in rural areas for ___ months	(5) Amount by which Column (4) exceeds limits specified in 42 CFR 435.1007[1]
☐ urban only				
☒ urban and rural				
5	$	$	$	$
6	$	$	$	$
7	$	$	$	$
8	$	$	$	$
9	$	$	$	$
10	$	$	$	$
For each additional person, add	$	$	$	$

~~E. Income eligibility levels mandatory group of specified low-income Medicare beneficiaries with incomes up to federal poverty line.~~

~~The levels for determining income eligibility for groups of qualified Medicare beneficiaries under the provisions of § 1905(a)(10)(E) of the Act are as follows:~~

~~Based on 110%, and updated annually, of the official federal nonfarm income poverty line:~~

~~Size of Family Unit~~	~~Poverty Guideline~~
~~1~~	~~$8,096~~
~~2~~	~~$10,824~~

~~F. Income eligibility levels mandatory group of qualified disabled and working individuals with incomes up to federal poverty line.~~

~~The levels for determining income eligibility for groups of qualified disabled and working individuals under the provisions of § 1905(s) of the Act are as follows:~~

~~Based on 200%, and updated annually, of the official federal nonfarm income poverty level:~~

~~Size of Family Unit~~	~~Poverty Guideline~~
~~1~~	~~$14,720~~
~~2~~	~~$19,680~~

VA.R. Doc. No. R95-652; Filed July 31, 1995, 10:05 a.m.

DEPARTMENT OF TRANSPORTATION (COMMONWEALTH TRANSPORTATION BOARD)

REGISTRAR'S NOTICE: The following regulatory action is exempt from the Administrative Process Act in accordance with § 9-6.14:4.1 C 2, which excludes regulations that establish or prescribe agency organization, internal practice or procedures, including delegations of authority. The Department of Transportation will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: **VR 385-01-20. Rules and Regulations Governing the Use of a Centralized Fleet Vehicle for Commuting (REPEALED).**

Statutory Authority: § 33.1-407 of the Code of Virginia.

Effective Date: September 20, 1995.

Summary:

The commuting policy described in VR 385-01-20 is being repealed because it is included in VR 385-01-19, Car Pool Rules and Regulations, and is therefore not needed as a separate regulation.

Agency Contact: William M. Colavita, Division of Fleet Management, Department of Transportation, 1401 East Broad Street, Richmond, VA 23219, telephone (804) 367-6886.

VA.R. Doc. No. R95-653; Filed August 2, 1995, 10:08 a.m.

AT RICHMOND, JULY 21, 1995

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

Ex Parte: In the matter of proposed amendments to rules relating to surety bonds of money order sellers — CASE NO. BFI950108

ORDER DIRECTING ADDITIONAL NOTICE

ON A FORMER DAY the Staff reported to the Commission that the comment period in this proceeding has expired; that in written comments filed on behalf of one company licensed to sell money orders under Chapter 12 of Title 6.1 of the Virginia Code, it was proposed that the final regulation in this case should impose a $100,000 minimum surety bond requirement upon licensees under said Chapter 12; and that imposition of said minimum surety bond requirement would adversely affect three companies presently licensed under said Chapter 12, which companies would not have been required to file a surety bond in such amount under the amended regulation initially proposed in this case. Upon consideration thereof,

IT IS ORDERED that the Commissioner of Financial Institutions shall give written notice of the proposed $100,000 minimum surety bond requirement to three affected licensees, which notice shall afford said licensees at least twenty-one days to file written comments with the Clerk and to file written requests for a hearing with the Clerk.

ATTESTED COPIES of this Order shall be sent to George H. Heilig, Jr., Heilig, McKenry, Fraim & Lollar, Stoney Point Center, 700 Newtown Road, Norfolk, Virginia 23502; to William A. Saraille, Howrey & Simon, 1299 Pennsylvania Avenue, N.W., Washington, D.C. 20004; Ralph L. Axselle, Jr., Williams, Mullen, Christian & Dobbins, 4401 Waterfront Drive, Suite 140, Glen Allen, Virginia 23060; and the Commissioner of Financial Institutions.

VA.R. Doc. No. R95-651; Filed August 1, 1995, 9:29 a.m.

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AT RICHMOND, JULY 18, 1995

COMMONWEALTH OF VIRGINIA

At the relation of the

STATE CORPORATION COMMISSION

Ex Parte: In re, Investigation of Spent Nuclear Fuel Disposal — CASE NO. PUE950060

ORDER ESTABLISHING INVESTIGATION

The disposal of nuclear waste has long been recognized as an issue with economic, technological, environmental, and political ramifications. As early as 1979, the Commission characterized the disposal of spent nuclear fuel as a national as well as a state controversy.[1] Events and occurrences since the early 1980's, particularly those of the last several years, have led the Commission to conclude that it should now investigate certain spent nuclear fuel storage and disposal issues.

In 1982, after more than a decade of evolving national policies and studies to evaluate ways to store and dispose of radioactive waste safely, Congress adopted the Nuclear Waste Policy Act ("Act"). The Act provided a framework for the storage and disposal of spent nuclear fuel ("spent fuel") and high-level radioactive waste ("HLW"), of domestic origin, generated by civilian nuclear power reactors. Among other things, the Act established procedures for transporting, storing, and disposing of spent fuel and HLW in a deep geologic repository ("repository") and provided a mechanism for financing the cost of such activities.

The centerpiece of the Act was the permanent repository. The Act provided for a systematic site selection process. Candidate sites were to be identified and evaluated, subjected to Presidential review on recommendation of the Secretary of Energy, and considered in a public hearing. This process was to be subject to a final Congressional review. The Act also created the Office of Civilian Radioactive Waste Management ("OCRWM") within the U.S. Department of Energy ("DOE") to site, construct, and operate the repository.

The Act was amended in 1987. Among other things, the 1987 Amendments limited the repository site evaluation to Yucca Mountain, Nevada. The effect of the 1987 Amendments was to make Yucca Mountain the only site available for study, but not to assure its selection.

To provide financing for waste disposal activities, the original Act established the Nuclear Waste Fund ("NWF" or "Fund"). The NWF was to operate on a full-cost recovery basis, whereby the federal government's costs for developing and operating the repository were to be fully funded by fees collected from the generators and owners of spent fuel and high-level waste. The Act also provided for an annual assessment of the adequacy of the waste disposal fees to recover waste disposal program costs.

The Act authorized DOE to enter into contracts with any utility that generates spent fuel. Under the terms of the contracts, DOE collects from each utility signing the contract a fee, currently set at 1 mill per kilowatt-hour of electricity generated and sold from each nuclear power reactor. All proceeds from these fees must be deposited into the Nuclear Waste Fund. In return, DOE has the responsibility for the transport, storage, and permanent disposal of the spent fuel beginning not later than January 31, 1998. Virginia Electric and Power Company ("Virginia Power") entered into such a contract with DOE for the disposal of spent fuel from the Surry and North Anna nuclear power plants. Although no other utilities serving Virginia's ratepayers have signed similar contracts with DOE, several do have financial responsibilities for the disposal of spent fuel as a result of contracts between DOE and the operators of the nuclear

[1] Case No. 19960, 1979 S.C.C. Ann. Rept. 164.

power plants that act as agents on behalf of, or supply energy to, these utilities.[2]

The Act, as adopted in 1982, set forth a schedule for the development of a repository and specified that disposal of spent fuel must begin no later than 1998. The DOE's 1985 Mission Plan reflected this, but DOE's 1987 Draft Mission Plan Amendment unilaterally delayed the repository opening date by five years. The DOE extended the delay to 12 years in 1989, again without Congressional action. Last year DOE confirmed in its program plan that the targeted date of completion for an operational, permanent repository is 2010.[3] After its twelfth year, DOE's program appears to be at least 12 years behind schedule. In spite of the delays in the development of a permanent repository and the requirement to begin disposing of spent fuel no later than January 31, 1998, timely construction of a centralized interim storage facility is effectively prohibited by the Act,[4] and no development work for such a facility is included in DOE's current program plan.[5]

Through a Notice of Inquiry published on May 25, 1994, DOE sought to elicit the views of affected parties regarding the continued storage of spent fuel at reactor sites beyond 1998.[6] After analyzing public comments received in response to the Notice of Inquiry, DOE concluded that it does not have an unconditional obligation to accept spent nuclear fuel beginning January 31, 1998.[7] Several states and state commissions have filed a joint petition seeking review of DOE's position.[8]

Extensive criticism has been directed at DOE's program from numerous sources. Most recently, in a May 19, 1995, preliminary report of an independent management and financial review of the Yucca Mountain project, the review team wrote that "[t]he Office of Civilian Radioactive Waste Management and the Yucca Mountain Project have failed to inspire any significant level of public trust and confidence;" ". . . the Project has little chance of meeting its major schedule milestones;" and, ". . . the Nuclear Waste Fund, as currently defined, is inadequate."[9] While DOE's program may have suffered from internal management shortcomings, not all of the problems rest with DOE. The program also has been subjected to unreasonable expectations, inadequate resources, and shifting institutional arrangements. For example, the position of Director of OCRWM has been occupied by eight persons in the past twelve years.

The Department of Energy's continuing delays and lack of progress in developing reliable plans for interim and permanent storage of spent fuel from civilian reactors are under increasing scrutiny. State public service commissions responsible for protecting the interests of electric utility ratepayers have several concerns: the financial impact of continued payments by ratepayers for DOE's program for nuclear waste disposal; increasing costs of interim and permanent disposal due to apparent inefficient management of, and repeated delays in, DOE's program; the anticipated continuing failure of DOE to meet its obligations under the Act, and its obligations in contracts with utilities entered into pursuant to the Act.

Through the first quarter of 1995, ratepayers nationwide have paid $7 billion in fees into the Nuclear Waste Fund. The Fund has earned $1.7 billion in interest. Utilities owe another $1.7 billion in one-time fees and interest for spent fuel consumed prior to April 7, 1983, and payments continue to be made at a rate of nearly $600 million per year nationwide.

According to DOE, Virginia Power has paid $343.6 million to the Fund through the end of 1994, including $22.8 million in 1994, for spent fuel consumed at the Surry and North Anna nuclear power plants. In addition, millions of dollars have accrued as interest on the Company's payments to the Fund. In its 1994 fuel factor application, Case No. PUE940059, Virginia Power projected its payments to the Fund to be approximately $18.2 million for the 12-month period from November, 1994 through October, 1995. According to Commission Staff witness Dr. William Timothy Lough's prefiled testimony in that case, Virginia Power's future payments to the Nuclear Waste Fund could exceed an additional $400 million, assuming its North Anna and Surry reactors continue to operate through the end of their existing operating licenses. That amount could double if Virginia Power is successful in renewing its nuclear power plant operating licenses for 20 years, as it has discussed.

While DOE had spent over $4 billion by early 1995, a permanent repository for spent fuel, originally ordered by Congress to be available in 1998 and subsequently delayed by the DOE until 2010, will almost certainly be delayed further. The establishment of a repository at Yucca Mountain, by law the only site under consideration and evaluation, is by no means assured. Thus, the federal government has enjoyed the use of a huge fund of ratepayer dollars for a number of years but has not successfully used the money for the purpose of nuclear waste disposal, as directed by the Act. Under the annual unified budget process, Congress uses unspent Nuclear Waste Fund

[2] Delmarva Power and Light ("Delmarva Power") is responsible for spent fuel disposal costs because of its 7.5 percent ownership of the Peach Bottom nuclear plant and 7.41 percent ownership of the Salem nuclear plant. Electric cooperatives incur spent fuel disposal costs as a result of purchasing power from Virginia Power or Old Dominion Electric Cooperative which owns 11.6 percent of the North Anna nuclear plants. Appalachian Power Company ("Apco") incurs spent fuel disposal costs by virtue of the Interconnection Agreement among the affiliates of the American Electric Power system, through which a portion of Apco's energy may be supplied by Indiana and Michigan's Cook nuclear power plant.

[3] 1 U.S. Department of Energy, *Civilian Radioactive Waste Management Program Plan*, 4 (December 19, 1994).

[4] The Act prohibits DOE from selecting a site for a storage facility until a recommendation is made to the President for the approval of a site for development as a repository. [42 U.S.C. 10165] The Act also prohibits construction of a storage facility until the Nuclear Regulatory Commission has issued a license for the construction of a repository. [42 U.S.C. 10168]

[5] *Civilian Radioactive Waste Management Program Plan*, supra at 10.

[6] DOE Notice of Inquiry on Waste Management Issues, 59 Fed. Reg. 27007 (May 25, 1994).

[7] DOE Final Interpretation of Nuclear Waste Acceptance Issues, 60 Fed. Reg. 21793 (May 3, 1995). DOE also found that it lacks statutory authority to provide interim storage.

[8] *State of Michigan, et al. v. U.S. Department of Energy, et al.*, No. 95-1321 (D.C. Cir. filed June 22, 1995).

[9] Peterson Consulting Limited Partnership in Association with John Reiss, Jr. & Associates, Inc., *Independent Management and Financial Review, Yucca Mountain Project, Nevada*, Preliminary Report II-2, II-7, II-8 (1995).

dollars, presently $4 billion, to reduce theoretically the federal deficit.

While inadequate attention has been given the program in the past, recently proposed legislation would require the establishment of an "integrated spent nuclear fuel management system."[10] An integrated system would consist of a transportation infrastructure, multi-purpose canister systems, a centralized interim storage facility, and a permanent repository. Unfortunately, while such legislation would be a positive development, reduced program funding would impede the development of the multi-purpose canisters and transportation infrastructure necessary to support a centralized interim storage facility, and would delay the opening of a repository at Yucca Mountain beyond 2010. On July 12, 1995, the U.S. House of Representatives passed the Energy and Water Development Appropriations Bill, which allocated a total of $425 million for the nuclear waste disposal program for fiscal year 1996, but only $226.6 million of the total is to be derived from the Nuclear Waste Fund in spite of projected collections of nearly $600 million from ratepayers served by nuclear utilities.[11] While the total level of funding for the program included in the bill is more encouraging than an earlier House-passed budget resolution,[12] the amount is still much less than necessary to address the spent fuel problem in a proper and timely fashion.[13] Also, the spending bill directs DOE to "downgrade, suspend, or terminate its activities at Yucca Mountain in order to prepare for acceptance of spent fuel for interim storage."[14]

Regardless of the outcome of this year's legislative process, which is changing on a daily basis, it is becoming increasingly apparent that states, utilities and ratepayers may not be able to count on the federal government to use the Nuclear Waste Fund for its intended statutory purpose or to provide for the timely disposal of spent fuel. On a national basis, failure to meet waste disposal obligations may halt electricity generation at nuclear facilities due to lack of additional storage capacity for spent fuel. This development would be a severe financial detriment to utilities because it would require premature retirement of capital-intensive facilities and higher replacement energy costs.[15]

The Department of Energy's failure to resolve the spent nuclear fuel issue is a threat to Virginia. Virginia's ratepayers served by Virginia Power, Delmarva Power, Apco, and the electric cooperatives continue to reimburse utilities for the utilities' contractual payments to the Nuclear Waste Fund. It appears that the federal government will produce no waste disposal facilities in the near future. Meanwhile, the uncertainty of disposal procedures threatens current cost estimates and requires the construction of temporary facilities at many nuclear power plants. Further, DOE's lack of progress may delay the decommissioning of nuclear power plants at the end of the plants' useful lives due to the presence of spent nuclear fuel at the sites, and could add significantly to the cost of decommissioning and the disposal of spent fuel and other nuclear waste.

Through June 30, 1995, Virginia Power estimates that it has collected $251 million from Virginia jurisdictional customers through the fuel factor for expenses associated with the disposal of spent fuel from the North Anna and Surry nuclear power stations. Final audits have been conducted by the State Corporation Commission Staff ("Staff") for fuel expenses recovered through December 31, 1989, including $172 million recovered through that time, for spent fuel disposal expenses. A final audit has not been concluded by the Staff for the $79 million recovered from Virginia jurisdictional customers since January 1, 1990. As such, Virginia Power fuel factor cases numbered PUE880082, PUE900054, PUE910048, PUE920048, and PUE940059 remain open and subject to investigation.

Likewise, Delmarva Power and Apco have recovered expenses associated with the disposal of spent fuel from their Virginia jurisdictional customers. A final Staff audit has not been concluded for the expenses recovered by Delmarva Power since January 1, 1990, and by Apco since January 1, 1991, and, as such, the associated fuel factor cases remain open and subject to investigation.

At the conclusion of Virginia Power's fuel factor hearing on October 28, 1994, Case No. PUE940059, the Commission stated that it would continue to monitor the issues surrounding the disposal of spent nuclear fuel. The Commission further stated it would have to address the impact of the 1 mill charge on Virginia's ratepayers unless it appeared that the situation had improved. In our view the situation has deteriorated.

The lack of progress toward a workable solution for spent nuclear fuel requires us to reexamine the issue. Accordingly, by this Order we initiate an investigation to consider Commission policy regarding spent nuclear fuel. The investigation will proceed in two stages. We first invite comments from utilities and all interested persons addressing, at a minimum, the legal and policy ramifications of the following issues:

1. Can and, if so, should the Commission disallow recovery from ratepayers of the utilities' obligations to pay the U.S. Department of Energy 1 mill per kWh of electricity generated and sold from their nuclear power plants for the civilian radioactive waste program?

2. If the Commission can and should disallow recovery, should the disallowance for payments be whole or partial?

3. If the Commission can and should disallow recovery, should the Commission instead allow 1 mill per kWh (or some lesser or greater amount) to be collected and placed in an escrow fund, similar to the

[10] H.R. 1020, 104th Cong., 1st Sess. (1995).

[11] H.R. 1905, 104th Cong., 1st Sess. (1995). The allocation above the $226.6 million is provided by the federal government for defense nuclear waste disposal.

[12] H.R. Con. Res. 67, 104th Cong., 1st Sess. (1995). The resolution recommended a total funding level of only $130 million for the nuclear waste program and that provisions be adopted to terminate the Yucca Mountain site studies.

[13] DOE's budget request for the civilian radioactive waste management program for fiscal year 1996, which assumed no funding for an interim storage facility, was $622 million, nearly 50 percent more than the total level of funding included in H.R. 1905.

[14] H.R. 1905.

[15] This is not currently a specific problem in Virginia because of the on-site storage facilities in existence at Surry and planned at North Anna.

decommissioning fund, or should no amount be collected at all?

4. If the Commission can and should disallow recovery, should the Commission adopt one or a combination of the options proposed in Staff witness Dr. William Timothy Lough's prefiled testimony in Virginia Power's 1994 fuel factor proceeding?[16]

5. If the Commission can and should disallow recovery, should the Commission consider that any disallowance or escrowing should be applicable to past fuel factor cases for which the dockets are still open; or should any disallowance be considered only on a case-by-case basis for each successive test year period based on that year's performance by DOE or some other criteria; or should the disallowance or escrowing be imposed until certain milestones, such as the completion of a centralized interim storage facility, are met by the federal government?

6. If an escrow fund can and should be established, how should the fund be administered?

7. If an escrow fund can and should be established, under what conditions should monies from the fund be paid and to whom should it be paid?

8. If the Commission can and should disallow recovery and/or establish an escrow fund, can and, if so, should the Commission prohibit or allow the utilities to continue to make scheduled payments to DOE or their agents?

9. If there has been inefficient management of DOE's program for nuclear waste disposal, can and, if so, how should the Commission protect the interests of Virginia's electric ratepayers?

10. Should utilities, individually or cooperatively, begin developing alternative strategies for long-term interim storage of spent nuclear fuel? If so, what strategies should be considered and what are the costs associated with these strategies? What ratemaking treatment should these costs be afforded?

11. Can and, if so, should utilities, individually or cooperatively, begin developing their own strategies for the permanent disposal of their spent fuel? If so, what strategies should be considered and what are the costs associated with these strategies? What ratemaking treatment should these costs be afforded?

12. Many utilities' nuclear power plants are scheduled to reach the end of their initial operating licenses not long after 2010, the earliest date DOE estimates Yucca Mountain might be available to receive spent nuclear fuel. Among those nuclear power plants for which spent nuclear fuel costs are being paid in varying degrees by ratepayers in Virginia, Surry 1 and 2 are scheduled to reach the end of their operating licenses the earliest, in 2012 and 2013, respectively. In addition, terminations of the operating licenses at Peach Bottom, Salem, Cook, and North Anna are scheduled to follow in the decade thereafter. If there should be no centralized storage/disposal site available for the placement of spent fuel when Surry, North Anna, Cook, Salem, and Peach Bottom are scheduled to be decommissioned, what might be the impacts on the ability and cost to decommission these plants assuming the centralized storage/disposal site is delayed 5 years, 15 years, 30 years or indefinitely?

13. If there should be no centralized storage/disposal site available for the placement of spent fuel when Surry, North Anna, Cook, Salem, and Peach Bottom are scheduled to be decommissioned, what alternatives might be available? What might be the impact on the estimated costs to decommission the plants and what ratemaking treatment should these costs be afforded?

14. If there should be no centralized storage/disposal site available for the placement of spent fuel when Surry, North Anna, Cook, Salem, and Peach Bottom are scheduled to reach the end of their initial operating licenses, what might be the impact on the ability of the nuclear power plant owners to renew the operating licenses for life extension of the plants?

15. What efforts have utilities made to encourage or require the DOE to fulfill its obligations relative to the disposition of spent nuclear fuel? What future efforts are planned?

16. What impacts might a failure of DOE to meet its obligations relative to the disposition of spent nuclear fuel have on utilities? How would wholesale and/or retail competition affect these impacts?

Participants should also address all legal and policy issues they believe relevant to this investigation. Upon receipt of comments, Staff will be directed to file a report proposing specific policy changes, if any, which it believes will address the interests of Virginia's ratepayers and utilities. Participants will then be given an opportunity to comment on the specific proposals set forth in the Staff Report and request oral argument. We encourage all interested and affected persons to provide meaningful input to the Staff as it conducts its investigation. After all comments have been received, we will determine what further proceedings should be initiated.

NOW THE COMMISSION finds that notice of the investigation should be given and that interested persons should be provided an opportunity to comment and to request oral argument. If any requests for oral argument are received, the Commission will issue a subsequent order addressing these requests. In the absence of a request for oral argument, the Commission may act after considering all written comments. Accordingly,

IT IS ORDERED:

(1) That this matter shall be docketed and assigned Case No. PUE950060;

(2) That, on or before August 15, 1995, the Commission's Division of Energy Regulation shall cause a copy of the following notice to be published in major newspapers having general circulation throughout the Commonwealth:

[16]Prefiled Staff Testimony Part C at 23-25, Case No. PUE940059 (October 21, 1994).

NOTICE OF INVESTIGATION BY THE VIRGINIA STATE CORPORATION COMMISSION OF POLICIES REGARDING SPENT NUCLEAR FUEL DISPOSAL

On July 18, 1995, the Virginia State Corporation Commission initiated an investigation regarding spent nuclear fuel disposal. The Commission has directed interested parties to provide comments on legal and public policy issues related to spent nuclear fuel storage and disposal, including, but not limited to, whether to allow utilities to recover from ratepayers some or all money paid to the Nuclear Waste Fund, whether to establish an escrow account for spent nuclear fuel storage and/or disposal, and whether utilities should develop their own plans for storage and disposal of spent nuclear fuel.

Comments from interested persons on the issues identified above or any other matter that should be addressed in the context of this investigation should be submitted in writing by filing an original and fifteen (15) copies of such comments with William J. Bridge, Clerk of the State Corporation Commission, c/o Document Control Center, P.O. Box 2116, Richmond, Virginia 23216, no later than October 31, 1995. A copy of the comments shall also be served upon each person reflected in the attestation paragraph of the Commission's July 18, 1995 order establishing the investigation.

After reviewing the comments filed herein, Staff will file its report recommending specific rules or policy statements regarding spent nuclear fuel disposal on or before December 29, 1995. Comments on the proposals set forth in that Staff Report and any request for oral argument should be filed on or before January 31, 1996. In the absence of a request for oral argument, the Commission may act after consideration of all written comments.

A copy of the Commission's order initiating this investigation, any comments, and the Staff report filed in this docket will be available for public inspection during normal business hours at the business offices where utility bills may be paid of all investor-owned electric utilities and electric cooperatives subject to the Commission's jurisdiction and at the State Corporation Commission's Document Control Center, located on the first floor of the Tyler Building, 1300 East Main Street, Richmond, Virginia.

VIRGINIA STATE CORPORATION COMMISSION
DIVISION OF ENERGY REGULATION

(3) That any person may file written comments provided an original and fifteen (15) copies of the comments are filed no later than October 31, 1995, with William J. Bridge, Clerk, State Corporation Commission, Tyler Building, 1300 East Main Street, First Floor, Richmond, Virginia, 23219, and refer to Case No. PUE950060. A copy of the comments shall be served upon all persons reflected in the attestation paragraph of this order;

(4) That Staff shall file its report on or before December 29, 1995, in which it sets forth its findings, recommendations, and proposed policy statements;

(5) That any person may file written comments concerning the Staff Report and proposed policy statements provided an original and fifteen (15) copies of the comments are filed no later than January 31, 1996. Any participant may request oral argument provided an original and fifteen (15) copies are filed on or before January 31, 1996. Such comments and requests for oral arguments shall be filed with William J. Bridge, Clerk, State Corporation Commission, Tyler Building, 1300 East Main Street, First Floor, Richmond, Virginia 23219, and served on all participants of record;

(6) That all investor-owned electric utilities and electric cooperatives subject to the Commission's jurisdiction shall forthwith make a copy of this order, any comments, and the Staff Report subsequently filed in this docket available for public inspection during normal business hours at the respective business offices where utility bills may be paid; and

(7) That the Division of Energy Regulation shall, upon completion, provide proof of the publication required herein.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to each investor-owned electric utility and electric cooperative subject to the jurisdiction of this Commission as shown on Attachments A and B; Office of the Attorney General, Division of Consumer Counsel, 900 East Main Street, Richmond, Virginia 23219; and to the Commission's Divisions of Economics and Finance, Public Utility Accounting, and Energy Regulation.

ATTACHMENT A

Electric Companies in Virginia

Appalachian Power Company
Mr. R. Daniel Carson, Vice President
Post Office Box 2021
Roanoke, VA 24022-2121

Delmarva Power & Light Company
Mr. R. Erick Hansen
General Manager, Pricing and Regulation
800 King Street
Post Office Box 231
Wilmington, Delaware 19899

Kentucky Utilities Company
Mr. Robert M. Hewett
Vice President, Rates
Budget & Financial Forecasts
One Quality Street
Lexington, Kentucky 40507

The Potomac Edison Company
Mr. James D. Latimer, President
Downsville Pike
Hagerstown, Maryland 21740

Virginia Power Company
Mr. Edgar M. Roach, Jr.
Vice President-Regulation
Box 26666
Richmond, VA 23261

ATTACHMENT B

Electric Cooperatives in Virginia

A&N Electric Cooperative
Mr. Vernon N. Brinkley
Executive Vice President
P.O. Box 1128
Parksley, Virginia 23421

B-A-R-C Electric Cooperative
Mr. Hugh M. Landes
General Manager
P.O. Box 264
Millboro, Virginia 24460-0264

Central Virginia Electric Cooperative
Mr. Howard L. Scarboro
General Manager
P.O. Box 247
Lovingston, Virginia 22949

Community Electric Cooperative
Mr. J. M. Reynolds
General Manager
Post Office Box 267
Windsor, Virginia 23487

Craig-Botetourt Electric Cooperative
Mr. Gerald H. Groseclose
General Manager
Post Office Box 265
New Castle, VA 24127

Mecklenburg Electric Cooperative
Mr. John Bowman
General Manager
Caller 2451
Chase City, Virginia 23924-2451

Northern Neck Electric Cooperative
Mr. Charles R. Rice, Jr.
General Manager
Post Office Box 288
Warsaw, Virginia 22572-0288

Northern Virginia Electric Cooperative
Mr. Stanley C. Feuerberg
General Manager
Post Office Box 2710
Manassas, VA 22110

Powell Valley Electric Cooperative
Mr. Randell W. Meyers
General Manager
Post Office Box 308
Church Street
Jonesville, VA 24263

Prince George Electric Cooperative
Mr. Dale Bradshaw
General Manager
Post Office Box 168
Waverly, VA 23890

Rappahannock Electric Cooperative
Mr. Cecil E. Viverette, Jr.
President
Post Office Box 7388
Fredericksburg, VA 22404-7388

Shenandoah Valley Electric Cooperative
Mr. C. D. Wine
Executive Vice President
Post Office Box 236
Route 257
Mt. Crawford, VA 22841-0236

Southside Electric Cooperative
Mr. John C. Anderson
Executive Vice President
Post Office Box 7
Crewe, VA 23930

VA.R. Doc. No. R95-643; Filed July 26, 1995, 12:21 p.m.

PROPOSED REGULATION

Title of Regulation: **20 VAC 5-400-70. Regulation Governing Radio Common Carrier Services (REPEALING).**

Statutory Authority: §§ 12.1-13, 56-508.5 (repealed), and 56-508.6 (repealed) of the Code of Virginia.

AT RICHMOND, AUGUST 1, 1995

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

Ex Parte, In re: Deregulation of radio common carriers and cellular mobile radio communications carriers — CASE NO. PUC950062

ORDER SETTING HEARING AND AUTHORIZING COMMENTS

Effective July 1, 1995, §§ 56-508.1 to -508.7 Va. Code Ann. (1995 Rep. Vol.), Radio Common Carriers, and §§ 56-508.8 to -508.14 Va. Code Ann. (1995 Rep. Vol.), Cellular Mobile Radio Communications Carriers, were repealed. Act Approved Mar. 16, 1995, ch. 281, enactment 2, 1995 Va. Acts __. The same legislation also amended § 13.1-620(F) Va. Code Ann. (1995 Supp.) to provide that a person authorized by the Federal Communications Commission to provide commercial mobile radio service is not required to incorporate as a public service company. Act Approved Mar. 16, 1995, enactment 1. The Commission also takes note of Communications Act of 1934 § 332(c)(3), 47 U.S.C. § 332(c)(3) (1988 & Supp. V 1993), which preempts states from regulating the entry of mobile services. In light of the changes in our statutory mandate, the Commission has tentatively concluded that it should take certain actions following the repeal of authority to regulate radio common carriers and cellular mobile radio communications carriers.

The Commission has tentatively concluded that it should cancel all certificates of convenience and necessity previously issued to radio common carriers and cellular mobile radio communications carriers. The Commission would also cancel all tariffs filed by these carriers. Finally, the Commission believes that the changes in the legislative mandate require repeal of our Rules Governing Radio

Common Carrier Services adopted February 26, 1990. See In re: Abolishing the Rules Governing the Certification of Radio Common Carriers Adopted Pursuant to Va. Code § 56-508.6 and the Rules Governing Establishment of Competitive Rates, Charges, and Regulations Pursuant to Va. Code § 56-508.5B, and Adopting New Rules Governing Radio Common Carrier Services, 1990 State Corp. Comm'n Ann. Rep. 245.

Before making any firm decision to take these steps, however, the Commission will invite written comments and provide an opportunity for public hearing so that interested persons and the Commission's Staff may address the lawfulness of these actions. All radio common carriers and cellular mobile radio communications carriers will be made parties to this proceeding. So that the public hearing may proceed promptly, the Commission strongly encourages all persons wishing to address the Commission at the hearing to advise, in writing, the Office of General Counsel, State Corporation Commission, P.O. Box 1197, Richmond, Virginia 23209, by October 9, 1995. Accordingly,

IT IS ORDERED THAT:

(1) This matter be docketed; be assigned Case No. PUC950062; and that all associated papers be filed therein.

(2) All radio common carriers and all cellular mobile radio communications carriers listed in the appendix to this order be made parties to this proceeding.

(3) A public hearing for the purpose of receiving comments on the actions proposed herein be held beginning at 10:30 a.m. on October 16, 1995, in the Commission's Courtroom, Tyler Building, Second Floor, 1300 East Main Street, Richmond, Virginia. Any person desiring to address the Commission at the hearing should appear at the Hearing Room by 10:15 a.m. on the day of the hearing and advise the Commission's bailiff. Comments will be limited to ten minutes per speaker.

(4) On or before September 11, 1995, any interested person may file with the Clerk of the Commission, Document Control Center, P.O. Box 2118, Richmond, Virginia 23216, an original and fifteen (15) copies of any comments on the actions proposed herein.

(5) On or before October 2, 1995, the Commission Staff shall file with the Clerk of the Commission an original and fifteen (15) copies of a report addressing issues raised in the comments and serve a copy on each person filing written comments as authorized in paragraph (4).

AN ATTESTED COPY of this Order shall be sent to the Division of Communications and to all carriers listed in the appendix.

RADIO COMMON CARRIERS

Afton Communications Corporation
Mr. Edward W. Clark, Jr.
4505 Cloverdale Road
Route 11, Box 401
Roanoke, Virginia 24019

Airtouch Paging of Virginia, Inc.
Theresa Fenelon, Esquire
Pillsbury, Madison and Sutro
1667 K Street, N.W., Suite 1100
Washington, D.C. 20006

Always Answering Service, Inc.
Mr. Anthony R. Zandy, President
8025 Lighthouse Landing
Frederick, Maryland 21701

American Paging, Inc. of Virginia
Mr. Glen Meister
Suite 3100
1300 Godward Street, N.E.
Minneapolis, Minnesota 55413

The Beeper Company
Mr. Allen Layman
P.O. Box 174
Daleville, Virginia 24083

Carson Partnership
d/b/a Southern Highlands Communications
Timothy E. Welch, Esquire
Dean, George, Hill & Welch
1330 New Hampshire Avenue, N.W., Suite 113
Washington, D.C. 20036

Denton II, Inc.
Mr. E. Warren Denton, Jr.
61 Court Square
P.O. Box 632
Harrisonburg, Virginia 22801

Dover Radio Page of Virginia
Nicholas D. Heil, Esquire
Fears, Agar & Heil
23328 Wise Court, Fears Building
P.O. Box 210
Accomac, Virginia 23301

Executive Services Paging Company
Mr. Donald B. Norris, President
4936 Cleveland Street
Virginia Beach, Virginia 23462

Great Eastern Communications Company
Mr. Francis I. Lambert, President
P. O. Box 181
Waterford, Virginia 22190

Hello Pager Company, Inc.
Mr. Charles R. Smith, President
2315 West Broad Street
Richmond, Virginia 23220

K.J. Paging, Inc.
George L. Lyon, Jr., Esquire
Lukas, McGowan, Nace & Gutierrez
1819 H Street, N.W., 7th Floor
Washington, D.C. 20006

MobileMedia Communications, Inc.
Steve W. Pearson, Esquire
Hazel & Thomas
411 East Main Street, Suite 600
Richmond, Virginia 23206

McMillen Communications Corp. of Va., Inc.
Ms. Julie Harrington
8325 Guilford Road, Suite B
Columbia, Maryland 21046

Metrocall of Virginia
Mr. Harry L. Brock, Jr., President
6677 Richmond Highway
Alexandria, Virginia 22306

Metro-Tones, Inc. of Virginia
Mr. Darrell Bauguess
4401 East-West Highway
Bethesda, Maryland 20814

Mid-Atlantic Paging Company, Inc.
d/b/a First Page
Mr. William L. Collins, III, President
6420 Grovedale Drive
Alexandria, Virginia 22310

Mobilecomm of the Southeast, Inc.
William R. Matz, Esquire
Vice President-General Counsel
1800 East County Line Road, Suite 300
Ridgeland, Mississippi 39157

PageMart Operations Inc., of Virginia
Audrey P. Rasmussen, Esquire
O'Connor & Hannan
1919 Pennsylvania Avenue, N.W., Suite 800
Washington, D.C. 20006-3483

Paging, Inc.
Mr. Vernon H. Baker
145 Jackson Street
Blacksburg, Virginia 24063

Paging Network of Virginia, Inc.
Judith St. Ledger-Roty
Reed, Smith, Shaw & McClay
1200 18th Street, N.W.
Washington, D.C. 20036

PJB Communications of Virginia, Inc.
Mr. James R. Harvey
14405 Laurel Place, Suite 200
Laurel, Maryland 20707

Radio Call Company of Virginia, Inc.
d/b/a Dial Page, L.P.
Mr. David I. Odom
P.O. Box Drawer 10767, Federal Station
Greenville, South Carolina 29603-0767

Redi-Call Communications Company
d/b/a Radio Communications Co.
Mr. Michael F. Morone
Keller and Heckman
1150 17th Street, N.W., Suite 1000
Washington, DC 20036

Rule Communications
Mr. Robert R. Rule, President
2232 Dell Range Blvd.
Cheyenne, Wyoming 82009

Salisbury Mobile Telephone of Virginia, Inc.
Steven W. Pearson, Esquire
Hazel & Thomas
411 East Main Street, Suite 600
P.O. Box 788
Richmond, Virginia 23206

Shenandoah Mobile Company
Mr. Christopher E. French
Box 459
Edinburg, Virginia 22824-0459

Southwest Virginia Professional Services Association, Inc.
Mr. Howard R. Long, President
P.O. Box 1332
Richlands, Virginia 24641

TNI Associates
Mr. John Mitchell
Vice President-Engineering
3088 State Highway 27
Kendall Park, New Jersey 08824

U.S. Central of Virginia, Inc.
Mr. Michael A. Kulp
East Rock Road
Allentown, Pennsylvania 18103

CELLULAR MOBILE RADIO COMMUNICATIONS CARRIERS

Blue Ridge Cellular, Inc.
Mr. George L. Lyon, Jr.
Lukas, McGowan, Nace & Gutierrez
1111 19th Street, N.W.
Washington, D. C. 20036

Centel Cellular Company of Charlottesville
Mrs. Lorraine Mockus Buerger
External Affairs Manager
O'Hara Plaza
8725 Higgins Road
Chicago, Illinois 60631

Centel Cellular Company of Danville
Mrs. Lorraine Mockus Buerger
External Affairs Manager
O'Hara Plaza
8725 Higgins Road
Chicago, IL 60631

Centel Cellular Company of Lynchburg
Mrs. Lorraine Mockus Buerger
External Affairs Manager
O'Hara Plaza
8725 Higgins Road
Chicago, IL 60631

Centel Cellular Company of Virginia
Virginia RSA's 4, 6, 7, 9, 11
Mrs. Lorraine Mockus Buerger
External Affairs Manager
O'Hara Plaza
8725 Higgins Road
Chicago, Illinois 60631

Centel Cellular Company of Virginia
Virginia RSA 8
Mrs. Lorraine Mockus Buerger
External Affairs Manager
O'Hara Plaza
8725 Higgins Road
Chicago, Illinois 60631

Century Lynchburg Cellular Corporation
Mr. C. Thomas Green, III, Esquire
Hirschler, Fleischer, Weinberg, Cox & Allen
701 East Byrd Street
Richmond, Virginia 23219

Century Roanoke Cellular Corp.
d/b/a Cellular One
C. Thomas Green, III, Esquire
Hirschler, Fleischer, Weinberg, Cox & Allen
701 East Byrd Street
Richmond, Virginia 23219

Charlottesville Cellular Partnership
d/b/a Cellular One
Mr. C. Thomas, Green, III, Esquire
Hirschler, Fleischer, Weinberg, Cox & Allen
701 East Byrd Street
Richmond, Virginia 23219

Contel Cellular of Richmond, Inc.
Roanoke Area
Mr. Richard D. Gary
Hunton & Williams
River Front Plaza, East Tower
951 E. Byrd Street
Richmond, Virginia 23219

Contel Cellular of Richmond, Inc.
Buckingham Area
Mr. Richard D. Gary
Hunton & Williams
River Front Plaza, East Tower
951 E. Byrd Street
Richmond, Virginia 23219

Contel Cellular of Tennessee, Inc.
Mr. Richard D. Gary
Hunton & Williams
Riverfront Plaza, East Tower
951 East Byrd Street
Richmond, Virginia 23219

Danville Cellular Telephone Company
Limited Partnership
Mr. George L. Lyon, Jr.,
Lukas, McGowan, Nace & Gutierrez
1111 19th Street, N.W.
Washington, D. C. 20036

JMW, Inc.
Mr. Richard D. Gary
Hunton & Williams
Riverfront Plaza, East Tower
951 East Byrd Street
Richmond, Virginia 23219

Petersburg Cellular Partnership
Mrs. Lorraine Mockus Buerger
External Affairs Manager
O'Hara Plaza
8725 Higgins Road
Chicago, Illinois 60631

RCTC Wholesale Company
Mr. Stephen Hatter, General Manager
9211 Arboretum Parkway, Suite 500
Richmond, Virginia 23236

Metro Mobile CTS Charlotte, Inc.
Stephen H. Watts, II
McGuire Woods Battle & Boothe
One James Center
901 East Cary Street
Richmond, Virginia 23219-4030

Telespectrum of Virginia, Inc.
Mrs. Lorraine Mockus Buerger
External Affairs Manager
O'Hara Plaza
8725 Higgins Road
Chicago, Illinois 60631

Virginia Cellular, Inc.
Steven W. Pearson, Esquire
Hazel & Thomas
411 East Franklin Street, Suite 600
P. O. Box 788
Richmond, Virginia 23206

Virginia RSA 1 Limited Partnership
Mrs. Lorraine Mockus Buerger
External Affairs Manager
O'Hara Plaza
8725 Higgins Road
Chicago, Illinois 60631

Virginia RSA 2 Limited Partnership
Mrs. Lorraine Mockus Buerger
External Affairs Manager
O'Hara Plaza
8725 Higgins Road
Chicago, Illinois 60631

Virginia RSA 3 Limited Partnership
Mr. Richard D. Gary
Hunton & Williams
River Front Plaza, East Tower
951 E. Byrd Street
Richmond, Virginia 23219

Virginia RSA 4 Limited Partnership
Mr. Richard D. Gary
Hunton & Williams
River Front Plaza, East Tower
951 E. Byrd Street
Richmond, Virginia 23219

Virginia RSA #4, Inc.
Eric M. Page, Esquire
Thorsen, Page & Marchant
316 West Broad Street
Richmond, Virginia 23220

Virginia RSA 5 Limited Partnership
Mr. Richard D. Gary
Hunton & Williams
River Front Plaza, East Tower
951 E. Byrd Street
Richmond, Virginia 23219

Virginia RSA 6 Cellular Limited Partnership
Mr. Carl A. Rosberg
Senior Vice President-Operations
401 Spring Lane, Suite 300
P. O. Box 1990
Waynesboro, Virginia 22980-1990

Virginia RSA #7, Inc.
Eric M. Page, Esquire
Thorsen, Page & Marchant
316 West Broad Street
Richmond, Virginia 23220

Virginia 10 RSA Limited Partnership
Mr. Christopher French
P.O. Box 459
Edinburg, Virginia 22824

Virginia Cellular Limited Partnership
Norfolk/Newport News Areas
Mr. Richard D. Gary
Hunton & Williams
River Front Plaza, East Tower
951 E. Byrd Street
Richmond, Virginia 23219

Virginia Cellular Limited Partnership
Richmond and Petersburg Areas
Mr. Richard D. Gary
Hunton & Williams
River Front Plaza, East Tower
951 E. Byrd Street
Richmond, Virginia 23219

Virginia Cellular Limited Partnership RSA 8
Mr. Richard D. Gary
Hunton & Williams
River Front Plaza, East Tower
951 E. Byrd Street
Richmond, Virginia 23219

Virginia Cellular Limited Partnership RSA 9
Mr. Richard D. Gary
Hunton & Williams
River Front Plaza, East Tower
951 E. Byrd Street
Richmond, Virginia 23219

Virginia Cellular Limited Partnership RSA 11
Mr. Richard D. Gary
Hunton & Williams
River Front Plaza, East Tower
951 E. Byrd Street
Richmond, Virginia 23219

Virginia Cellular Limited Partnership RSA 12
Mr. Richard D. Gary
Hunton & Williams
River Front Plaza, East Tower
951 E. Byrd Street
Richmond, Virginia 23219

Virginia Metronet Inc.
Edward Flippen, Esquire
Mays & Valentine
Sovran Center
1111 East Main Street
P. O. Box 1122
Richmond, Virginia 23208

Washington/Baltimore Cellular Limited Partnership
David W. Clarke, Esquire
Mezzullo & McCandlish
P.O. Box 796
Richmond, Virginia 23206

Washington/Baltimore Cellular Limited Partnership
Mr. Keith Davis
Vice President - Legal
7855 Walker Drive, Suite 100
Greenbelt, Maryland 20770

Washington D.C. SMSA Limited Partnership
Bell Atlantic Mobile Systems
Mr. Thomas C. Blum, Director
External Affairs
180 Washington Valley Road
Bedminster, New Jersey 07921

VA.R. Doc. No. R95-658; Filed August 2, 1995, 10:07 a.m.

FINAL REGULATION

Title of Regulation: **20 VAC 5-400-60. Rules Governing the Certification of ~~Inter-LATA, Inter-Exchange~~ *Interexchange* Carriers.**

Statutory Authority: § 12.1-13, 56-265.4:4, 56-481.1 and 56-482.1 of the Code of Virginia.

Effective Date: October 1, 1995.

Agency Contact: Copies of the regulation may be obtained from William Irby, Manager, Rates & Costs, Division of Communications, State Corporation Commission, P. O. Box 1197, Richmond, Virginia 23209, telephone (804) 371-9420. Copying charges are $1.00 for the first two pages, and 50¢ for each page thereafter.

AT RICHMOND, JULY 24, 1995

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

Ex Parte: Investigation of competition for intraLATA, interexchange telephone service — CASE NO. PUC850035

ORDER IMPLEMENTING PHASE TWO OF INTERIM ORDER OF JUNE 30, 1986

Pursuant to our order of January 18, 1995, the Commission received comments from 18 parties concerning the Commission's Interim Order of June 30, 1986 ("Interim Order"). The Interim Order adopted a three phase approach to eventual intraLATA competition, as proposed in the Staff's

Position Report of December 2, 1985, and maintained Phase One, which retained LATAs as the exclusive territory of the local exchange companies ("LECs").

Based upon these comments, and in light of changing conditions in the telephone industry, the Commission has determined that it is in the public interest to remove the Phase One restrictions effective October 1, 1995, in a manner consistent with Phase Two of the Interim Order. Recently, the Commission has seen an increase in consumer awareness and inquiries regarding the unavailability of intraLATA competition in Virginia. In addition, the Commission does not believe the LECs will incur financial harm as a result of intraLATA competition as adopted in this Order.

The Commission recognizes that the Bell Operating Companies ("BOCs") and the General Telephone Operating Companies ("GTOCs") are still prohibited by federal consent decrees from engaging in interLATA, interexchange telephone service. However, there are indications that these restrictions may remain in place until the courts or Congress are satisfied that there is competition in the local exchange markets controlled by the BOCs and GTOCs. In light of recent developments, the Commission believes that allowing intraLATA competition now may hasten the day when interLATA restrictions are lifted from the BOCs and the GTOCs.

Rule 2 of the Commission's Rules Governing the Certification of InterLATA, Interexchange Carriers promulgated in Case No. PUC840017 by Final Order dated June 29, 1984, and as modified by Final Order of August 7, 1989, in Case No. PUC890012 ("Rules"), will be modified to delete the fourth, fifth, and sixth sentences. The deleted language prohibited interexchange carriers ("IXCs") from offering intraLATA calling; provided that incidental, intraLATA traffic must either be blocked or that the LEC be compensated for lost revenues; and required that certificate applications by IXCs include a plan for either blocking or paying for incidental intraLATA traffic. Further, Rules 4, 6, 7, 9, and 10, and the title of the Rules, will be revised to delete the term "Inter-LATA."

Existing IXC certificates will be deemed modified, effective October 1, 1995, so that certificated IXCs will be authorized to provide all interexchange services, not just interLATA, interexchange services.

Presubscription will not be imposed during Phase Two. Thus, traditional intraLATA Message Telecommunications Service/Wide Area Telecommunications Service ("MTS/WATS") traffic that originates by dialing "1+" or "0" will remain with the LECs. Those customers desiring to complete intraLATA toll calls with a carrier other than their LEC may do so by different access arrangements, such as "10XXX" dialing, "950" dialing, "1-800" dialing, or others.

With the implementation of Phase Two, the Commission recognizes that IXCs may gain some marketing advantage because of their ability to package both interLATA and intraLATA services. However, the denial of intraLATA 1+ presubscription at this time should counter balance any such possible inequity for the LECs in the intraLATA marketplace. A prohibition on the joint marketing and packaging of competitors' interLATA and intraLATA services would only serve to thwart the very consumer benefits that can be obtained from the expansion of intraLATA competition. To the extent the LECs may desire to better position themselves in a more competitive marketplace, they may file with the Commission, pursuant to the applicable regulatory plans, for competitive treatment of any of their intraLATA toll services.

The Commission has considered the comments concerning the Originating Responsibility Plan ("ORP") and access charges and finds no reason to change the existing arrangements at this time. However, the language in the LECs' interLATA access tariffs should be modified to cover intraLATA applications.

Opening the intraLATA interexchange toll markets to competition shall in no way preclude the expansion of local calling areas pursuant to Article 4 of Chapter 15, Title 56 of the Virginia Code.

During Phase Two, all certificated providers must continue to file tariffs for their intrastate, interexchange services. We will not adopt the LEC rate cap provision of Phase Two. Instead, existing pricing provisions will apply pursuant to the regulatory plans and regulations applicable to each LEC. LECs will not be allowed to abandon any toll routes, and reports will be required in order to monitor intraLATA markets. Accordingly,

IT IS, THEREFORE, ORDERED:

(1) That the Phase One restrictions on IXCs offering interLATA telephone services are eliminated, and Phase Two, as modified herein, is implemented as of October 1, 1995;

(2) That on and after October 1, 1995, intraLATA toll services may be offered in compliance with the conditions described above; and

(3) That Rules Governing the Certification of Interexchange Carriers, amended as described above and contained in Attachment A, are adopted effective October 1, 1995;

(4) That LECs file revisions to their interLATA access tariffs to expand coverage to include intraLATA applications; and

(5) That this matter is continued generally pending further Commission order.

Commissioner Moore did not participate in this matter.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to each local exchange telephone company operating in Virginia as set out in Appendix A attached hereto; each certificated interexchange carrier operating in Virginia as set out in Appendix B attached hereto; the Division of Consumer Counsel, Office of the Attorney General, 900 East Main Street, Richmond, Virginia 23219; Jean Ann Fox, President, Virginia Citizens Consumer Council, 114 Coachman Drive, Yorktown, Virginia 23693; Cecil O. Simpson, Jr., Esquire, Office of the Judge Advocate General, Department of the Army, 901 North Stuart Street, Room 400, Arlington, Virginia 22203-1837; Ronald B. Mallard, Director, Department of Consumer Affairs, County of

Fairfax, 12000 Government Center Parkway, Fairfax, Virginia 22035; Mr. Charles R. Smith, Hello, Inc., 2315 West Broad Street, Richmond, Virginia 23220; James C. Roberts, Esquire, Virginia Cable Television Association, Mays & Valentine, P. O. Box 1122, Richmond, Virginia 23208-1122; the Commission's Office of General Counsel; and the Commission's Divisions of Communications, Public Utility Accounting, and Economics and Finance.

Attachment A

20 VAC 5-400-60. Rules Governing the Certification of Interexchange Carriers.

A. Purpose. These rules are promulgated pursuant to §§ 56-265.4:4, 56-481.1, and 56-482.1 of the Code of Virginia and are effective July 1, 1984, as modified on August 7, 1989, in Case No. PUC890012 and on October 1, 1995, in Case No. PUC850035.

~~A.~~ *B.* An original and 15 copies of applications for certificates of public convenience and necessity shall be filed with the Clerk of the State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23216, and shall contain all the information and exhibits required herein.

~~B.~~ *C.* Notice of the application shall be given to each existing ~~inter-exchange~~ *interexchange* carrier; the Division of Consumer Counsel, Office of the Attorney General; and to each local exchange carrier, and shall be provided to governmental officials as required by the commission in its initial order setting the case for hearing. Each applicant shall publish notice in newspapers having general circulation throughout the ~~State~~ *Commonwealth* in a form to be prescribed by the commission. Applicants shall attest that they will abide by the provisions of § 56-265.4:4 B of the Code of Virginia. ~~Inter-exchange carriers will not be permitted to offer intra-LATA calling at this time. Incidental intra-LATA calls that occur shall either be blocked, or the local exchange companies shall be compensated for revenues lost as a result of such incidental intra-LATA calls. The certificate application of each inter-exchange carrier shall include its plan for either blocking or paying for such incidental calling.~~ Applicants shall submit information which identifies the applicant including (i) its name, address, and telephone, (ii) its corporate ownership, (iii) the name, address, and telephone of its corporate parent or parents, if any, (iv) a list of its officers and directors or, if applicant is not a corporation, a list of its principals and their directors if said principals are corporations, and (v) the names, addresses, and telephone numbers of its legal counsel.

~~C.~~ *D.* Each incorporated applicant for a certificate shall demonstrate that it is authorized to do business in the Commonwealth as a public service company.

~~D.~~ *E.* Applicants shall be required to show their financial, managerial, and technical ability to render ~~inter-LATA, inter-exchange~~ *interexchange* telecommunication service. (i) As a minimum requirement, a showing of financial ability shall be made by attaching applicant's most recent stockholder's annual report and its most recent SEC Form 10-K or, if the company is not publicly traded, its most recent financial statements. (ii) To demonstrate managerial experience, each applicant shall attach a brief description of its history of providing ~~inter-exchange~~ *interexchange* telecommunication service and shall list the geographic areas in which it has been and is currently provided. Newly created companies shall list the experience of each principal officer in order to show its ability to provide service. (iii) Technical abilities shall be indicated by a description and map of the applicant's owned or leased facilities within the Commonwealth. An additional map should be filed showing the applicant's points of presence within its proposed service area.

~~E.~~ *F.* No ~~inter-exchange~~ *interexchange* carrier shall abandon or discontinue service, or any part thereof, established under provisions of § 56-265.4:4 of the Code of Virginia except with the approval of the commission, and upon such terms and conditions as the commission may prescribe.

~~F.~~ *G.* Each ~~inter-LATA, inter-exchange~~ *interexchange* carrier annually shall file a current financial report with the commission, shall maintain Virginia books, and shall maintain such books in accordance with generally accepted accounting principles and, in any event, as shall be required by the commission to facilitate its assessment of all taxes and to facilitate the performance of its regulatory responsibilities. Carriers shall file with the commission on a monthly basis, a report showing monthly usage of local exchange telephone services and facilities as required by §§ 56-482.1 and 56-482.2 of the Code of Virginia.

~~G.~~ *H.* No carrier shall unreasonably discriminate among subscribers requesting service. Any finding of such discrimination shall be grounds for suspension or revocation of the certificate of public convenience and necessity granted by the commission. Excessive subscriber complaints against an ~~inter-LATA, inter-exchange~~ *interexchange* carrier, which the commission has found to be meritorious, may also be grounds for suspension or revocation of the carrier's certificate of public convenience and necessity. In all proceedings pursuant to this subsection ~~G~~ *H*, the commission shall give notice to the carrier of the allegations against it and provide the carrier with an opportunity to be heard concerning those allegations prior to the suspension or revocation of the carrier's certificate of public convenience and necessity.

~~H.~~ *I.* Each application for a certificate to provide ~~inter-exchange~~ *interexchange* telecommunication service shall include the carrier's proposed initial tariffs, rules, regulations, terms, and conditions. If the commission finds those tariffs reasonable, they shall be approved with the granting of the certificate. Any subsequent request to increase rates shall be submitted pursuant to Chapter 10 *(§ 56-232 et seq.)* of Title 56 of the Code of Virginia, unless the requesting carrier has been granted authority by the commission to set rates and charges pursuant to § 56-481.1 of the Code of Virginia.

~~I.~~ *J.* Any carrier desiring to have rates based upon competitive factors shall petition the commission to be granted such authority pursuant to the provision of § 56-481.1 of the Code of Virginia. Such petition may be filed simultaneously with the applicant's petition for a certificate of public convenience and necessity. The commission shall consider the criteria set out in § 56-481.1 in making any determination that ~~inter-LATA, inter-exchange~~ *interexchange*

telecommunication service will be provided on a competitive basis.

~~J.~~ *K.* Should the commission ever determine, after notice to the public and any affected ~~inter-exchange~~ *interexchange* carriers and after an opportunity is afforded for any interested party to be heard, that competition, although previously found by the commission to exist, has ceased to exist among ~~inter-LATA, inter-exchange~~ *interexchange* carriers, it may, pursuant to § 56-241 of the Code of Virginia, require that the rates of such carriers be determined pursuant to Chapter 10 *(§ 56-232 et seq.)* of Title 56 of the Code of Virginia.

~~K.~~ *L.* Carriers shall give notice of proposed rate increases to subscribers by (i) billing inserts furnished at least two weeks prior to the increase, or (ii) publication for two consecutive weeks as display advertising in newspapers having general circulation in the area served by the carrier with the last publication appearing at least two weeks prior to the increase, or (iii) direct written notification to each affected subscriber at least two weeks prior to the increase. The notice shall state the subscribers' existing rates, the proposed rates and the percentage change between the two. Rate revisions which result in no increase to any subscriber may be implemented without notice.

~~L.~~ *M.* These rules shall not apply to domestic cellular radio telecommunications carriers.

~~The Commission is further of the opinion that these rules should be effective concurrently with §§ 56-265.4:4, 56-481.1, and 56-482.1 of the Code of Virginia.~~

Appendix A

TELEPHONE COMPANIES IN VIRGINIA

Amelia Telephone Corporation
Mr. Bruce H. Mottern, Director
State Regulatory Affairs
P.O. Box 22995
Knoxville, Tennessee 37933-0995

Amelia Telephone Corporation
Ms. Joy Brown, Manager
P. O. Box 76
Amelia, Virginia 23002

Buggs Island Telephone Cooperative
Mr. M. Dale Tetterton, Jr., Manager
P. O. Box 129
Bracey, Virginia 23919

Burke's Garden Telephone Exchange
Ms. Sue B. Moss, President
P. O. Box 428
Burke's Garden, Virginia 24608

Central Telephone Company of Virginia
Mr. Martin H. Bocock
Vice President and General Manager
P. O. Box 6788
Charlottesville, Virginia 22906

Bell Atlantic - Virginia
Mr. Hugh R. Stallard, President and Chief Executive Officer
600 East Main Street
P.O. Box 27241
Richmond, Virginia 23261

Citizens Telephone Cooperative
Mr. James R. Newell, Manager
Oxford Street
P. O. Box 137
Floyd, Virginia 24091

Clifton Forge-Waynesboro Telephone Company
Mr. David R. Maccarelli, President
P. O. Box 1990
Waynesboro, Virginia 22980-1990

Contel of Virginia, Inc.
Stephen C. Spencer, Reg. Director
External Affairs
One James Center
901 East Cary Street
Richmond, Virginia 23219

GTE South
Stephen C. Spencer, Reg. Director
External Affairs
One James Center
901 East Cary Street
Richmond, Virginia 23219

GTE
Joe W. Foster, Esquire
Law Department
P.O. Box 110 - FLTC0007
Tampa, Florida 33601-0110

Highland Telephone Cooperative
Mr. Elmer E. Halterman, General Manager
P.O. Box 340
Monterey, Virginia 24465

Mountain Grove-Williamsville Telephone Company
Mr. L. Ronald Smith
President/General Manager
P. O. Box 105
Williamsville, Virginia 24487

New Castle Telephone Company
Mr. Bruce H. Mottern, Director
State Regulatory Affairs
P.O. Box 22995
Knoxville, Tennessee 37933-0995

New Hope Telephone Company
Mr. K. L. Chapman, Jr., President
P. O. Box 38
New Hope, Virginia 24469

North River Telephone Cooperative
C. Douglas Wine, Manager
P. O. Box 236, Route 257
Mt. Crawford, Virginia 22841-0236

Pembroke Telephone Cooperative
Mr. Stanley G. Cumbee, General Manager
P. O. Box 549
Pembroke, Virginia 24136-0549

Peoples Mutual Telephone Company, Inc.
Mr. E. B. Fitzgerald, Jr.

President & General Manager
P. O. Box 367
Gretna, Virginia 24557

Roanoke & Botetourt Telephone Company
Mr. Allen Layman, President
Daleville, Virginia 24083

Scott County Telephone Cooperative
Mr. William J. Franklin
Executive Vice President
P. O. Box 487
Gate City, Virginia 24251

Shenandoah Telephone Company
Mr. Christopher E. French
President
P. O. Box 459
Edinburg, Virginia 22824

United Telephone-Southeast, Inc.
Mr. H. John Brooks
Vice President & General Manager
112 Sixth Street, P. O. Box 699
Bristol, Tennessee 37620

Virginia Telephone Company
Mr. Bruce H. Mottern, Director
State Regulatory Affairs
P.O. Box 22995
Knoxville, Tennessee 37933-0995

Appendix B

INTER-EXCHANGE CARRIERS

Access Transmission Services of Virginia, Inc.
Mr. Gordon P. Williams, Jr.
Office of General Counsel
MCI Telecommunications
2400 North Glenville Drive
Richardson, Texas 75082

AlterNet of Virginia
Mr. Leonard J. Kennedy, Counsel
Dow, Lohnes & Albertson
1255 Twenty-Third Street
Washington, D.C. 20037-1194

AT&T Communications of Virginia
Ms. Wilma R. McCarey, General Attorney
3033 Chain Bridge Road, Room 3D
Oakton, Virginia 22185-0001

CF-W Network Inc.
Mr. James S. Quarforth
Chairman and CEO
P. O. Box 1990
Waynesboro, Virginia 22980-1990

Central Telephone Company of Virginia
Mr. James W. Spradlin, III
Government & Industry Relations
1108 East Main Street, Suite 1200
Richmond, Virginia 23219-3535

Citizens Telephone Cooperative
Mr. James R. Newell, Manager
Oxford Street
P.O. Box 137
Floyd, Virginia 24091

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Mr. Stephen Spencer
One James Center
901 East Cary Street
Richmond, Virginia 23219

Institutional Communications Company - Virginia
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Vienna, Virginia 22182

MCI Telecommunications Corp. of Virginia
Robert C. Lopardo
Senior Attorney
1133 19th Street, N.W., 11th Floor
Washington, D.C. 20036

Metromedia Communications Corporation
d/b/a LDDSMetromedia Communications
Mr. Brian Sulmonetti
Regulatory Affairs
1515 South Federal Highway
Boca Raton, Florida 33432

R&B Network, Inc.
Mr. Allen Layman, Executive Vice President
P. O. Box 174
Daleville, Virginia 24083

Scott County Telephone Cooperative
Mr. William J. Franklin, Executive VP & Manager
P.O. Box 487
Gate City, Virginia 24251

Shenandoah Telephone Company
Mr. Christopher E. French
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P. O. Box 459
Edinburg, Virginia 22824

SouthernNet of Va., Inc.
Peter H. Reynolds, Director
780 Douglas Road, Suite 800
Atlanta, Georgia 30342

TDX Systems, Inc.
d/b/a Cable and Wireless, Inc.
Mr. Charles A. Tievsky
Regulatory Attorney
1919 Gallows Road
Vienna, Virginia 22182

Sprint Communications of Virginia, Inc.
Mr. Kenneth Prohoniak
Staff Director, Regulatory Affairs
1850 "M" Street, N.W. Suite 110
Washington, DC 20036

Virginia MetroTel, Inc.
Mr. Richard D. Gary
Hunton & Williams

Riverfront Plaza, East Tower
951 East Byrd Street
Richmond, Virginia 23219-4074

Wiltel of Virginia
Brad E. Mutschelknaus, Esquire
Wiley, Rein and Fielding
1776 K Street, N.W.
Washington, DC 20006

VA.R. Doc. No. R95-642; Filed July 26, 1995, 12:22 p.m.

DIRECTOR'S ORDER NUMBER FIFTEEN (95)

VIRGINIA'S FIFTIETH INSTANT GAME LOTTERY; "ACE IN THE HOLE," FINAL RULES FOR GAME OPERATION.

In accordance with the authority granted by Section 58.1-4006A of the Code of Virginia, I hereby promulgate the final rules for game operation in Virginia's fiftieth instant game lottery, "Ace in the Hole." These rules amplify and conform to the duly adopted State Lottery Board regulations for the conduct of instant game lotteries.

The rules are available for inspection and copying during normal business hours at the State Lottery Department headquarters, 900 East Main Street, Richmond, Virginia, and at each of the State Lottery Department regional offices. A copy may be requested by mail by writing to: Public Affairs Division, State Lottery Department, 900 East Main Street, Richmond, Virginia 23219.

This Director's Order becomes effective on the date of its signing and shall remain in full force and effect unless amended or rescinded by further Director's Order.

/s/ Penelope W. Kyle
Director
Date: June 23, 1995

VA.R. Doc. No. R95-647; Filed July 31, 1995, 11:57 a.m.

The LEGISLATIVE RECORD

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HJR 656: Funding for Public Transportation in Hampton Roads

June 28, 1995, Hampton

The joint subcommittee was briefed on existing deficiencies in, and goals for expansion of, regional transit services. However, the members were cautioned by the Peninsula Transportation District Commission (Pentran), Tidewater Transportation District Commission (TRT), and James City County Transit (JCCT) that without a reliable, dedicated source of funding, the three public transit systems serving the region may not be able to maintain the current level of services.

The subcommittee is specifically directed to examine three items: the current sources of local funding for public transportation; the scope of property tax relief for homeowners and other property taxpayers in Hampton Roads by identifying dedicated funding sources, other than local general funds, to support public transportation; and sources of stable and reliable dedicated funding for public transportation.

Federal Funds

Recent actions by Congress may complicate the work of this subcommittee. In 1994 the federal government contributed $4.8 million to the operating budgets of TRT, Pentran, and JCCT. For the three transit systems taken as a whole, this amounted to 15 percent of their total operating budgets. Though appropriations of federal operating funds have remained stable over the seven years from 1988 through 1994, when adjusted for inflation the value of the funds has fallen by 50 percent over the last decade.

Nationally, operating assistance for public transit systems last year totaled $710 million. Congress is considering cutting the federal operating subsidy for mass transit by nearly 44 percent to $400 million for next year. Under this plan, the subsidy will be phased out entirely over the following three years. The loss of federal operating moneys will force transit providers to increase their reliance on other sources of funding, cut services, or both.

State Funds

The other major sources of money for operations are state funds, locally appropriated funds, and operating revenue. The primary source of the state's contribution to mass transit is the

Inside:

Commonwealth Mass Transit Fund, which receives 8.4 percent of the moneys in the Transportation Trust Fund. The money for this fund comes from the one-half percent sales and use tax increase adopted by the General Assembly in its Special Session in 1986. In 1993, the Mass Transit Fund received $20 million from its 8.4 percent share of the Transportation Trust Fund.

Proceeds in the Mass Transit Fund are allocated by the Commonwealth Transportation Board in accordance with formulae set out in the *Code of Virginia*. Up to 1.5 percent of the Mass Transit Fund may be allocated to special programs, including ride-sharing, experimental transit, and technical assistance. At least 73.5 percent of the Mass Transit Fund is reserved for distribution to transit properties based on the ratio of their operating expenses to total operating expenses. These moneys may be used to pay for fuel, lubricants, tires, and maintenance parts and supplies. The remaining 25 percent of the Mass Transit Fund is distributed for capital purposes, and part can be used to match federal money. State operating assistance has leveled off, while the percentage provided by the Mass Transit Fund for the local match of federal funds has dropped from 95 percent in 1988 to 26 percent in 1995. The joint subcommittee was informed that Hampton Roads receives 11 percent of state financial assistance for mass transit, while localities comprising Northern Virginia receive 76 percent.

Local System Budgets

As shown in Table 1, in 1994 the three transit systems in Hampton Roads received $6.7 million, or 22 percent of their operating budgets, from the Commonwealth. Local governments provided $7.6 million, or 24 percent of their operating budgets. Fares from riders and other operating income provided over $12 million, or 39 percent of their operating budgets.

TRT, Pentran, and JCCT employ 840 people, operate 286 buses and 126 paratransit vehicles, make nearly 15 million annual passenger trips, and travel almost 10 million service miles. The transit companies provide more than fixed route bus service; they offer paratransit services for disabled citizens, neighborhood bus service, trolley service, ride-sharing, passenger ferry service, and HOV express buses. In addition, Pentran provides bus services for public schools in the City of Hampton.

Local Transit Services

The director of program management at TRT informed the subcommittee that reliable transit services are vital to the region's economy. Sixty percent of all bus trips are work-related, and 75 percent of all passengers have no other means of transportation. With the recent changes to the Commonwealth's welfare program that stress bringing beneficiaries into the job market, the role of public transportation in getting people who do not have cars to and from their places of employment will be heightened.

Representatives of the transit providers identified several deficiencies in services. Budgetary constraints have limited the "handi-ride" service and service to jobs at major employment centers. There is no Sunday service in Hampton or Newport News, and many areas, including Virginia Beach, Chesapeake, Suffolk, York County, Poquoson, Gloucester, and James City County, are not served adequately if at all. Other deficiencies include the lack of integration of transportation resources and the lack of interconnection of tourism centers. Another deficiency is the lack of money for adequate marketing of the transit services.

The issue of public transportation in Hampton Roads is not limited to running bus companies. Other groups have been studying the viability of light rail and high speed rail projects in Hampton Roads, as well as a third crossing of the James. The local chamber of commerce, through its Plan 2007, has recognized the need for adequate transit services, and recognizes that it is a natural partner of the subcommittee in its work.

The executive director of Pentran noted that the transit providers have been forced to comply with federally mandated requirements, such as the Americans with Disabilities Act and the Clean Air Act, at the same time that federal operating funds have been slashed. They have met these challenges by increasing fares and finding economies in administration. A dedicated

Table 1: Sources of Operating Budgets of the Transit Systems Serving Hampton Roads, 1994

	TRT	Pentran	JCCT	Total
Federal	$3,467,946	$1,126,953	$181,570	$4,776,469
State	4,644,165	1,970,441	102,387	6,716,993
Local	4,752,410	2,798,077	79,182	7,629,669
Operating Income	8,082,116	3,890,039	82,023	12,054,178
Total	$20,946,637	$9,785,510	$445,162	$31,177,309

Source: Hampton Roads Planning District Commission.

source of regional funding is needed to maintain services and provide needed transit improvements. Portland, Oregon, Birmingham, Alabama, and Northern Virginia are places where reliable funding sources have been earmarked for public transportation.

Advisory Subcommittee

At the close of the meeting, the chair announced that she will appoint an advisory subcommittee of representatives from transportation professionals from local governments in the region. Localities were invited to submit nominations to Delegate Crittenden.

The Honorable Flora D. Crittenden, *Chair*
Legislative Services contact: Franklin D. Munyan

Coal Subcommittee of the Virginia Coal and Energy Commission

June 20, 1995, Roanoke

Coal Production Tax Credit

The Coal Subcommittee's third interim meeting focused on two issues related to the coal production tax credit authorized by Chapter 775 of the 1995 Acts of Assembly (HB 2575). The subcommittee discussed both the size of the tax credit and the provision of the bill that delays the application of the tax credit for several years after the credit is earned. The subcommittee also received a briefing on a Virginia Center for Coal and Energy Research (VCCER) study that is related to Chapter 775.

The subcommittee continued its examination of the tax credit size issue with an analysis of the fiscal effect that a larger credit would have on the Commonwealth. The associate director of the VCCER presented an estimate of the annual net cost to the Commonwealth of a tax credit large enough to provide $55 million per year to the coal industry. (The Virginia Coal Association has determined that $55 million is the approximate amount of tax credit that is necessary to enable the coal industry to sustain production and employment at 1994 levels until 2005. HB 2575, as originally introduced, would have provided about $55 million in tax credits.)

Two major factors would partially offset the gross cost of the tax credit to the state treasury. First, without the credit, decreasing coal production would result in a loss of tax revenue to the state, because fewer taxes would be paid by coal producers, their employees, and supporting industries. VCCER research indicates that for each dollar of loss in coal sales suffered by producers, state and local tax revenues decline by approximately $0.105. Second, the decline of the coal industry will cause the state to incur social costs such as unemployment compensation and welfare payments. A recent VCCER study estimates that for each million tons of coal production decline, 700 southwestern Virginia jobs are lost. However, it appears that the avoided social costs factor would have only minimal effect on the net cost of the tax credit compared to the avoided tax revenue loss factor.

The analysis concluded that the net cost would be $28 million less than the gross cost ($55 million) in the year 2000, and $34 million less than the gross cost in the year 2005. The analysis relied on a forecast prepared by a consultant for the Virginia Coal Association of the effect of a $55 million tax credit on coal production.

Port Study

The subcommittee was briefed on the study that the VCCER has contracted to perform for the Virginia Port Authority. The VCCER's work will help the Port Authority achieve the mandate set forth in Chapter 775 to report on the effect the coal production tax credit "has or will have on the export coal businesses at the Ports of Hampton Roads." The VCCER will first estimate the amount in tax credits that will be applied to mines producing export coal that is shipped through the port, and will then estimate the effect the credits will have on coal sales prices. Two parallel approaches, an econometric approach and an empirical approach, will be used in an attempt to project how the credits will influence coal production and its economic impacts. Both approaches are necessary because the relationship between price and production is complex. Fully accounting for all factors relevant to the relationship between tax credits and sales of coal within the time frame scheduled for the study may prove difficult.

The study will assess the effect the projected change in export tonnage would have on the businesses at the port and will also estimate statewide economic impacts of the credit. A draft report will be submitted to the Virginia Port Authority and other interested parties on September 1, and comments on the draft report will be considered in preparing a final report by December 1. The VCCER analysis will not take into account the provision of Chapter 775 that makes the availability of the tax credit contingent upon general fund revenue exceeding official estimates.

Subcommittee Action

The subcommittee agreed to formally request that the VCCER expand its study to assess the fiscal impacts not only of the tax credit in its present amount, but also in the amounts of $36 and $55 million. This information will be useful to the subcommittee in future discussions about raising the tax credit amount. The subcommittee also agreed to propose eliminating the provision of Chapter 775 that delays application of the tax credit until several years after the credit is earned.

The Honorable Jackson E. Reasor, *Chairman*
Legislative Services contact: Nicole R. Beyer

Energy Preparedness Subcommittee of the Virginia Coal and Energy Commission

June 12, 1995, Richmond

The Energy Preparedness Subcommittee of the Virginia Coal and Energy Commission met to discuss the future of programs providing home heating fuel and weatherization assistance to low-income individuals and families. The subcommittee examined provisions in federal law permitting the allocation of state-administered fuel assistance funds to home weatherization programs. The subcommittee requested that the executive branch agencies administering these programs develop plans to enable such allocation.

Programs

The Low Income Home Energy Assistance Program (LIHEAP) is a federally funded, state-administered program providing short-term home heating fuel assistance to low-income individuals and families—most with annual incomes under $8,000. LIHEAP is administered in Virginia by the Department of Social Services. During program year 1994-1995, the department paid out more than $21 million in LIHEAP benefits. The average benefit paid per household was $181.

The Weatherization Assistance Program (WAP), administered by the Department of Housing and Community Development, is principally funded by the U.S. Department of Energy. WAP is designed to reduce the energy costs of low-income households by weatherizing homes and providing essential repairs to heating systems. Its statewide budget in 1994-1995 was $4.7 million. A budget of $3.5 million is projected in 1995-1996.

Program Coordination

When this subcommittee met in 1994, several of its members suggested that WAP and LIHEAP should be better coordinated. They noted that individuals and families receiving fuel assistance benefits should have weatherized homes and heating systems in good repair. This would help reduce each home's heating costs while freeing up fuel assistance dollars for other eligible program participants. Some cooperation is currently taking place, as WAP weatherization subcontractors have assisted the LIHEAP program in responding to fuel crisis calls.

The issue of program coordination was addressed directly in the June 12 meeting. The subcommittee learned that the federal LIHEAP program permits up to 15 percent of LIHEAP funding to be spent on weatherization programs. An additional 10 percent may be spent on weatherization upon application to and approval by the program's federal administrators. Weatherization may be accomplished through WAP, but LIHEAP regulations do not require it.

A representative from the Department of Social Services advised the subcommittee that the most recent federal legislation reauthorizing LIHEAP amended the program's purpose statement to emphasize meeting short-term energy needs. WAP takes a longer view, recouping weatherization expenditures over time in energy savings. Thus, according to the Department of Social Services, "allocation of LIHEAP dollars to weatherization does not comply with the primary purpose of LIHEAP funding."

Also noted were practical and programmatic difficulties in allocating 15 percent of LIHEAP funding to weatherization. First, monitoring procedures will be needed to assure funds allocated to WAP are used in accordance with the rules issued by the U.S. Department of Health and Human Services. Since WAP is under the U.S. Department of Energy, the two programs are operating under different sets of federal rules and guidelines. Additionally, it was estimated that if 15 percent of the anticipated 1995 fiscal year grant is allocated to weatherization agencies, LIHEAP benefits will be reduced by 58 percent, or from an average $181 per household to $75.

Proponents of the weatherization program strongly advocate allocating LIHEAP funding to weatherization. A large number of WAP-eligible households go unserved each year because of WAP's declining funding—due largely to the depletion of oil-overcharge moneys that once provided a substantial amount of the program's funding. According to the Department of Housing and Community Development, a 15 percent LIHEAP allocation would nearly double the number of households weatherized each year.

The subcommittee requested that the Department of Social Services and the Department of Housing and Community Development develop a plan to allocate LIHEAP funding to weatherization. The agencies will provide an update to the subcommittee chairman to include in his subcommittee report to the full commission in August.

The Honorable James F. Almand, *Chairman*
Legislative Services contact: Arlen K. Bolstad

HJR 640: Joint Subcommittee Studying the Virginia Geographic Information Network

June 29, 1995, Richmond

During its initial meeting, the members of the Joint Subcommittee Studying the Virginia Geographic Information Network (VGIN) heard reports on the current status of VGIN and discussed two main issues: the scope and focus of the study and the selection of a technical advisory committee. In addition, the subcommittee heard a formal presentation from a consultant and comments and suggestions from other interested parties.

Status of VGIN

The subcommittee was briefed on the status of the VGIN proposal and on other geographic information systems (GIS) initiatives being conducted by state agencies. The 1994 budget appropriated $1.1 million in the first year and $300,000 in the second year to the Department of Planning and Budget (DPB) to begin phased implementation of a statewide shared geographic information network.

During 1995, DPB, in cooperation with the Virginia Department of Transportation (VDOT), acquired satellite imagery (1:24,000 scale) of the entire state. The 1995 General Assembly, however, eliminated the uncommitted balance ($879,000) of the first-year allocation and the entire second-year allocation to DPB for VGIN. The satellite imagery will move to VDOT, which will be able to supply the information set but must defer customer support to the private sector. VDOT is also proceeding with development of its GIS master plan, which is in accord with VGIN's recommended 1:12,000 scale but does not include VGIN's recommended non-transportation layers.

Scope of Study

According to the language of HJR 640, the subcommittee is to (i) "conduct a market analysis and financial feasibility study" for establishing and maintaining VGIN and (ii) examine the possibility of establishing a "separate organization, such as a private foundation or authority, to promote the efficient and economical use of VGIN data."

Much of the discussion among the members of the subcommittee, and the comments of various speakers, focused on a central question, which remains unresolved. Should the subcommittee devote its efforts during 1995 to the creation of this separate organization, or "entity," and then charge this entity with conducting the market analysis and other actions needed to create and maintain a viable geographic information network? Or, as several speakers suggested, should the subcommittee itself, using the $100,000 allocated to DPB to conduct the VGIN study, contract with the appropriate firms to conduct the market analysis and financial feasibility study?

Several members and speakers expressed doubt that an adequate market analysis could be conducted within the $100,000 budget. Others, however, most prominently the consulting group that presented its proposal, stated that a complete market analysis, financial feasibility study, and privatization study could be successfully completed without exceeding the subcommittee's budget. The central question — whether the subcommittee should involve itself in marketing or should focus instead on creating an entity to do so — remains open.

Technical Advisory Committee

HJR 640 also directs the joint subcommittee to seek technical assistance from an advisory committee, composed of representatives of the private sector, the Commonwealth's universities, the press, and regional and local governments. The selection of this technical advisory committee sparked extensive discussion, resolved finally by a decision to allow nominations from interested parties until July 10, 1995. At that time, an ad-hoc subcommittee will select the members of the advisory committee, subject to the limitations of HJR 640.

Future Meetings

The joint subcommittee established a schedule of meetings for the year, beginning with a meeting in Richmond on August 8 at 9:30 a.m. The remainder of the schedule: September 7 at 1:00 p.m.; October 5 at 10:00 a.m.; November 10 at 10:00 a.m.; and December 13 at 10:00 a.m. The October meeting is tentatively scheduled for Northern Virginia; the remaining meetings will be in Richmond.

The Honorable W. Tayloe Murphy, Jr., *Chairman*
Legislative Services contact: Ken Patterson

HJR 410: Clean Fuels Study Subcommittee

June 5, 1995, Richmond

Chairman Giesen began the meeting by calling the members' attention to an article ("Electric Avenue: The Myth of 'Zero-Emission' Vehicles," by Michael McKenna, presently employed with the Virginia Department of Environmental Quality) in the May 29, 1995, issue of *National Review*. The article derides the "myth" of electric-powered vehicles as a solution to America's air pollution difficulties. Chairman Giesen provided the members with a draft letter to the editors of *National Review* in which he took issue with several points in Mr. McKenna's article—written before his employment with the Department of Environmental Quality (DEQ)—and with the magazine's attempts to link these views to DEQ. The article, in the Chairman's view, was based on outdated data and employed an emotional tone more appropriate to editorials than to informational articles.

Alternative Fuels Project

A Virginia Department of Transportation (VDOT) representative briefed the subcommittee on the status of VDOT's alternative fuels pilot project. Although the operation phase of the project has been completed and some results can be reported, a final report has not yet been prepared. VDOT dynamometer tests showed that gasoline-powered test vehicles have 70 percent greater power than comparable test vehicles powered by compressed natural gas (CNG). Similar dynamometer tests done by a private contractor showed a 60 percent power disparity, while

the company that converted the vehicles to CNG power claimed its tests showed only a 20 percent difference. Emissions tests showed that both the gasoline and CNG vehicles produced emissions considerably below EPA standards for 1994, with emissions from the CNG vehicles being lower for all gas components of the standard. Unfortunately, the results of VDOT's tests will probably prove only marginally useful because of considerable improvements in alternative fuel technology that occurred while the tests were in progress. Regardless of the final results of the tests, federal law will require that minimum percentages of state-owned vehicle fleets consist of alternatively fueled vehicles.

Revolving Fund

The Virginia Alternative Fuels Revolving Fund (VAFRF) is administered by VDOT. For fiscal year 1995, 22 applications have been received from 11 localities, four colleges, one state agency, and four public authorities. Total requests amounted to $2,279,910, with matching funds of $3,183,577, for a total of $5,463,487 in projects. As a share of total project funds actually awarded, 55 percent went to Northern Virginia, 22 percent to Hampton Roads, 13 percent to Greater Richmond, and 10 percent to the rest of the state. These grants will convert 95 vehicles and also help create an alternative fuel infrastructure. Of these projects, 79 percent involve compressed natural gas, 14 percent involve liquefied petroleum gas, and 7 percent involve electricity. The 1995 General Assembly, it was noted, provided $750,000 in new funds for VAFRF.

School Buses

The increasing use of alternatively fueled school buses by Virginia public school systems was discussed by representatives of the Virginia Department of Education and the Fairfax County and Virginia Beach Public Schools. Fairfax County now has 49 CNG vehicles in their vehicle fleet, 23 of them school buses. The county has found that CNG buses accelerate slower than comparable diesel buses, have more limited range, and have higher purchase prices. The cost of CNG, however, remains lower than the cost of diesel fuel. Both Fairfax County and Virginia Beach observed that their acquisition of CNG buses has been complicated by rapidly changing technology. Because of changes in technology, equipment, and vendors, Virginia Beach has no CNG-powered school buses, even though the decision to acquire such buses was made more than a year ago.

Motor Vehicle Inspection

Virginia and the federal Environmental Protection Agency are still negotiating over an enhanced motor vehicle emissions inspection and maintenance program for Northern Virginia. However, actions already taken by Virginia may be sufficient to prevent the imposition of federal sanctions under the Clean Air Act Amendments of 1990.

Scrappage Program

The General Assembly established the Virginia motor vehicle scrappage program in 1993. The law's lack of flexibility as to the age and condition of vehicles eligible for the program, the amount of bounty for scrapped vehicles, the requirement that vehicles in the program be actually scrapped (rather than repaired), and the requirement that the program's operating fund have a balance of at least $1 million before the program begins operations are creating problems for those attempting to implement the program. The subcommittee was urged, in the course of the year's deliberations, to consider revising the scrappage program to take these and other allied difficulties into consideration.

Personal Property Tax

At the suggestion of Delegate Mayer, staff was directed to look into the proposition that Virginia's local personal property tax on motor vehicles represents a significant disincentive to improvements in air quality by discouraging the replacement of older (and presumably dirtier) motor vehicles with newer (and presumably cleaner) ones.

Next Meeting

The subcommittee will next meet on August 2, 1995, at 1:30 p.m., in House Room C of the General Assembly Building in Richmond.

The Honorable Arthur R. Giesen, Jr., *Chairman*
Legislative Services contact: Alan B. Wambold

Joint Commission on Health Care

May 22, 1995, Richmond

The May 22nd meeting of the Joint Commission on Health Care was devoted to presentations on two of the studies being conducted this year on telemedicine and funding for poison control services.

HJR 455: Telemedicine

HJR 455 (1995) directed the joint commission, in consultation with the Council on Information Management and the Department of Information Technology, to evaluate the use of telemedicine to provide better, more accessible health care to the citizens of the Commonwealth. The briefing included presentation of a draft issue brief by staff and testimony from a panel of experts on telemedicine and telecommunications technology. The proceedings highlighted the potential of telemedicine as a tool for improving medical practice in general and rural health care in particular.

Telemedicine, simply put, is the use of telecommunications technology to deliver health care services and health professions education to sites that are distant from the host site or educator. Although telemedicine is often thought of as futuristic, many telemedicine applications have been commonplace for years, including computer-based searches of the medical literature; medical management using electronic patient records; video-conferencing for health professions education; medical consultation via telephone, facsimile, or computer; remote interpretation of diagnostic test results; and medical diagnosis and consultation via interactive television (IATV).

The Potential of IATV

Of all the potential applications, IATV telemedicine is drawing the most attention. The joint commission invited a physician from the University of Virginia to present an example of an actual IATV telemedicine consultation with a patient at Rockingham Memorial Hospital. The consultation involved the physician, located in a telecommunications center at the University, and a young pediatric patient, his mother, and a local provider located in an examination room at Rockingham Memorial. Those involved could see and hear one another via two-way interactive television, and the physician was able to visually examine the baby, speak with the mother, and view a live ultrasound test over a separate video monitor.

Examples such as this have raised enthusiasm about the potential of telemedicine to improve rural health care. Rural patients could benefit from telemedicine systems that allow convenient access to consulting specialists at distant facilities. To the extent that telemedicine plays a role in improving the practice environment for primary care providers, rural citizens could also benefit from a better supply of primary care providers. Rural communities could also benefit from a revitalization of local hospitals as a result of telemedicine.

As a result, there has been a spurt of research and demonstration projects aimed at developing the potential of telemedicine. Federal and state investment in telemedicine projects is expected to exceed $100 million during 1994-1995. Numerous federal agencies are providing support for research and demonstration projects to test the cost-effectiveness of telemedicine applications. More than a dozen states are providing legislative or financial support for telemedicine research as well as the telecommunications infrastructure that makes telemedicine possible.

The recognized leader in telemedicine among the states is Georgia. The director of the Georgia Telemedicine Center at the Medical College of Georgia provided an overview of Georgia's approach. With the help of $8 million in state non-general funds, the telemedicine center has established a statewide telemedicine network linking 59 publicly funded health care and correctional facilities across the state. The major aims of the project are to extend access to high quality health care to Georgia's rural areas and to provide support to rural providers in need of continuing education and consultative support. The network allows patients, health care providers, and educators at the 59 sites to communicate via live two-way video. Specialty consultations and educational programs are provided through the network.

Virginia Projects

Virginia, like most states, has not adopted a statewide strategy for telemedicine. However, Virginia providers have been active in seeking federal and private funding for telemedicine research and demonstration projects. Several examples, representing a cross-section of Virginia telemedicine projects, were provided. They included projects at the University of Virginia Health Services Center, VCU/MCV, the Southwestern Virginia Mental Health Institute, and the Virginia Department of Health.

Unresolved IATV Issues

There are several issues that must be resolved before IATV telemedicine can evolve from the experimental stage to accepted practice.

Provider Acceptance of IATV Telemedicine. First and foremost, IATV telemedicine must be accepted by providers as a safe and economical vehicle for health care delivery. Standards of quality must be agreed upon to assure excellent patient care and accepted definitions of malpractice. From an economic standpoint, providers must be assured that IATV telemedicine will be used to support their practice by allowing them to continue treating patients, as opposed to being used as a vehicle to attract patients to the consulting facility.

Uncertain Economics of Serving the Uninsured. A related issue is the economic impact of IATV telemedicine on consulting medical centers and rural providers. Simply put, a patient day gained by the rural hospital as a result of telemedicine could mean a patient day lost by the consulting institution. This could make sound economic sense if the two providers are jointly participating in a managed care network, and therefore share a financial incentive to deliver the care in the most cost-effective fashion, or if the consulting institution stands to gain from an exclusive or nearly exclusive referral arrangement with the rural provider. However, if the patient does not have health coverage, the economics of telemedicine are significantly different. This makes it difficult to conduct a definitive cost-benefit analysis of telemedicine.

Third-Party Reimbursement. Third party payers must agree to pay for IATV telemedicine services if these services are to be widely used. Right now, third party payers are generally hesitant to pay for IATV telemedicine services due to uncertainty about standards of quality and which types of services should be covered. In other states, Medicare, Medicaid, and private payers are conducting experiments to evaluate the cost-effectiveness of telemedicine services. Within the Commonwealth, Virginia Medicaid and the Department of Corrections are preparing for their own experiments. The results of these pilot studies will have a major influence on the future viability of IATV telemedicine.

Telecommunications Systems. If telemedicine is to improve rural health care, rural providers must have access to adequate telecommunications systems. Providers interested in participating in IATV telemedicine services must have access to an advanced telecommunications system so that medical information can be sent from site to site at an acceptable level of speed, quality, and price. These systems involve on-site equipment, a telecommunications infrastructure or "highway" to carry information over long distances, and a telecommunications link between the health care facility and the telecommunications infrastructure, or "last mile coverage." Currently, it appears that Virginia has an adequate telecommunications infrastructure to support telemedicine. However, the cost of on-site equipment, the cost of last mile coverage, and telecommunications industry regulations are perceived as problems for rural providers.

These issues may be at least partly addressed by the Information Technology Infrastructure Initiative, established by Executive Memorandum 1-95. The purpose of this initiative is to "... bring focus, coordination and new energy to Virginia's statewide information technology infrastructure and to further promote the establishment of a modern, state-of-the-art telecommunications and information technology network, fully utilized by state agencies and institutions as well as local governments and the public."

The Council on Information Management (CIM) and the Department of Information Technology (DIT) are currently providing support to this initiative. These two agencies consulted with the joint commission during the course of the HJR 455 study, and their respective directors participated in the panel discussion at the May 22 meeting. Also, recent state legislation allowing competition for local telephone service beginning in 1996 might also create a more competitive environment for telemedicine telecommunications rates.

Options for Supporting Telemedicine

Telemedicine has value to the extent that it addresses needs for better access, quality, or cost-effectiveness; it is not an end in itself. If telemedicine is to be used effectively, it must be tailored to meet the needs of rural communities and the providers who deliver care. Furthermore, while much of the popular debate over telemedicine is focused on high-end applications involving IATV imaging, educational and other low-end telemedicine applications are also very important. In this context, several options were presented to the joint commission, ranging from maintaining the status quo to requesting that various state agencies develop policies, extend services, and support telemedicine projects.

Organizing and Funding Poison Control Services

In Virginia and across the country, poison control centers are at risk of closure. As competition in the health care marketplace intensifies, and hospitals look to lower their costs to remain competitive, poison centers, which have historically been subsidized by hospital revenues, are increasingly finding themselves a target of cost-cutting measures.

The General Assembly appropriated general funds in 1994 and 1995 to help support two of the three poison control centers serving Virginians: the National Capital Poison Center in Washington, D.C., and the Virginia Poison Center at VCU/MCV. (The third center is the Blue Ridge Poison Center at the University of Virginia Medical Center.) However, in view of the continuing funding difficulties faced by Virginia's three poison control centers, language was included in the 1995 Appropriations Act directing the joint commission to develop recommendations regarding the consolidation of the state's three centers into one statewide center and to recommend legislation or other actions required to find sources of support, other than the general fund, to fund the poison control center.

Poison control services generally are described as including three main components: (i) 24-hour emergency consultations provided through a toll-free telephone service for poisoning victims; (ii) training of health care providers in toxicology and the appropriate medical management of poisonings; and (iii) public education and information about preventing accidental poisonings and contacting poison control services in an emergency.

Poison control services are cost effective because in most cases poisonings can be handled appropriately over the telephone without the patient having to access more expensive components of the health care system. Inasmuch as the vast majority of poisonings (71.5 percent) are handled at the caller's site without the involvement of a health care facility or other provider, researchers estimate that poison control services save between $4 and $9 for every dollar spent on these services.

In Virginia, all three poison centers are wrestling with funding shortages as their host hospitals look for ways to reduce their costs in order to survive in the health care marketplace. The National Capital Poison Center has faced potential closure more than once in the past two years and continually struggles to find adequate funding. According to the Blue Ridge Poison Center, the University of Virginia Medical Center, which provides all of its financial support, has informed the center that it will discontinue its support effective July 1, 1996. Without new sources of funding, the center will be forced to close. While VCU/MCV has not identified a specific date at which time it will discontinue its support, it has stated clearly that it cannot continue to support the Virginia Poison Center at its current level.

Options for Supporting Poison Control Services

Four policy options regarding the consolidation of the three centers into one statewide center were presented to the joint commission for consideration. The first option would be to maintain the existing number and location of the poison control centers. The second option would consolidate the operations of all three poison centers into one statewide center located either

at the University of Virginia Medical Center or VCU/MCV, and would direct the Board of Health to determine the location of the statewide center. (Senate Bill 1116, which was passed by the 1995 General Assembly requires the Board of Health to establish and operate a statewide poison control system.) The third option would be the same as Option 2 except that the National Capital Poison Center would continue to serve the Northern Virginia area. The fourth option would consolidate appropriations under the Department of Health and leave decisions regarding the most appropriate number and location of the poison centers to the Board of Health, pursuant to SB 1116.

A number of alternatives were identified as possible sources of funding for poison control services, each with advantages and disadvantages. Funding for poison control services could include one or a combination of (i) fee-based, "900" telephone service, (ii) telephone surcharges, (iii) assessment on accident and sickness insurance premiums, (iv) hospital assessments/charges for emergency room visits, (v) professional practice license fees, (vi) add on to "Two for Life" funding, (vii) redirect federal block grant funding, (viii) medicaid funding, (ix) donations, corporate sponsors, and fund-raising revenue, and (x) general fund.

Public Comment

As with each of the studies conducted by the Joint Commission on Health Care, a "Draft Issue Brief" was prepared by staff for both telemedicine and poison control and distributed to interested parties. The issue brief contains a full analysis of the key issues regarding poison control services and includes information on how these services are provided and funded in other states. Public comments on the issue brief are requested and encouraged by the joint commission. Members desiring a copy of the issue brief may contact the staff at (804) 786-5445.

The joint commission usually meets on the fourth Monday of each month, except during the General Assembly Session, in Senate Room A at 9:30 a.m. A summary of the public comments on these issues will be presented to the joint commission at its July 24 meeting.

The Honorable Jay W. DeBoer, *Chairman*
Staff contact: Jane Norwood Kusiak

HJR 502: Joint Subcommittee Studying the Child Protective Services System in Virginia

May 30, 1995, Richmond

HJR 502 and HJR 481

HJR 502 directs the joint subcommittee to study (i) the adequacy of investigatory training received by child protective services caseworkers, (ii) the categories of child abuse complaint dispositions, (iii) access to and use of the central registry, (iv) the child protective services appeals process, (v) proper procedures for editing investigative reports given to appellants, (vi) the rights of child protective services' appellants to present supporting witnesses and documents, and (vii) the implementation of recommendations of the State Department of Social Services' November 1994 study of the child protective services appeals process.

HJR 481 directs the joint to examine the use of false allegations of abuse to obtain child custody. The subcommittee is to determine the extent of the problem and propose deterrents to and sanctions for the use of false allegations of abuse. The subcommittee reviewed a letter from a father who detailed how false accusations of child abuse by an ex-wife damaged his life and his relationship with his child.

The commissioner of the State Department of Social Services explained the process whereby child abuse reports are investigated by the 124 local departments of social services. In fiscal year 1994, 34,226 complaints were investigated and 6,560 were determined to be founded, involving 9,993 children. Of these children 2,331 were placed outside of their homes as a result of the investigation, and 27 children, all of whom were under age 6, died as a result of abuse or neglect.

HB 465

HB 465 (1995) amends the child protective services appeals process. Moreover, the Virginia Court of Appeals has ruled that the state department does not have the statutory authority to make a determination of "reason to suspect" and, as a result, local departments have been directed to stop making that finding. The state department has purged the central registry of all identifying information associated with the reason-to-suspect disposition and has instructed local departments to purge their physical records.

1995 Work Plan

The subcommittee expressed its desire to work closely with the State Board of Social Services, which is undertaking a comprehensive review of CPS regulations to ensure that they are in

keeping with the board's guiding principles of honoring and supporting family life and eliminating the unwarranted intrusion of government into the lives of the citizens of the Commonwealth, while effectively protecting vulnerable children and those unable to work.

The subcommittee asked for additional information on training for CPS workers, the trend in CPS complaints over the past 8-10 years, and the history of choosing "clear and convincing" versus "preponderance" as the standard for founded cases.

The subcommittee scheduled public hearings on July 26 in Norfolk and August 21 in Richmond.

The Honorable Alan E. Mayer, *Chairman*
Legislative Services contact: Jessica F. Bolecek

SJR 385: Joint Subcommittee to Study Means of Improving the Efficiency of the Tort Reparations System

July 6, 1995, Richmond

SJR 385

SJR 385 calls upon the subcommittee to study alternative means for encouraging the early settlement of tort cases, particularly the efficacy of Rule 4:13 of the Rules of the Virginia Supreme Court and "offer-of-settlement statutes" in effect in the federal court system and several other states. Subcommittee staff gave a presentation on the history of Rule 4:13 and on the various offer-of-settlement proposals considered in Virginia and used in other states.

Rule 4:13

Rule 4:13 allows a trial court to hold a pretrial conference with the attorneys for the parties in a civil case. The purpose of the rule, as expressed in case law, is to allow the court to consider matters that will aid the court in identifying the issues, thereby, it is hoped, speeding up the progress of the litigation. These issues include such things as limitations on the scope, methods, and time for discovery and on the number of expert witnesses and the feasibility of using admissions of fact.

In discussing Rule 4:13, the subcommittee focused on the fact that the process is voluntary. A suggested method of encouraging early settlement would be to require a pretrial conference upon request of a party. Because under the suggested revision of the rule it would be necessary to hear the facts at the pretrial conference, it was further suggested that a different judge be used for the conference and the trial. The subcommittee agreed to look into this suggestion further, noting that the timing of the request for the conference would be critical to ensuring that the new rule would work effectively. Staff will provide the subcommittee with additional data on other state statutes and rules providing for pre-trial conferences for the next meeting.

Offer of Settlement

A chart of state offer-of-settlement statutes was presented by staff and discussed by the subcommittee. Forty-two states currently have some form of offer-of-settlement statute. The majority are based upon Federal Rule 68. Under the Rule 68-type statute or rule, the defendant may make an offer to settle prior to trial. If the offer is not accepted within a certain time after it is made and if the plaintiff does not recover more than the offered amount, the defendant's costs incurred after the offer was made are assessed against the plaintiff.

Delegate Cohen pointed out that while in the minority generally, Virginia is in the majority with regard to states that continue to adhere to the doctrine of contributory negligence as an absolute defense. In contributory negligence states it was felt that an offer-of-settlement rule would place too great a burden on a plaintiff trying to fairly evaluate his or her own case. If an offer to settle is made, the pressure to accept is overwhelming. If the offer to settle is rejected, plaintiff must be prepared to pay costs if the amount recovered is not as great as that offered or to lose it all and pay costs if the jury finds the plaintiff to have been only slightly at fault (i.e., guilty of contributory negligence).

Issues to be Considered

Following a lengthy discussion, the subcommittee determined that additional data would be helpful. At its next meeting the subcommittee will review data showing how the offer-of-settlement rule works in the federal court system in the contributory negligence jurisdictions (e.g., Washington, D.C., Maryland) and in those contributory negligence jurisdictions that have adopted offer-of-settlement (e.g., North Carolina). Additionally, the subcommittee has asked to hear from the various bar groups and associations representing plaintiffs and defendants and from the insurance industry regarding the effects of abolishing contributory negligence in Virginia.

The subcommittee will also be seeking additional information on mediation. It was noted that offer-of-settlement proposals are actually a disincentive to trial, rather than an incentive to settle. Mediation projects underway across the state have shown mediation to be an effective tool in encouraging settlements. The subcommittee will look at how mediation, as a voluntary process, might be more effectively used to encourage earlier settlements.

The joint subcommittee will meet again at 10 a.m. on September 6.

The Honorable Kenneth W. Stolle, *Chairman*
Legislative Services contact: Mary P. Devine

HJR 643: Study of Design-Build and Construction Management Contracts

July 11, 1995, Richmond

The Joint General Laws Subcommittee Studying the Effect of Authorizing Design-Build and Construction Management Contracts for Public Bodies held its organizational meeting to consider its charge under HJR 643, which directs the subcommittee to study the effect of authorizing design-build and construction management contracts for public bodies. The resolution also directs the joint subcommittee to examine the effect of authorizing public bodies other than the Commonwealth to enter into contracts for construction projects on a fixed-price, design-build basis or construction management basis.

"Design-build contract" means a contract between a public body and another party in which the party contracting with the public body agrees to both design and build the structure, roadway or other item specified in the contract. "Construction management contract" means a contract in which a party is retained by the owner to coordinate and administer contracts for construction services for the benefit of the owner and may also include, if provided in the contract, the furnishing of construction services to the owner.

Public Procurement Act

The subcommittee received the legislative history and an overview of the Virginia Public Procurement Act (§§ 11-35 et seq.) by staff, including a review of the underlying principles that serve as the basis for the act and the method by which goods, services, and construction are obtained by the public bodies that fall under its provisions. Briefly stated, the Virginia Public Procurement Act (VPPA) seeks to ensure that (i) public bodies obtain high quality goods and services at reasonable costs, (ii) public procurement is administered in a fair and impartial manner, and (iii) qualified vendors have access to the public's business.

Section 11-41 provides that all public contracts with nongovernmental contractors for the purchase or lease of goods, or for the purchase of services or construction, shall be awarded after competitive sealed bidding, or competitive negotiation, unless otherwise provided by law. Exceptions are made for (i) emergency circumstances, (ii) where a determination has been made in writing that there is only one practicable source available for what is to be purchased (sole source exception), and (iii) small purchases not expected to exceed $15,000.

Competitive Negotiation

The procurement of construction is required by §11-41 to be conducted using competitive sealed bidding, except that competitive negotiation may be used in the following instances upon an advance written determination by a public body that competitive sealed bidding is not practicable.

1. By the Commonwealth on a design-build basis or construction management basis;
2. By any public body for the alteration, repair, renovation, or demolition of buildings when the contract is not expected to exceed $500,000;
3. By any public body for "earth work" (highway construction, draining, dredging, excavation); or
4. As otherwise provided in §11-41.2:1 (design-build for public bodies other than the Commonwealth).

Currently, the Commonwealth and its departments, agencies, and institutions are authorized to enter into contracts on a fixed-price, design-build basis or construction management basis. Under this section, a two-step competitive negotiation process is required: (i) offerors submit qualifications and (ii) no more than five qualified offerors are requested to submit proposals. Use of design-build contracts is limited to those types of construction projects designated in procedures adopted by the Secretary of Administration. The rationale behind the Commonwealth's design-build authority is that state government has a wealth of resources and staff to double-check the state's position as the contract goes forward.

Localities' Authority

Effective July 1, 1987, §11-41.2:1 grants authority to specific localities to enter into contracts on a fixed-price or not-to-exceed price design-build basis or construction management basis in accordance with procedures consistent with those described in the VPPA for the procurement of nonprofessional services through competitive negotiation. The governing body may authorize payment to no more than three responsive bidders who are not awarded the design-build contract if the governing body determines that such payment is necessary to promote competition. The governing body is not required to award a design-build contract to the lowest bidder, but may consider price as one factor in evaluating the proposals received. Since 1987, 24 grants of design-build authority have been authorized by the General Assembly.

Issues

The subcommittee identified the following questions, the answers to which would assist it in its deliberations.

1. What is the status of each of the 24 exceptions currently contained in §11-41.2:1?
2. Are design-build or construction management contracts currently being entered into by localities without the requisite statutory authority?
3. Are localities getting quality construction for the money they spend?
4. Do design-build or construction management contracts provide a greater opportunity for corruption since the contract does

not have to be awarded to the lowest responsive and responsible bidder?
5. Are the interests of the local public body adequately protected under design-build or construction management contracts since the architect/engineer is hired by the general contractor?
6. Do design-build or construction management contracts actually save time and money when compared with the standard procurement process?
7. Do other states have a design-build or construction management exceptions for nonstate entities? If so, how are they different? How are they the same?
8. In a design-build contract, to whom does the design ultimately belong—the public body or the architect or engineer who designed the project?

The subcommittee contemplated that they would have at least two additional meetings with a final work session to draft legislation if necessary. The next meeting of the joint subcommittee has been tentatively set for the end of August.

The Honorable Clifton A. Woodrum, *Chairman*
Legislative Services contact: Maria J.K. Everett

SJR 366: Joint Subcommittee Studying Taxation of Equipment of Motor Carriers

June 15, 1995, Richmond

The initial meeting of the joint subcommittee featured an overview of the current system of taxing the equipment of motor carriers in the Commonwealth, including recent changes in state and federal law that have necessitated a review of that system. The members of the subcommittee were also briefed on several issues of concern to the trucking industry.

Taxation of Trucking Equipment

Motor carrier equipment "normally garaged, docked or parked" in Virginia is subject to the local tangible personal property tax. The valuation of property is performed by the local commissioner of revenue, who is required by statute to value trucks of greater than two tons by means of either a recognized pricing guide using the lowest value specified in the guide or as a percentage of original cost. The lack of uniform statewide tax rates, methods of assessment, and determination of the taxable situs of motor carrier equipment can create administrative burdens to companies with trucks based in different localities.

The Code provides a mechanism for apportionment of personal property tax on motor vehicles operated over interstate routes in the rendition of a common, contract or other private carrier service. Differing interpretations by jurisdictions of the provisions for apportioning property taxes on interstate vehicles was reported to increase the difficulty of compliance.

Until this year, trucking equipment (exclusive of that which is subject to the rolling stock tax) has generally been taxed at the rate at which other types of motor vehicles are taxed. The 1995 Session of the General Assembly enacted Senate Bill 898, which creates a separate classification for "motor vehicles owned or used by a motor carrier as defined in §56-273, and motor carrier transportation property as defined in 49 U.S.C. §11503a (a) (3), exclusive of rolling stock of a certified motor carrier." The maximum rate of personal property tax that may be levied on property in this class is the rate applicable to machinery and tools.

This legislation was prompted by an opinion of the Attorney General that a county's practice of assessing personal property tax on motor transportation property at a tax rate that exceeds the local machinery and tools tax rate contravenes §11503a (b) (3) of the federal Interstate Commerce Act. This federal law prohibits discrimination against motor carrier transportation property as compared with other commercial and industrial property generally. The Attorney General noted that tangible personal property classified as "machinery and tools" under §58.1-3507 (A) is encompassed within the broad definition of "commercial and industrial property" in §11503a (a) (4).

The tax rate on machinery and tools may not be higher than that imposed on other classes of tangible personal property. The effective tax rates in the first year of assessment ranges in cities from $3.77 in Alexandria to $.18 in Norton, and in counties from $3.66 in Fairfax to $.10 in Highland. The net effect of SB 898 will be to lower the rate at which trucking equipment is taxed in many localities.

Another development that is changing the way Virginia taxes trucking equipment is amendments to the Interstate Commerce Act that, effective January 1, 1995, prohibit state economic regulation of intrastate trucking. Consequently, the State Corporation Commission (SCC) can no longer issue certificates of public convenience and necessity to trucking companies other than those moving household goods. As a result, the property of motor carriers is no longer eligible for taxation under the rolling stock tax. The SCC had been administering the rolling stock tax on certified motor vehicle carriers at the rate of $1 per $100 of assessed value. The tax collected by the SCC is distributed among counties, cities, and towns in the Commonwealth based on the number of miles traveled within the locality. The SCC certified $868,869 in 1994 and $1,066,495 in 1995 for distribution to localities.

The equipment of trucking companies that had been subject to the rolling stock tax will become subject to taxation by local governments at the machinery and tools rate. The rolling stock tax rate of $1 per $100 of assessed value is lower than the initial effective machinery and tools tax rate in many Virginia localities. The net effect may be an increase in the property tax rate on the equipment of these larger carriers. This change effects the 12 largest trucking companies in Virginia. In addition to the change

in the rate of taxation, the elimination of motor carrier equipment from taxation under the rolling stock tax may increase the administrative burden on trucking companies with trucks based in several localities.

According to information supplied by the American Trucking Association Foundation, 26 states do not impose a property tax on commercial motor vehicles. The foundation has estimated that the property tax on an $80,000 tractor and semi-trailer in Virginia would be $2,153, which burden is the fifth highest in the country.

Titling and Registration of Trucks and Trailers

Virginia levies a titling tax at the rate of three percent of the sales price of a motor vehicle, trailer, or semitrailer at the time it is initially titled in Virginia. For comparison, Maryland, West Virginia and Tennessee do not impose a sales and use tax on certain commercial motor vehicles, and North Carolina has established a cap on the titling tax of $1,000. According to the Virginia Trucking Association, this difference is causing trucking companies to title vehicles in adjacent states.

The owner of any motor vehicle, trailer, or semitrailer is required to register with the Department of Motor Vehicles. Registration is generally required annually; however, Virginia currently offers a five-year trailer registration for fleets of 50 or more trailers. DMV issues registrants either an intrastate license plate or an International Registration Plan (IRP) plate. The International Registration Plan allows motor carriers to register their equipment in almost any state, and the registration fees for the equipment are apportioned among the states in which the vehicle will travel based on miles traveled.

The registration fee in Virginia for "for hire" carriers is based on the gross weight when loaded to maximum capacity. The fee for vehicles of 76,001 to 80,000 pounds gross weight is $15 per 1,000 pounds. The fee for the registration card and license plate for a combination tractor and semitrailer is $22. Thus, the cost of registering an 80,000-pound five-axle tractor and semitrailer in Virginia would be $1,222. This is slightly less than the nationwide average cost for registration and weight fees on such a vehicle of $1,257.

Fuel Taxes

In addition to taxing equipment, Virginia also taxes the fuel consumed by trucking equipment. The DMV is responsible for collecting tax on diesel fuel at the rate of 16 cents per gallon. Motor carriers that purchase all of their fuel from fuel retailers do not have contact with DMV regarding this tax because it is assessed and collected at the wholesaler level. The tax is passed on to the motor carrier in the purchase price of the fuel at the pump.

The motor fuel road tax is a separate tax assessed against motor carriers of property. This tax had been administered by the SCC. However, SB 882 of the 1995 Session, among other things, transferred responsibility for this tax from the SCC to DMV effective January 1, 1996. The road tax rate is 19.5 cents per gallon on fuel consumed in the Commonwealth. However, the carrier receives a credit of 16 cents per gallon (which is the amount of the fuel tax on diesel), for a net road tax liability on Virginia-purchased fuel of 3.5 cents per gallon. The statewide tax on diesel fuel of 19.5 cents per gallon in Virginia is slightly less than the national average of 20.28 cents.

Perspective of Virginia's Trucking Industry

According to the Virginia Trucking Association, the state's trucking industry encompasses 6,000 businesses employing 190,000 Virginians with an annual payroll of $6 billion. The Commonwealth's system of taxing the equipment of motor carriers, however, is allegedly creating a disincentive for Virginia's trucking companies to base their vehicles here. Recent changes in the regulatory environment, including federally mandated deregulation and implementation of the International Fuel Tax Agreement, have increased competition within the trucking industry. They have also given companies greater freedom in deciding where to base their vehicles and operations. As a result, trucks previously based in Virginia may be registered in other states that are perceived as having a less-burdensome tax system.

Two themes recurred in the comments of the industry's spokesman. First, the burden of complying with the tax system was mentioned at least as often as the amount of the taxes levied. Measures such as the rolling stock tax, which requires a company to deal with one state agency rather than many localities, and the permanent license plate, which eliminates the need to track down trailers to affix renewal decals, were praised. Second, reducing the taxes on motor carrier equipment may increase state and local revenue by reversing the trend toward basing vehicles in other jurisdictions. New Jersey, for example, in 1990 eliminated its sales tax exemption for trucking equipment. As a result, truck sales fell by 93 percent and tax collections failed to meet expectations. The sales tax exemption was reinstated less than five months after its repeal.

Surveys of Trucking Companies and Local Governments

In response to inquiries by members of the subcommittee, the Virginia Trucking Association will survey its members on the extent that tractors and trailers are being based in other states to reduce tax liability. The subcommittee will also review the impact on the revenues collected by localities of repealing the rolling stock tax for trucking companies and capping the property tax on their equipment at the machinery and tools rate. The members acknowledged that the study resolution directs that any recommended changes in the system of taxing the equipment of motor carriers be revenue neutral to the greatest extent possible. The subcommittee will receive the results of these surveys at its next meeting.

The Honorable Charles L. Waddell, *Chairman*
Legislative Services contact: Franklin D. Munyan

HJR 451: A.L. Philpott Southside Economic Development Commission

June 1, 1995, Chatham

The primary focus of the commission's meeting was the Lake Gaston Pipeline Project. Since the commission's May 12 meeting, Chairman Clement had sent letters to legislators representing those areas outside the Virginia Beach/Norfolk area, describing the negative impact the proposed pipeline would have on the future of Southside Virginia. Similar correspondence was mailed to over 100 environmental groups as well as a number of chambers of commerce.

Pipeline Association

An unincorporated association, "Fair Play for All Virginia," has been formed to allow citizens and local governments to participate in fundraising for efforts to combat the pipeline project. A representative of the new association described six principles that should govern inter-basin transfer policy:

- Water should be taken from areas only to the extent that the sacrificing areas have surplus.
- The taking areas should only take the amount of water they need after maximizing the use of all available water resources in their home regions.
- The taking areas should fairly compensate the sacrificing areas for the water they are taking, including the direct costs to localities and businesses resulting from the loss of water.
- Inter-basin transfers should only be allowed after a complete understanding of the impacts of those transfers on the sacrificing areas.
- No areas should suffer unnecessarily or benefit disproportionately by inter-basin transfers.
- All transfers should take place under a system in which both the taking areas and the sacrificing areas have equal representation on the oversight organization created to manage the water resources to ensure continued fairness.

Other Pipeline Issues

As commission members discussed the need for a statewide water transfer policy, a lack of balanced regional representation on the State Water Commission was noted. Discussion also focused on a number of current and potential Southside manufacturers whose expansion efforts might be drastically curtailed by any encumbrance on the region's water supply. It was also noted that the proposed transfer would clearly affect waterways' assimilation of treated wastewater. Commission members further described as "flawed" the assumption that projected water surplus will remain unchanged; it is instead likely that any surplus will disappear as the Virginia Beach population will increase as more water becomes available to the Tidewater area. This population increase, in turn, could adversely affect wetlands and the Chesapeake Bay.

SVBEC Grants

Following brief discussion, the commission endorsed recommendations for appointments to fill positions on various Southside Virginia development organizations. The commission also approved the application of Southside community colleges for a $50,000 grant from the Southside Virginia and Business and Education Council. At its previous meeting, the commission had endorsed the transfer of a $20,000 appropriation to the Southside Virginia Marketing Council to promote the region's water supply interests.

The Honorable Whittington W. Clement, *Chairman*
Legislative Services contact: Kathleen G. Harris

SJR 296: Study of Virginia's Drug Laws

July 12, 1995, Richmond

SJR 296 was introduced upon request of a number of Commonwealth's attorneys, who expressed a preference for the federal court system when investigating and trying more serious drug cases, but a desire to use the Virginia courts more frequently. The federal grand jury system is perceived by some to be more efficient; the sentences on the federal level are viewed as more appropriately tied to the specific offense involved; and the forfeiture system works better. While the nature of the drug trade has changed significantly, Virginia's drug statutes have not undergone a comprehensive review since the mid-1970s. Additionally, the changes made in sentences imposed for drug offenses resulting from the abolition of parole in Virginia and the corollary adoption of new sentencing guidelines has raised a number of concerns.

Investigation — Grand Jury System

In 1983 Virginia adopted a multijurisdiction grand jury (MJGJ) statute modeled after the federal system. There are currently only four MJGJs operating in the state (Richmond Metro Area, Petersburg-Hopewell, Big Stone Gap, and Fredericksburg).

The special counsel for the Richmond MJGJ believes it is an effective investigative tool that should be used more frequently. He noted that the MJGJ allows penetration of a drug organization

through the use of compelled testimony of MJGJ witnesses. The witnesses are given "use immunity" for their testimony about the organization and other crimes related to the organization. They may be prosecuted for any crimes about which they testify, but their compelled testimony and evidence derived from their compelled testimony may not be used against them. Other speakers suggested that the need to provide immunity makes the process too cumbersome and inefficient. Furthermore, many offenders would prefer to take a relatively light sentence, rather than testify about others in a drug organization and face retaliation. While there is some disagreement among Commonwealth's attorneys, the Richmond special counsel believes that greater use of the MJGJ system in the investigation of drug crimes should be encouraged.

Penalties — Sentencing Guidelines

The most immediate problem in the successful prosecution of drug crimes stems from the new sentencing guidelines. The guidelines were developed based upon the time actually served by prior offenders. The executive director of the Sentencing Commission provided data on the 405 drug cases in which sentences have been imposed using the new guidelines. The vast majority of drug cases involved small amounts — over 80 percent involved less than 1/8 of a gram of cocaine, and 90 percent involved less than one gram of cocaine. In approximately 60 percent of the cases, the judges were found to be strictly complying with the guideline-determined sentence, but in 2/3 of the cases in which the judge deviated from the guideline sentence, the sentence was enhanced, usually because a large quantity of drugs was involved. This testimony contrasted with earlier anecdotal testimony suggesting a strong reluctance on the part of judges to deviate from the guideline midpoint sentence.

Floors and Ceilings Too High

Two significant problems with which the commission is currently grappling were described. First, the statutory minimum sentences are too high and do not accurately reflect historical sentencing practices. In the past, an offender sentenced for possession, for example, would face a 1 to 10 year sentence. The typical sentence imposed however, was one to two years, suspended, with supervised probation (i.e., no time served). The statutory minimum is therefore unrealistic.

Additionally, the potential exists for increased bed space demands resulting from a increase in the post-release supervision period. For example, for a Schedule I or II violation, which carries an authorized sentence of 5 to 40 years, the offender typically received a five-year sentence but served only 10 months. The new guideline range is 7 to 14 months, with a one-year midpoint. However, to get to that one-year midpoint, the judge must suspend four years of the statutory minimum five-year sentence. The trial judge will now be charged with supervising the offender for a long period of time during which the offender would face a longer sentence (85 percent of the total time imposed) for any parole violations.

Minimum mandatory sentences also pose a problem. The sentence midpoints, based upon historical time served, are frequently less than the statutorily prescribed minimum mandatory term. Under the old law, due to parole and "good time" credits, an offender would serve only one-quarter of the minimum mandatory sentence imposed. As a result of the elimination of "good time" and restrictions on parole, the sentence served by today's offender will actually be almost twice the historical time served by similar offenders under the old law.

The Sentencing Commission is also concerned that the statutory maximum sentences may be too high in light of the parole changes. In the past, if a jury recommended a maximum sentence that the judge thought might not be appropriate, the tendency was for the judge to defer to the jury's recommendation, knowing that the offender would be eligible for parole long before the maximum sentence was served. Today, in a similar case, the jury's sentence would be imposed and the offender would have to serve 85 percent of that sentence. The result will be significantly longer prison terms for current offenders than those which have historically been served.

The committee agreed to look at the proposed federal sentencing guidelines for drug offenses that are tied to the type and quantity of drugs involved and at the Uniform Controlled Substances Act in its future deliberations. Of particular concern is ensuring that the law governing penalties reflects a rational and effective public policy.

Forfeiture

As with the grand jury, the more significant drug cases use the federal asset seizure and forfeiture procedure more often than Virginia's. In general, the reasons for this preference are the ease of management and maintenance of the asset and the simplified administrative aspects of seizure. More information will be forthcoming from the Commonwealth's attorneys on suggested improvements to the Virginia forfeiture process.

The committee plans to meet again in September.

The Honorable Kenneth W. Stolle, *Chairman*
Legislative Services contact: Mary P. Devine

New Filing Deadlines

By action of the 1995 General Assembly, two new categories of bills now must be filed by the first day of the General Assembly Session.

Local Fiscal Impact (§ 30-19.03:1; Chapter 743, 1995 Acts of Assembly)

Any bill that mandates an additional expenditure by any county, city, or town must be filed on or before the first day of the session. A mandate has the effect of (i) requiring the performance of a new or expanded service or maintaining an existing service at a specific level, (ii) assuming administrative costs in support of state-related programs, or (iii) furnishing capital facilities for state-related activities. There is an exemption for bills requested by the Governor or "filed in accordance with the rules of the General Assembly."

Prison Impact (§ 30-19.1:6; Chapter 462, 1995 Acts of Assembly)

All bills requiring a statement of fiscal impact on the operating costs of state correctional facilities must be filed on or before the first day of the session. A fiscal impact statement is required for any bill that would result in a net increase in periods of imprisonment in state correctional facilities, including those bills that (i) add new crimes for which imprisonment is authorized, (ii) increase the periods of imprisonment for existing crimes, (iii) impose minimum or mandatory terms of imprisonment, or (iv) modify the law governing the release of prisoners in such a way that the time served in prison will increase.

The Legislative Record summarizes the activities of Virginia legislative study commissions and joint subcommittees. Published in Richmond, Virginia, by the Division of Legislative Services, an agency of the General Assembly of Virginia.

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The Legislative Record is also published in *The Virginia Register of Regulations*, available from the Virginia Code Commission, 910 Capitol Street, 2nd Floor, Richmond, Virginia 23219.

Notices of upcoming meetings of all legislative study commissions and joint subcommittees appear in the Calendar of Events in *The Virginia Register of Regulations.*

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 EDUCATION; DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES; DEPARTMENT OF SOCIAL SERVICES; DEPARTMENT OF YOUTH AND FAMILY SERVICES

The Departments of Education; Mental Health, Mental Retardation and Substance Abuse Services; Social Services; and Youth and Family Services, pursuant to Executive Order Number Fifteen (94), are proposing to undertake a comprehensive review of the regulation entitled: Standards for Interdepartmental Regulation of Residential Facilities for Children (VR 270-01-003, VR 470-02-01, VR 615-29-02, and VR 690-40-004).

As a part of this review, public input and comments are being solicited. Comments may be submitted from August 21, 1995, through September 20, 1995, to: Mr. John J. Allen, Jr., Coordinator, Office of Interdepartmental Regulation, 730 E. Broad Street, 9th Floor, Richmond, VA 23219-1849 or (804) 692-1960.

The departments' goal in accordance with the Executive Order is to ensure: (a) that the regulation achieves the least possible interference in private enterprise while protecting the health, safety, and welfare of children in residential care and (b) that the regulation is written clearly so that it may be used and implemented by all those who interact with the regulatory process. The purpose of the review is to make an overall assessment of the regulation and not an evaluation of specific requirements within it. After the review is completed, the departments will continue the regulation in its present form or will proceed to amend or repeal it. The departments do not intend to hold a public hearing. The review will be completed by June 30, 1996.

The public is encouraged to participate during the public comment period and to share this information with others who may be impacted or interested in the regulation.

GENERAL NOTICES/ERRATA

Symbol Key
† Indicates entries since last publication of the *Virginia Register*

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Public Notice

Sheep Industry Referendum

A referendum subject to §§ 3.1-1065 through 3.1-1079 of the Code of Virginia will be conducted by mail ballot among Virginia sheep producers who sold one or more sheep or 50 or more pounds of wool within the Commonwealth from July 1, 1993, through June 30, 1994.

The purpose of this referendum is to present the following question: Do you favor additional market development, predator control, education, research, and promotion of the Virginia sheep industry, the creation of a Virginia Sheep Industry Board, and the levy of an assessment of $.50 per head, with the board retaining the authority to increase the assessment no more than $.10 per year, up to a maximum of $1.00 per head, for all sheep and lambs sold within the Commonwealth of Virginia to be used by such board in accordance with the provisions of the Virginia Sheep Industry Board Act?

The assessment will be deducted by the "handler" which means the operator of a stockyard, livestock dealership, slaughter house, packing plant or livestock auction market, or any other person or business entity making a purchase from a sheep producer, at the point at which the sheep or lamb is sold or traded. The assessment levied thereon shall be remitted to the Virginia Department of Taxation for deposit in the Virginia Sheep Industry Promotion and Development Fund which is administered by the Virginia Sheep Industry Board.

Producers must establish voting eligibility by properly completing and returning a certification form to the Virginia Department of Agriculture and Consumer Services, no later than September 8, 1995. Those Virginia sheep producers who sold one or more sheep or 50 or more pounds of wool within the Commonwealth from July 1, 1993, through July 30, 1994, are eligible to vote.

Eligible voters will be mailed a ballot and return envelope on October 10, 1995. Each eligible voter must return the ballot in the official referendum envelope that must be received no later than Noon, October 30, 1995, by the Director, Division of Marketing, Virginia Department of Agriculture and Consumer Services.

Producers who do not receive certification forms in the mail may obtain eligibility certification forms from the following sources: The Virginia Sheep Federation, c/o Department of Animal and Poultry Sciences, Virginia Tech, Blacksburg, VA 24061-0306; Virginia Department of Agriculture and Consumer Services, Suite 1002, Washington Building, 1100 Bank Street, Richmond, VA 23219; or from a local county extension office throughout the Commonwealth.

DEPARTMENT OF CONSERVATION AND RECREATION

† Coastal Nonpoint Source Pollution Control Program

In response to the Coastal Zone Act Reauthorization Amendments of 1990, the Commonwealth of Virginia has completed development of a Coastal Nonpoint Source Pollution Control Program submittal document. This document describes existing state enforceable programs that address the requirements specified in the federal guidance. The program submittal document also describes additional actions the Commonwealth plans to take to implement a Coastal Nonpoint Source Pollution Control Program.

The Department of Conservation and Recreation (DCR) is the state lead nonpoint source pollution control agency and DCR is coordinating development of the Coastal Nonpoint Source Pollution Control Program in Virginia. Copies of the program submittal document can be obtained from DCR. In addition, a copy of the executive summary for this document has been uploaded to the Virginia Library Information Network (VLIN). Through VLIN, the executive summary is available for review at many public libraries in the Commonwealth of Virginia. In addition, it can be accessed on the Internet through the VLIN Gopher at **gemini.vsla.edu**.

We invite you to review this document and submit any comments in writing to the Department of Conservation and Recreation by September 14, 1995. To obtain printed copies of the program submittal document, please contact Heather Mastro at (804) 786-2064. Any questions regarding the Coastal Nonpoint Source Pollution Control Program should be directed to Rick Hill at (804) 786-7119. Please mail any correspondence to: Department of Conservation and Recreation; Division of Soil and Water Conservation; 203 Governor Street; Suite 206; Richmond, VA 23219-2094.

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: (804) 692-0625.

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

ERRATA

STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA

Title of Regulation: **VR 380-04-01:1. Guidelines for Determining Domicile and Eligibility for In-State Tuition Rates.**

Publication: 11:21 VA.R. 3459-3473 July 10, 1995.

Correction to Final Regulation:

Page 3460, column 2, § 2.1 B 4, line 7 after "...member residing in Virginia" insert "who voluntarily elects to establish Virginia as his permanent residence for domiciliary purposes"

Page 3472, column 2, § 6.1 A, line 7 after "...and (iii) high school" insert "or"

CALENDAR OF EVENTS

Symbol 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

ADVISORY COMMITTEE ON AGING, DISABILITY AND LONG-TERM CARE SERVICES

† September 12, 1995 - 10 a.m. -- Open Meeting
Department of Social Services, 730 East Broad Street, Lower Level, Conference Rooms 1 and 2, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A meeting to continue the work of the Advisory Committee on the development of a plan to enhance service delivery at the local level.

Contact: Cathy Saunders, Director, Long-Term Care Policy and Development, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 225-2912, FAX (804) 225-4512 or toll-free 1-800-343-0634/TDD ☎

VIRGINIA AGRICULTURAL COUNCIL

August 28, 1995 - 9 a.m. -- Open Meeting
Embassy Suites Hotel, 2925 Emerywood Parkway, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

The annual business meeting of the council. The agenda will consist of an annual review of finances, progress reports on approved projects, and general business matters. The council will allot 30 minutes at the conclusion of the business meeting for the public to appear before the council. Any person who needs any accommodations in order to participate at 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., Suite 203, Richmond, VA 23219, telephone (804) 786-6060.

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Virginia Horse Industry Board

† October 4, 1995 - 10 a.m. -- Open Meeting
Virginia Cooperative Extension, Charlottesville-Albemarle Unit, 168 Spotnap Road, Lower Level Meeting Room, Charlottesville, Virginia. ♿

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 accommodations in order to participate at the meeting should contact Andrea S. Heid at least five days before the meeting date so that suitable arrangements can be made.

Contact: Andrea S. Heid, Equine Marketing Specialist, Department of Agriculture and Consumer Services, 1100 Bank St., #906, Richmond, VA 23219, telephone (804) 786-5842 or (804) 371-6344/TDD ☎

Virginia Marine Products Board

† September 26, 1995 - 5:30 p.m. -- Open Meeting
Kiln Creek Golf and Country Club, 1003 Brick Kiln Boulevard, Newport News, Virginia. ♿

A meeting to receive reports from the Executive Director of the Virginia Marine Products Board on finance, marketing, past and future program planning, publicity/public relations, and old and new business. 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 accommodations in order to participate at the meeting should contact the board at least five days before the meeting date so that suitable arrangements can be made.

Contact: Shirley Estes, Executive Director, Virginia Marine Products Board, 554 Denbigh Blvd., Suite B, Newport News, VA 23608, telephone (804) 874-3474.

STATE AIR POLLUTION CONTROL BOARD

August 28, 1995 -- Public comments may be submitted until 4:30 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 Air Pollution Control Board intends to amend regulations entitled: **VR 120-01. Regulations for the Control and Abatement of Air Pollution (Revision FF -- Rule 4-4, Emission Standards for Open Burning).** The proposed regulation amendments provide for the deregulation of certain control measures at the state level while providing an administrative mechanism to assist local governments in developing their own control programs. The proposed amendments also require a summertime ban on open burning in order to reduce emissions of volatile organic compounds in Virginia's ozone nonattainment areas.

Request for Comments: The purpose of this notice is to provide the public with the opportunity to comment on the proposed regulation and the costs and benefits of the proposal.

Localities Affected: Although any person conducting open burning will be affected by the proposed regulation, the jurisdictions within Virginia's three Volatile Organic Compound Emissions Control Areas (identified below) will experience more impact during June, July and August than jurisdictions outside these areas.

1. The Northern Virginia area: Arlington County, Fairfax County, Loudoun County, Prince William County, Stafford County, the City of Alexandria, the City of Fairfax, the City of Falls Church, the City of Manassas, and the City of Manassas Park.

2. The Richmond area: Charles City County, Chesterfield County, Hanover County, Henrico County, the City of Colonial Heights, the City of Hopewell, and the City of Richmond.

3. The Hampton Roads area: James City County, York County, the City of Chesapeake, the City of Hampton, the City of Newport News, the City of Norfolk, the City of Poquoson, the City of Portsmouth, the City of Suffolk, the City of Virginia Beach, and the City of Williamsburg.

Location of Proposal: The proposal, an analysis conducted by the department (including a statement of purpose, a statement of estimated impact and benefits of the proposed regulation, an explanation of need for the proposed regulation, an estimate of the impact of the proposed regulation upon small businesses, identification of and comparison with federal requirements, and a discussion of alternative approaches), and any other supporting documents may be examined by the public at the department's Air Programs Section, 629 East Main Street, 8th Floor, Richmond, Virginia, and the department's regional offices (listed below) between 8:30 a.m. and 4:30 p.m., of each business day until the close of the public comment period.

Southwest Regional Office
Department of Environmental Quality
121 Russell Road
Abingdon, Virginia
Ph: (703) 676-5482

West Central Regional Office
Department of Environmental Quality
Executive Office Park, Suite D
5338 Peters Creek Road
Roanoke, Virginia
Ph: (703) 561-7000

Lynchburg Satellite Office
Department of Environmental Quality
7701-03 Timberlake Road
Lynchburg, Virginia
Ph: (804) 582-5120

Fredericksburg Satellite Office
Department of Environmental Quality
300 Central Road, Suite B
Fredericksburg, Virginia
Ph: (703) 899-4600

Piedmont Regional Office
Department of Environmental Quality
Innsbrook Corporate Center
4900 Cox Road
Glen Allen, Virginia
Ph: (804) 527-5300

Tidewater Regional Office
Department of Environmental Quality
Old Greenbrier Village, Suite A
2010 Old Greenbrier Road
Chesapeake, Virginia
Ph: (804) 424-6707

Springfield Satellite Office
Department of Environmental Quality
Springfield Corporate Center, Suite 310
6225 Brandon Avenue
Springfield, Virginia
Ph: (703) 644-0311

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

Public comments may be submitted until 4:30 p.m., August 28, 1995, to the Manager, Air Programs Section, Department of Environmental Quality, P.O. Box 10009, Richmond, Virginia 23240.

Contact: Dr. Kathleen Sands, Policy Analyst, Air Programs Section, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 762-4413.

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August 28, 1995 -- Public comments may be submitted until 4:30 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 Air Pollution Control Board intends to amend regulations entitled: **VR 120-01. Regulations for the Control and Abatement of Air Pollution (Revision RR -- Volatile Organic**

Compounds). The standards require owners to reduce emissions of volatile organic compounds from specific sources, and to limit those emissions to a level resulting from the use of reasonably available control technology. The following types of sources are affected: otherwise unregulated facilities; surface cleaning and degreasing operations using nonhalogenated solvents; rotogravure/flexographic printing facilities emitting 25-100 tons per year; sanitary landfill operations; and lithographic printing operations.

Request for Comments: The purpose of this notice is to provide the public with the opportunity to comment on the proposed regulation and the costs and benefits of the proposal.

Localities Affected: The localities affected by the proposed regulation are as follows:

1. The Northern Virginia area: Arlington County, Fairfax County, Loudoun County, Prince William County, Stafford County, the City of Alexandria, the City of Fairfax, the City of Falls Church, the City of Manassas, and the City of Manassas Park.

2. The Richmond area: Charles City County, Chesterfield County, Hanover County, Henrico County, the City of Colonial Heights, the City of Hopewell, and the City of Richmond.

Location of Proposal: The proposal, an analysis conducted by the department (including a statement of purpose, a statement of estimated impact and benefits of the proposed regulation, an explanation of need for the proposed regulation, an estimate of the impact of the proposed regulation upon small businesses, identification of and comparison with federal requirements, and a discussion of alternative approaches), and any other supporting documents may be examined by the public at the department's Air Programs Section, 629 East Main Street, 8th Floor, Richmond, Virginia, and the department's regional offices (listed below) between 8:30 a.m. and 4:30 p.m., of each business day until the close of the public comment period.

Southwest Regional Office
Department of Environmental Quality
121 Russell Road
Abingdon, Virginia
Ph: (703) 676-5482

West Central Regional Office
Department of Environmental Quality
Executive Office Park, Suite D
5338 Peters Creek Road
Roanoke, Virginia
Ph: (703) 561-7000

Lynchburg Satellite Office
Department of Environmental Quality
7701-03 Timberlake Road
Lynchburg, Virginia
Ph: (804) 582-5120

Fredericksburg Satellite Office
Department of Environmental Quality
300 Central Road, Suite B
Fredericksburg, Virginia
Ph: (703) 899-4600

Piedmont Regional Office
Department of Environmental Quality
Innsbrook Corporate Center
4900 Cox Road
Glen Allen, Virginia
Ph: (804) 527-5300

Tidewater Regional Office
Department of Environmental Quality
Old Greenbrier Village, Suite A
2010 Old Greenbrier Road
Chesapeake, Virginia
Ph: (804) 424-6707

Springfield Satellite Office
Department of Environmental Quality
Springfield Corporate Center, Suite 310
6225 Brandon Avenue
Springfield, Virginia
Ph: (703) 644-0311

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

Public comments may be submitted until 4:30 p.m., August 28, 1995, to the Manager, Air Programs Section, Department of Environmental Quality, P.O. Box 10009, Richmond, Virginia 23240.

Contact: Karen G. Sabasteanski or Dr. Kathleen Sands, Policy Analysts, Air Programs Section, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 762-4000.

VIRGINIA ALCOHOLIC BEVERAGE CONTROL BOARD

August 21, 1995 - 9:30 a.m. -- Open Meeting
September 6, 1995 - 9:30 a.m. -- Open Meeting
September 18, 1995 - 9:30 a.m. -- Open Meeting
October 2, 1995 - 9:30 a.m. -- Open Meeting
October 16, 1995 - 9:30 a.m. -- Open Meeting
October 30, 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, 2901 Hermitage Road, P.O. Box 27491, Richmond, VA 23261, telephone (804) 367-0712 or FAX (804) 367-1802.

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

Board for Architects

August 25, 1995 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia.

A meeting to conduct general board business. Persons desiring to participate in the meeting and requiring special accommodations or interpretive services should contact the department so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: Mark N. Courtney, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514 or (804) 367-9753/TDD

Board for Land Surveyors

August 23, 1995 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia.

The Virginia Land Surveyor Board Section will compile the Virginia "A" Examination that will be administered in October 1995.

Contact: George O. Bridewell, Examination Administrator, Land Surveyor Board, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8572 or (804) 367-9753/TDD

† August 24, 1995 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia.

A meeting to conduct general board business and develop a training seminar. Persons desiring to participate in the meeting and requiring special accommodations or interpretive services should contact the department so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: Mark N. Courtney, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514 or (804) 367-9753/TDD

Board for Professional Engineers

August 31, 1995 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia.

A meeting to conduct general board business. Persons desiring to participate in the meeting and requiring special accommodations or interpretive services should contact the department 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: Mark N. Courtney, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514 or (804) 367-9753/TDD

VIRGINIA BOARD FOR ASBESTOS LICENSING AND LEAD CERTIFICATION

August 30, 1995 - 10 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, 5th Floor, Conference Room 3, Richmond, Virginia.

A general board meeting.

Contact: David E. Dick, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8595, FAX (804) 367-2475 or (804) 367-9753/TDD

BOARD OF AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY

† August 24, 1995 - 9 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, Richmond, Virginia.

A general board meeting to discuss board business. Public comments will be received at the beginning of the meeting for 15 minutes.

Contact: Lisa Russell Hahn, Executive Director, Board of Audiology and Speech-Language Pathology, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9111 or (804) 662-7197/TDD

VIRGINIA AVIATION BOARD

August 23, 1995 - 9 a.m. -- Open Meeting
August 25, 1995 - 9 a.m. -- Open Meeting
Omni Charlottesville Hotel, 235 West Main Street, Charlottesville, Virginia. (Interpreter for the deaf provided upon request)

A regular bi-monthly meeting of the Virginia Aviation Board. Applications for state funding will be presented to the board and other matters of interest to the Virginia aviation community will be discussed. This meeting is being held in conjunction with the 22nd Annual Virginia Aviation Conference. For further information on the conference contact Betty Wilson at (804) 236-3625. Individuals with a disability should contact Cindy Waddell 10 days prior to the meeting if assistance is needed.

Contact: Cindy Waddell, Department of Aviation, 5702 Gulfstream Road, Sandston, VA 23150, telephone (804) 236-3625 or (804) 236-3624/TDD

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

Central Area Review Committee

September 7, 1995 - 2 p.m. -- Open Meeting
Chesapeake Bay Local Assistance Department, 805 East Broad Street, Suite 701, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A meeting to review Chesapeake Bay Preservation Area programs for the central area. Persons interested in observing should call the Chesapeake Bay Local Assistance Department to verify meeting time, location and schedule. No comments from the public will be entertained at the meeting; however, written comments are welcome.

Contact: Florence E. Jackson, Program Support Technician, Chesapeake Bay Local Assistance Department, 805 E. Broad St., Suite 701, Richmond, VA 23219, telephone (804) 225-3440, FAX (804) 225-3447 or toll-free 1-800-243-7229/TDD ☎

Northern Area Review Committee

September 6, 1995 - 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)

A meeting to review Chesapeake Bay Preservation Area programs for the northern area. Persons interested in observing should call the Chesapeake Bay Local Assistance Department to verify meeting time, location and schedule. No comments from the public will be entertained at the meeting; however, written comments are welcome.

Contact: Florence E. Jackson, Program Support Technician, Chesapeake Bay Local Assistance Department, 805 E. Broad St., Suite 701, Richmond, VA 23219, telephone (804) 225-3440, FAX (804) 225-3447 or toll-free 1-800-243-7229/TDD ☎

Southern Area Review Committee

September 7, 1995 - 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)

A meeting to 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: Florence E. Jackson, Program Support Technician, Chesapeake Bay Local Assistance Department, 805 E. Broad St., Suite 701, Richmond, VA 23219, telephone (804) 225-3440, FAX (804) 225-3447 or toll-free 1-800-243-7229/TDD ☎

DEPARTMENT OF CONSERVATION AND RECREATION

August 23, 1995 - 1 p.m. -- Open Meeting
Department of Conservation and Recreation, 203 Governor Street, Room 200, Richmond, Virginia.

A meeting of the ad hoc committee formed to assist the department in the regulatory review of the Virginia Soil and Water Conservation Board's "VR 625-02-00, Erosion and Sediment Control Regulations," under Governor Allen's Executive Order 15(94).

Contact: Leon E. App, Agency Regulatory Coordinator, Department of Conservation and Recreation, 203 Governor St., Suite 302, Richmond, VA 23219, telephone (804) 786-4570, FAX (804) 786-6141 or (804) 786-2121/TDD ☎

August 23, 1995 - 7 p.m. -- Open Meeting
Virginia War Memorial, 621 South Belvidere Street, Richmond, Virginia.

A meeting to provide opportunity for public comment concerning the Virginia Soil and Water Conservation Board's "VR 625-02-00, Erosion and Sediment Control Regulations," under Governor Allen's Executive Order 15(94).

Contact: Leon E. App, Agency Regulatory Coordinator, Department of Conservation and Recreation, 203 Governor St., Suite 302, Richmond, VA 23219, telephone (804) 786-4570, FAX (804) 786-6141 or (804) 786-2121/TDD ☎

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† September 18, 1995 - 7 p.m. -- Public Hearing
Municipal Center, 441 Market Street, Suffolk, Virginia.

† September 19, 1995 - 7 p.m. -- Public Hearing
County of Roanoke Administration Center, 5204 Bernard Drive, Roanoke, Virginia.

† September 21, 1995 - 7 p.m. -- Public Hearing
Henrico County Government Center, 4301 East Parham Road, Richmond, Virginia.

† October 23, 1995 -- Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Conservation and Recreation intends to adopt regulations entitled: **VR 217-03-00. Nutrient Management Training and Certification Regulations.** This regulation is being promulgated to govern a voluntary program for training and certifying persons preparing nutrient management plans. The plans are prepared to manage land application of fertilizers, sewage sludge, manure, and other nutrient sources for agronomic benefits and in ways which protect water quality. The regulation provides for certification standards, revocation or

suspension of certificates, criteria for the development of nutrient management plans, and program fees. The Department of Conservation and Recreation will administer this program as part of the nutrient management program.

The development of a voluntary nutrient management training and certification program was authorized by the 1994 Session of the General Assembly. The program should expand the number of persons in the private and public sector capable of developing nutrient management plans beyond that of the limited number of agency personnel currently involved. Nutrient management is a key strategy to assist in efforts to reduce nitrogen and phosphorus levels in the Chesapeake Bay necessary to protect ecological and economic interests dependent on the Chesapeake Bay. The program should assist the Commonwealth in achieving a 40% reduction in controllable nutrient loads entering the Chesapeake Bay tributaries consistent with the Chesapeake Bay Agreement of 1983, as amended in 1987 and 1992. The program should also protect groundwater and surface waters in the Commonwealth while retaining the agronomic benefits of efficient nutrient use on farms crops and other lands.

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

Contact: E.J. Fanning, Assistant Manager, Nutrient Management Program, Department of Conservation and Recreation, 203 Governor St., Suite 206, Richmond, VA 23219, telephone (804) 371-8095.

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Shenandoah Scenic River Advisory Board

September 8, 1995 - 10 a.m. -- Open Meeting
Shenandoah River and Route 50 Bridge, Clarke County, Virginia.

A meeting to discuss river issues and river inspection.

Contact: Richard G. Gibbons, Environmental Program Manager, Department of Conservation and Recreation, Division of Planning and Recreation Resources, 203 Governor St., Richmond, VA 23219, telephone (804) 786-4132, FAX (804) 371-7899, or (804) 786-2121/TDD☎

BOARD FOR CONTRACTORS

Recovery Fund Committee

September 27, 1995 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia.

A meeting to consider claims filed against the Virginia Contractor Transaction Recovery Fund. This meeting will be open to the public; however, a portion of the discussion may be conducted in Executive Session. Persons desiring to participate in the meeting and requiring special accommodations or interpretive services should contact Holly Erickson. The department fully complies with the Americans with Disabilities Act. Please notify the department of your request at least two weeks in advance.

Contact: Holly Erickson, Assistant Administrator, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8561.

DEPARTMENT OF CORRECTIONS (STATE BOARD OF)

September 8, 1995 -- Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Corrections intends to adopt regulations entitled: **VR 230-01-006. Regulations for Private Management and Operation of Prison Facilities.** Section 53.1-266 of the Code of Virginia directs the Board of Corrections to promulgate regulations governing certain aspects of private management and operation of prison facilities. In compliance with the statute this regulation establishes minimum standards governing administration and operational issues within private prisons.

Contact: Amy Miller, Regulatory Coordinator, P.O. Box 26963, Richmond, Virginia 23261, telephone (804) 674-3119.

BOARD FOR COSMETOLOGY

August 21, 1995 - 9 a.m. -- Open Meeting
August 22, 1995 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia.

A meeting to conduct a cut-score study for the cosmetology and nail technician written examinations.

Contact: George O. Bridewell, Examination Administrator, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8572 or (804) 367-9753/TDD☎

BOARD OF DENTISTRY

† **September 8, 1995 - 9 a.m.** -- Open Meeting
† **September 22, 1995 - 9 a.m.** -- Open Meeting
† **September 29, 1995 - 9 a.m.** -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 4, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A formal hearing and informal conferences. This is a public meeting; however, no public comment will be taken.

Contact: Marcia J. Miller, Executive Director, Board of Dentistry, 6606 W. Broad St., 4th Floor, Richmond, VA

23230-1717, telephone (804) 662-9906 or (804) 662-7197/TDD ☎

† September 14, 1995 - 1:30 p.m. -- Public Hearing
Hyatt-Regency Reston, 1800 President's Street, Reston, Virginia. (Interpreter for the deaf provided upon request)

A public hearing to receive comment on the Board of Dentistry Regulations pursuant to Executive Order 15(94) which requires the comprehensive review of all regulations. This is a public meeting and public comment will be taken.

Contact: Marcia J. Miller, Executive Director, Board of Dentistry, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9906 or (804) 662-7197/TDD ☎

† September 15, 1995 - 1:30 p.m. -- Open Meeting
Hyatt-Regency Reston, 1800 President's Street, Reston, Virginia. (Interpreter for the deaf provided upon request)

A meeting to review board orders, and to review reports from the following committees: legislative/regulatory, continuing education, examination, and advertising and budget. This is a public meeting. A 20-minute public comment period will be held at 9:10 a.m.; however, no other public comment will be taken.

Contact: Marcia J. Miller, Executive Director, Board of Dentistry, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9906 or (804) 662-7197/TDD ☎

† September 30, 1995 - 9 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 4, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A Regulatory/Legislative Committee meeting to continue reviewing the regulations as required by Executive Order 15(94). This is a public meeting; however, no public comment will be taken.

Contact: Marcia J. Miller, Executive Director, Board of Dentistry, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9906 or (804) 662-7197/TDD ☎

DISABILITY SERVICES COUNCIL

August 21, 1995 - 1 p.m. -- Open Meeting
Department of Rehabilitative Services, 8004 Franklin Farms Drive, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A meeting to develop guidelines for award of remaining RSIF moneys.

Contact: Dr. Ronald C. Gordon, Commissioner, Department of Rehabilitative Services, 8004 Franklin Farms Dr., Richmond, VA 23230, telephone (804) 662-7010, toll-free 1-800-552-5019/TDD and Voice or (804) 662-9040/TDD ☎

BOARD OF EDUCATION

September 28, 1995 - 8:30 a.m. -- Open Meeting
General Assembly Building, Ninth and Broad Streets, 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.

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September 15, 1995 -- Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Education intends to adopt regulations entitled: **VR 270-01-0064. Regulations Governing Guidance and Counseling Programs in the Public Schools of Virginia.** The regulations address requirements for parental notification about the programs and the conditions under which parental consent must be obtained for students to participate. The purpose of these hearings is to receive comments from the public on these proposed regulations. Registration will begin at 6:30 p.m.

Public comments may be submitted until September 15, 1995, to H. Douglas Cox, Virginia Department of Education, P.O. Box 2120, Richmond, Virginia 23216-2120.

Contact: James E. Laws, Jr., Administrative Assistant for Board Relations, P.O. Box 2120, Richmond, Virginia 23216-2120, telephone (804) 225-2540 or toll-free 1-800-292-3820.

LOCAL EMERGENCY PLANNING COMMITTEE - CHESTERFIELD COUNTY

October 5, 1995 - 5:30 p.m. -- Open Meeting
† November 2, 1995 - 5:30 p.m. -- Open Meeting
6610 Public Safety Way, Chesterfield, Virginia.

A regular meeting.

Contact: Lynda G. Furr, Assistant Emergency Services Coordinator, Chesterfield Fire Department, P.O. Box 40, Chesterfield, VA 23832, telephone (804) 748-1236.

STATE EXECUTIVE COUNCIL

† August 25, 1995 - 9 a.m. -- Open Meeting
Department of Youth and Family Services, 700 East Franklin Street, 4th Floor Board Room, Richmond, Virginia.

A regularly scheduled monthly meeting to (i) provide for interagency programmatic and fiscal policies; (ii) oversee the administration of funds appropriated under the act;

(iii) review and take actions on issues brought by the State Management Team; and (iv) advise the Governor.

Contact: Alan G. Saunders, Director, Comprehensive Services for At-Risk Youth and Families, Department of Youth and Family Services, 700 E. Franklin St., Suite 510, Richmond, VA 23219, telephone (804) 786-5394.

BOARD OF GAME AND INLAND FISHERIES

NOTE: CHANGE IN MEETING TIME AND LOCATION
August 24, 1995 - 10 a.m. -- Open Meeting
Innsbrook Corporate Center, 4900 Cox Road, Glen Allen, Virginia. (Interpreter for the deaf provided upon request)

The board will meet and intends to adopt regulations governing the 1995-96 migratory waterfowl seasons based on the framework provided by the U.S. Fish and Wildlife Service. The board may also propose fish and nongame wildlife regulation changes. In addition, general and administrative matters will be discussed. The board may hold an executive session.

Contact: Phil Smith, Policy Analyst, Department of Game and Inland Fisheries, 4010 W. Broad St., Richmond, VA 23230, telephone (804) 367-8341 or FAX (804) 367-2427.

CHARITABLE GAMING COMMISSION

† **August 29, 1995 - 1 p.m.** -- Open Meeting
State Capitol, Capitol Square, House Room 2, Richmond, Virginia.

An organizational meeting of the commission.

Contact: Andy Poarch, Policy Director, Office of the Secretary of Administration, P.O. Box 1475, Richmond, VA 23212, telephone (804) 786-1201, FAX (804) 371-0038 or (804) 786-7765/TDD

GEORGE MASON UNIVERSITY

Board of Visitors

† **September 20, 1995 - 3:30 p.m.** -- Open Meeting
George Mason University, Mason Hall, Room D23, Fairfax, Virginia.

A regular meeting whereby the board will hear reports from standing committees and act on those recommendations presented by the standing committees. An agenda will be available seven days prior to the board meeting for those individuals and organizations who request it. EEO and Affirmative Action Committees will meet on September 19, 1995, at 6:30 p.m. Standing committees will meet during the day on September 20, 1995, beginning at 9:30 a.m.

Contact: Ann Wingblade, Administrative Assistant, or Rita Lewis, Administrative Staff Assistant, Office of the President, George Mason University, Fairfax, VA 22030-4444, telephone (703) 993-8701 or FAX (703) 993-8707.

DEPARTMENT OF HEALTH (STATE BOARD OF)

† **September 14, 1995 - 10 a.m.** -- Open Meeting
Best Western Inn at Hunt Ridge, Route 7, Box 99-A, Lexington, Virginia. (Interpreter for the deaf provided upon request)

A worksession of the board beginning at 10 a.m. There will be a reception at 6:30 p.m., followed by an informal dinner at 7 p.m.

Contact: Paul W. Matthias, Staff to the Board, Department of Health, 1500 E. Main St., Suite 214, Richmond, VA 23219, telephone (804) 786-3564 or FAX (804) 786-4616.

† **September 15, 1995 - 9 a.m.** -- Open Meeting
Best Western Inn at Hunt Ridge, Route 7, Box 99-A, Lexington, Virginia. (Interpreter for the deaf provided upon request)

A regular business meeting.

Contact: Paul W. Matthias, Staff to the Board, Department of Health, 1500 E. Main St., Suite 214, Richmond, VA 23219, telephone (804) 786-3564, or FAX (804) 786-4616.

Biosolids Use Regulations Advisory Committee

August 24, 1995 - 9 a.m. -- Open Meeting
The UVA Richmond Center, 7740 Shrader Road, Suite E, Richmond, Virginia.

A meeting to discuss issues concerning the implementation of the Biosolids Use Regulations involving land application, distribution or marketing of biosolids.

Contact: C.M. Sawyer, Director, Division of Wastewater Engineering, Department of Health, P.O. Box 2448, Richmond, VA 23218, telephone (804) 786-1755 or (804) 371-2891.

Commissioner's Waterworks Advisory Committee

† **September 21, 1995 - 10 a.m.** -- Open Meeting
Office of Water Programs, Culpeper Field Office, 400 South Main Street, 2nd Floor, Culpeper, Virginia.

A general business meeting of the committee. The committee meets the third Thursday of odd months at various locations around the state. The next meeting is November 16, 1995. Locations will be announced at a later date.

Contact: Thomas B. Gray, P.E., Special Projects Manager, Division of Water Supply Engineering, Department of Health, 1500 East Main Street, Room 109, Richmond, VA 23219, telephone (804) 786-5566.

COMMISSION ON THE FUTURE OF HIGHER EDUCATION

† September 6, 1995 - 10 a.m. -- Open Meeting
General Assembly Building, 910 Capitol Square, 6th Floor, Speaker's Conference Room, Richmond, Virginia.

The commission was created by SJR 139 (1994) and was charged with considering issues of importance to higher education in Virginia. For information about the meeting agenda, contact the Council of Higher Education.

Contact: Anne H. Moore, Associate Director, State Council of Higher Education for Virginia, 101 N. 14th St., 9th Floor, Richmond, VA 23219, telephone (804) 225-2632.

† September 20, 1995 - 8:30 a.m. -- Open Meeting
The Markel Building, 4551 Cox Road, Glen Allen, Virginia.

A general business meeting. For information about the meeting agenda, contact the Council of Higher Education.

Contact: Anne H. Moore, Associate Director, State Council of Higher Education for Virginia, 101 N. 14th St., 9th Floor, Richmond, VA 23219, telephone (804) 225-2632.

DEPARTMENT OF HISTORIC RESOURCES

September 12, 1995 - 3 p.m. -- Open Meeting
Virginia War Memorial, 621 South Belvidere Street, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A public meeting to (i) receive comment on activities the Department of Historic Resources should undertake using federal funds during the period October 1, 1995, to September 30, 1996; and (ii) receive comment on the department's proposed work plan objectives and activities for Federal Fiscal Year 1996.

Contact: Margaret Peters, Preservation Program Manager, Department of Historic Resources, 221 Governor St., Richmond, VA 23219, telephone (804) 786-3143, FAX (804) 225-4261 or (804) 786-1934/TDD ☎

HOPEWELL INDUSTRIAL SAFETY COUNCIL

September 5, 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 Services Coordinator, 300 N. Main St., Hopewell, VA 23860, telephone (804) 541-2298.

STATEWIDE INDEPENDENT LIVING COUNCIL

August 23, 1995 - 10 a.m. -- Open Meeting
Department of Rehabilitative Services, 8004 Franklin Farms Drive, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A regular business meeting.

Contact: Catherine Northan, Chairperson, or Kathy Hayfield, SILC Staff, Department of Rehabilitative Services, 8004 Franklin Farms Dr., Richmond, VA 23288, telephone (804) 850-5922 (Northen), (804) 662-7134 (Hayfield), toll-free 1-800-552-5019/TDD and Voice or (804) 662-9040/TDD ☎

VIRGINIA INTERAGENCY COORDINATING COUNCIL

September 13, 1995 - 9:30 a.m. -- Open Meeting
Henrico Area Mental Health/Mental Retardation Services, 10299 Woodman Road, Glen Allen, Virginia. (Interpreter for the deaf provided upon request)

A quarterly meeting to discuss Virginia implementation of Part H program services for infants and toddlers with disabilities and their families.

Contact: Richard Corbett, Program Support, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-3710.

ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

† September 11, 1995 - 1 p.m. -- Open Meeting
General Assembly Building, 910 Capitol Square, 6th Floor, Speaker's Conference Room, Richmond, Virginia.

† October 9, 1995 - 1 p.m. -- Open Meeting
Virginia Beach, Virginia (meeting place to be announced).

A regular meeting to discuss such matters as may be presented.

Contact: Adele MacLean, Secretary, Advisory Commission on Intergovernmental Relations, 8th Street Office Building, Room 702, Richmond, VA 23219-1924, telephone (804) 786-6508 or FAX (804) 371-7999.

DEPARTMENT OF LABOR AND INDUSTRY

Migrant and Seasonal Farmworkers Board

† September 27, 1995 - 10 a.m. -- Open Meeting
State Capitol, Capitol Square, House Room 1, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A regular meeting of the board.

Contact: Patti C. Bell, Staff Coordinator, Department of Labor and Industry, Powers-Taylor Building, 13 S. 13th St., Richmond, VA 23219, telephone (804) 225-3083, FAX (804) 371-6524 or (804) 786-2376/TDD ☎

STATE LAND EVALUATION ADVISORY COUNCIL

September 14, 1995 - 10 a.m. -- Open Meeting
Department of Taxation, 2220 West Broad Street, 3rd Floor Conference Room, Richmond, Virginia.

A meeting to introduce and receive comments on the preliminary suggested ranges of value for agricultural, horticultural, forest and open-space land use and the use-value assessment program for 1996, and conduct other business that may be introduced before the council.

Contact: Farley Beaton, Executive Assistant, Department of Taxation, 2220 W. Broad St., Richmond, VA 23220, telephone (804) 367-8028.

STATE COUNCIL ON LOCAL DEBT

September 20, 1995 - 11 a.m. -- Open Meeting
James Monroe Building, 101 North 14th Street, 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 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

August 21, 1995 - 11 a.m. -- Open Meeting
Pearisburg Community Center, 1410 Wenonah Avenue, Pearisburg, Virginia.

Oral presentations regarding the Town of Pearisburg-Giles County Voluntary Settlement Agreement. Persons desiring to participate in the commission's proceedings and requiring special accommodations or interpreter services should contact the commission's offices.

Contact: Barbara Bingham, Administrative Assistant, Commission on Local Government, 702 Eighth Street Office Building, Richmond, VA 23219-1924, telephone (804) 786-6508 or (804) 786-1860/TDD ☎

August 21, 1995 - 7 p.m. -- Public Hearing
Pearisburg Community Center, 1410 Wenonah Avenue, Pearisburg, Virginia.

Public hearing regarding the Town of Pearisburg-Giles County Voluntary Settlement Agreement. Persons desiring to participate in the commission's proceedings and requiring special accommodations or interpreter services should contact the commission's offices.

Contact: Barbara Bingham, Administrative Assistant, Commission on Local Government, 702 Eighth Street Office Building, Richmond, VA 23219-1924, telephone (804) 786-6508 or (804) 786-1860/TDD ☎

September 11, 1995 - 10:30 a.m. -- Open Meeting
Winchester area; site to be determined.

Oral presentations regarding the City of Winchester-County of Frederick Voluntary Settlement Agreement. Persons desiring to participate in the commission's proceedings and requiring special accommodations or interpreter services should contact the commission's offices.

Contact: Barbara Bingham, Administrative Assistant, Commission on Local Government, 702 Eighth Street Office Building, Richmond, VA 23219-1924, telephone (804) 786-6508 or (804) 786-1860/TDD ☎

September 11, 1995 - 7 p.m. -- Public Hearing
Winchester area; site to be determined.

Public hearing regarding the City of Winchester-County of Frederick Voluntary Settlement Agreement. Persons desiring to participate in the commission's proceedings and requiring special accommodations or interpreter services should contact the commission's offices.

Contact: Barbara Bingham, Administrative Assistant, Commission on Local Government, 702 Eighth Street Office Building, Richmond, VA 23219-1924, telephone (804) 786-6508 or (804) 786-1860/TDD ☎

September 12, 1995 - 9 a.m. -- Open Meeting
Winchester area; site to be determined.

A regular meeting of the commission to consider such matters as they may be presented. Persons desiring to participate in the commission's proceedings and requiring special accommodations or interpreter services should contact the commission's offices.

Contact: Barbara Bingham, Administrative Assistant, Commission on Local Government, 702 Eighth Street Office Building, Richmond, VA 23219-1924, telephone (804) 786-6508 or (804) 786-1860/TDD ☎

STATE LOTTERY BOARD

August 23, 1995 - 9:30 a.m. -- Open Meeting
State Lottery Department, 900 East Main Street, 8th Floor Conference Room, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A regular meeting of the board. Business will be conducted according to items listed on the agenda, which has not yet been determined. One period for public comment is scheduled.

Contact: Barbara L. Robertson, Legislative, Regulatory and Board Administrator, State Lottery Department, 900 E. Main St., Richmond, VA 23219, telephone (804) 692-7774 or FAX (804) 692-7775.

MARINE RESOURCES COMMISSION

August 22, 1995 - 9:30 am. -- Open Meeting
Marine Resources Commission, 2600 Washington Avenue, 4th Floor, Room 403, Newport News, Virginia. (Interpreter for the deaf provided upon request)

The commission will hear and decide marine environmental matters at 9:30 a.m.; permit applications for projects in wetlands, bottom lands, coastal primary sand dunes and beaches; appeals of local wetland board decisions; policy and regulatory issues. The commission will hear and decide fishery management items at approximately noon. Items to be heard are as follows: regulatory proposals, fishery management plans; fishery conservation issues; licensing; shellfish leasing. Meetings are open to the public. Testimony is taken under oath from parties addressing agenda items on permits and licensing. Public comments are taken on resource matters, regulatory issues and items scheduled for public hearing. The commission is empowered to promulgate regulations in the areas of marine environmental management and marine fishery management.

Contact: Sandra S. Schmidt, Secretary to the Commission, Marine Resources Commission, P.O. Box 756, Newport News, VA 23607-0756, telephone (804) 247-8088, toll-free 1-800-541-4646 or (804) 247-2292/TDD☎

BOARD OF MEDICINE

† August 23, 1995 - 9:30 a.m. -- Open Meeting
The Marriott, 50 Kingsmill Road, Williamsburg, Virginia.

† August 24, 1995 - 9 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, Richmond, Virginia.

† August 30, 1995 - 9 a.m. -- Open Meeting
Department of Transportation, 86 Deacon Road, Falmouth, Virginia.

† September 22, 1995 - 9 a.m.-- Open Meeting
The Marriott, 50 Kingsmill Road, Williamsburg, 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 A 7 and A 15 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., Richmond, VA 23230-1717, telephone (804) 662-9908, FAX (804) 662-9943 or (804) 662-7197/TDD☎

Legislative Committee

† August 24, 1995 - Noon -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia. (Interpreter for the deaf provided upon request)

The committee will meet to review public comments on General Regulations, VR 465-02-01, § 1.9, Pharmacotherapy; conduct regulatory review of VR 465-02-01, General Regulations; VR 465-06-01, Correctional Health Assistant; VR 465-09-01, Certification of Optometrists; VR 465-10-01, Radiological Technology; VR 465-11-01, Acupuncturists, and prepare recommendations to the full board on its findings. The committee will discuss regulation changes regarding referral and physical therapists, rehabilitiation providers and licensure, physician/patient relationship guidelines, and any such other information that shall come before the committee.

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 Committee on Physician Assistants

August 23, 1995 - Noon -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Board Room 4, Richmond, Virginia. (Interpreter for the deaf provided upon request)

The committee will meet to review public comments and make recommendations to the Board of Medicine regarding the regulatory review of VR 465-05-01, Regulations Governing the Practice of Physician Assistants, and such other issues which may be presented.

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☎

VIRGINIA MILITARY INSTITUTE

Board of Visitors

August 26, 1995 - 8:30 a.m. -- Open Meeting
Smith Hall, Virginia Military Institute, Lexington, Virginia.

A regular meeting of the Board of Visitors to elect president, make committee appointments, and receive committee reports. The board will provide an opportunity for public comment immediately after the Superintendent's comments at approximately 9 a.m.

Contact: Colonel Edwin L. Dooley, Jr., Secretary to the Board, Superintendent's Office, Virginia Military Institute, Lexington, VA 24450, telephone (703) 464-7206 or FAX (703) 464-7600.

MOTOR VEHICLE DEALER BOARD

August 23, 1995 - 9 a.m. -- Open Meeting
September 27, 1995 - 9 a.m. -- Open Meeting
Department of Motor Vehicles Headquarters, 2300 West Broad Street, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A meeting to conduct general board business. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at (804) 367-6606 at least 10 days prior to the meeting so that suitable arrangements can be made. DMV and the board fully comply with the Americans with Disabilities Act. A tentative agenda will be provided upon request by contacting the Department of Motor Vehicles. The board's guidelines for receiving public comment are as follows:

1. Issue addressed by individual making public comment must be on the agenda for that meeting.

2. Opportunity for public comment on the issue being addressed has not been afforded the public in another forum such as a public hearing.

3. Individual offering public comment should limit remarks to not more than five minutes.

4. If a group of citizens wishes to comment on an item, they are asked to select one individual to speak for the group.

5. Exceptions to item 2 can be made upon the motion of a board member with a majority of the board concurring.

Contact: W. Gail Morykon, Chief, Investigative Services, Department of Motor Vehicles, P.O. Box 27412, Room 625A, Richmond, VA 23269-0001, telephone (804) 367-6002, FAX (804) 367-2936 or (804) 272-9278/TDD ☎

VIRGINIA MUSEUM OF FINE ARTS

Board of Trustees

September 5, 1995 - 8 a.m. -- Open Meeting
Virginia Museum of Fine Arts, Director's Office, 2800 Grove Avenue, Richmond, Virginia.

A monthly update meeting of board officers and the director. Public comment will not be received at the meeting.

Contact: Emily C. Robertson, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond, VA 23221, telephone (804) 367-0553.

September 13, 1995 - 10 a.m. -- Open Meeting
Virginia Museum of Fine Arts, Library Reading Room, 2800 Grove Avenue, Richmond, Virginia.

One of four workshops to develop a long-range strategic plan for the Virginia Museum. Public comment will not be received at the meeting.

Contact: Emily C. Robertson, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond, VA 23221, telephone (804) 367-0553.

September 14, 1995 - 9:30 a.m. -- Open Meeting
Virginia Museum of Fine Arts, Library Reading Room, 2800 Grove Avenue, Richmond, Virginia.

A briefing meeting of the Planning Committee following the Strategic Plan Steering Committee Workshop held on the previous day. Public comment will not be received at the meeting.

Contact: Emily C. Robertson, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond, VA 23221, telephone (804) 367-0553.

September 18, 1995 - 1 p.m. -- Open Meeting
September 19, 1995 - 9 a.m. -- Open Meeting
Virginia Museum of Fine Arts, 2800 Grove Avenue, Richmond, Virginia.

A two-day retreat for the Board of Trustees. Planning issues and future direction of the Museum will be discussed. Public comment will not be received at the meeting.

Contact: Emily C. Robertson, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond, VA 23221, telephone (804) 367-0553.

BOARD OF NURSING

August 21, 1995 - 9 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A special conference committee comprised of two members of the Board of Nursing will conduct informal conferences with licensees to determine what, if any, action should be recommended to the board. Public comment will not be received.

Contact: Corinne F. Dorsey, R.N., Executive Director, Board of Nursing, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9909, FAX (804) 662-9943 or (804) 662-7197/TDD☎

COMMITTEE OF THE JOINT BOARDS OF NURSING AND MEDICINE

August 29, 1995 - 1 p.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A meeting to consider matters related to the licensure and practice of nurse practitioners. Pursuant to Executive Order 15(94) requiring a comprehensive review of all regulations, the committee will receive comments on the Regulations Governing the Licensure of Nurse Practitioners, VR 495-02-01 and VR 465-07-01. This comment period is an extension from one originally

published on April 3, 1995, with a deadline of June 15, 1995. Written comments may be sent to the Board of Nursing until September 15, 1995. These regulations will be reviewed to ensure (i) that they are essential to protect the health and safety of the citizens or necessary for the performance of an important government; (ii) that they are mandated and authorized by law; (iii) that they offer the least burdensome alternative and most reasonable solution; and (iv) that they are clearly written and easily understandable.

Contact: Corinne F. Dorsey, R.N., Executive Director, Board of Nursing, 6606 W. Broad St., Richmond, VA 23230-1717, telephone (804) 662-9909, FAX (804) 662-9943 or (804) 662-7197/TDD ☎

BOARD FOR OPTICIANS

August 22, 1995 - 10 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

The Virginia Board for Opticians will conduct an examination workshop for the Practical Examination.

Contact: George O. Bridewell, Examination Administrator, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8572 or (804) 367-9753/TDD☎

BOARD OF OPTOMETRY

August 30, 1995 - 8 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 4th Floor, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A general board meeting. Public comment will be received at the beginning of the meeting.

Contact: Carol Stamey, Administrative Assistant, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9910 or (804) 662-7197/TDD☎

August 30, 1995 - 1:30 p.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 4th Floor, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

Formal hearings. Public comment will be received at the beginning of the meeting.

Contact: Carol Stamey, Administrative Assistant, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9910 or (804) 662-7197/TDD☎

VIRGINIA OUTDOORS FOUNDATION

August 23, 1995 - 10 a.m. -- Open Meeting
James Monroe Building, 101 North 14th Street, Treasury Board Conference Room, 3rd Floor, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A general business meeting. Agenda available upon request. Public comment will be received.

Contact: Virginia E. McConnell, Executive Director, Virginia Outdoors Foundation, 203 Governor St., Richmond, VA 23219, telephone (804) 225-2147.

BOARD OF PHARMACY

† September 12, 1995 - 9 a.m. -- Open Meeting
† September 13, 1995 - 9 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 1, Richmond, Virginia. ♿

Informal conferences. Public comments will not be received.

Contact: Scotti W. Milley, Executive Director, Board of Pharmacy, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9911.

† September 14, 1995 - 9:30 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 4, Richmond, Virginia. ♿

A working meeting of the Regulation Committee and Ad Hoc Advisory Committee for the comprehensive review of VR 530-01-1 in accordance with Executive Order 15(94). No public comments will be received.

Contact: Scotti W. Milley, Executive Director, Board of Pharmacy, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9911.

VIRGINIA POLYGRAPH EXAMINERS ADVISORY BOARD

† September 26, 1995 - 10 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A meeting to review new enforcement procedures, to administer the Polygraph Examiners Licensing Examination to eligible polygraph examiner interns, and to consider other matters which may require board action. A public comment period will be scheduled at the beginning of the meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the board 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, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8590, FAX (804) 367-2474 or (804) 367-9753/TDD ☎

BOARD FOR PROFESSIONAL AND OCCUPATIONAL REGULATION

September 18, 1995 - 10 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia.

A general business meeting of the board. Persons desiring to participate in the 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. The department fully complies with the Americans with Disabilities Act.

Contact: Debra S. Vought, Agency Analyst, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8519 or (804) 367-9753/TDD

BOARD OF REHABILITATIVE SERVICES

September 28, 1995 - 10 a.m. -- Open Meeting
Department of Rehabilitative Services, 8004 Franklin Farms Drive, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A quarterly business meeting.

Contact: Dr. Ronald C. Gordon, Commissioner, Department of Rehabilitative Services, 8004 Franklin Farms Dr., Richmond, VA 23230, telephone (804) 662-7010, toll-free 1-800-552-5019/TDD and Voice or (804) 662-9040/TDD

RICHMOND HOSPITAL AUTHORITY

Board of Commissioners

August 24, 1995 - 4 p.m. -- Open Meeting
† September 28, 1995 - 4 p.m. -- Open Meeting
Richmond Nursing Home, 1900 Cool Lane, 2nd Floor, Classroom, Richmond, Virginia.

A monthly board meeting to discuss nursing home operations and related matters.

Contact: Marilyn H. West, Chairman, Richmond Hospital Authority, P.O. Box 548, Richmond, VA 23204-0548, telephone (804) 782-1938.

BLUE RIBBON COMMISSION ON SCHOOL HEALTH

† August 25, 1995 - 9:30 a.m. -- Open Meeting
American Cancer Society Volunteer Center, 4240 Park Place Court, Glen Allen, Virginia. (Interpreter for the deaf provided upon request)

The fourth meeting of the commission pursuant to SJR 155 (1994).

Contact: Nancy Ford, School Health Nurse Consultant, Department of Health, Division of Child and Adolescent Health, 1500 E. Main St., Room 137, Richmond, VA 23218-2448, telephone (804) 786-7367.

SEWAGE HANDLING AND DISPOSAL APPEALS REVIEW BOARD

† September 20, 1995 - 10 a.m. -- Open Meeting
† September 21, 1995 - 10 a.m. -- Open Meeting
County of Henrico, Administrative Building, 4301 East Parham Road, Board of Supervisors Board Room, Richmond, Virginia.

The board will hear all administrative appeals of denials of onsite sewage disposal systems permits pursuant to §§ 32.1-166.1 et seq. and 9-6.14:12 of the Code of Virginia and VR 355-34-02.

Contact: Beth B. Dubis, 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.

BOARD OF SOCIAL WORK

† September 22, 1995 - 9 a.m.-- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Room 3, Richmond, Virginia.

A regular meeting of the board to consider committee reports, training curriculum, adoption of final regulations for social workers, and any other matters under the jurisdiction of the board.

Contact: Evelyn Brown, Executive Director, Board of Social Work, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9914, FAX (804) 662-9943 or (804) 662-7197/TDD

DEPARTMENT OF SOCIAL SERVICES (STATE BOARD OF)

Reproposed

† September 20, 1995 -- Public comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Social Services intends to adopt regulations entitled: **VR 615-01-51. Auxiliary Grants Program: Levels of Care and Rate Setting.** The regulation includes the process for adult care residences to use in reporting their costs, the process used in calculating the auxiliary grant rates for the residences, and services to be provided to auxiliary grant recipients.

Statutory Authority: §§ 63.1-25 and 63.1-25.1 of the Code of Virginia.

Contact: Karen Cullen, Program Consultant, Division of Benefit Programs, Department of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1720.

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Reproposed

† September 20, 1995 -- Public comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Social Services intends to adopt regulations entitled: **VR 615-22-02:1 Standards and Regulations for Licensed Adult Care Residences.** The 1993 General Assembly enacted legislation (House Bill 2280) which created two levels of care in licensed homes for adults. This legislation also established the statutory basis for the prohibition of specific medical conditions. In addition, it changed the term "homes for adults" to "adult care residences." This regulation specifies the licensure requirements for adult care residences. Sections addressed within the licensure regulation include personnel and staffing requirements; admission, retention and discharge policies; resident accommodations, care and related services; buildings and grounds; and additional requirements for assisted living facilities (the higher of the two levels of care). The proposed regulation replaces the regulation entitled "Standards and Regulations for Licensed Home for Adults" and has a proposed effective date of February 1, 1996.

Statutory Authority: §§ 63.1-25, 63.1-174 and 63.1-174.001 of the Code of Virginia.

Contact: Judy McGreal, Program Development Supervisor, Department of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1792.

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Reproposed

† September 20, 1995 -- Public comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Social Services intends to adopt regulations entitled: **VR 615-46-02. Assessment and Case Mangement in Adult Care Residences.** This regulation establishes general standards for assessment and case management for applicants to and residences of adult care residences.

Statutory Authority: §§ 63.1-25 and 63.1-173.3 of the Code of Virginia.

Contact: Terry A. Smith, Manager, Adult Services Program, Department of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1208.

DEPARTMENT OF TRANSPORTATION (COMMONWEALTH TRANSPORTATION BOARD)

September 8, 1995 -- Public 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 Commonwealth Transportation Board intends to amend regulations entitled: **VR 385-01-8. Subdivision Street Requirements.** The Subdivision Street Requirements were originally adopted in 1949 to establish the requirements and administrative procedures for the addition of subdivision streets into the secondary system of Virginia's highways. The geometric standards and specifications listed or referenced in the manual are consistent with the department's criteria for the design and construction of roadway facilities which are adequate to serve the traffic projected to travel over the streets involved. The regulation does make allowances to recognize unique situations concerning street development which arise during the process of subdividing land.

The proposed amendments to the Subdivision Street Requirements reflect the findings of the department documented in response to Senate Joint Resolution 61, enacted by the 1994 General Assembly. This resolution directed the department to study the need for establishing more flexible design standards to ensure these standards reflect the special needs of historical districts, and to address the need for conservation and protection of environmentally sensitive areas. As a result of this effort, the department solicited comments from municipalities, developers, and other stakeholders before securing formal permission to revise the Subdivision Street Requirements.

The proposed amendments provide a number of benefits for participants in the subdivision/development processes: updated nomenclature, references, and titles; additional definitions to reflect new conditions or design specifications; the establishment of new or expanded responsibilities of the participants; and clarifying language to resolve procedural issues. These amendments are intended to produce a document which (i) is easier to understand; (ii) provides additional flexibility to the overall addition process; and (iii) addresses economic and environmental concerns fairly.

Public comments may be submitted until September 8, 1995, to James S. Givens, Secondary Roads Engineer, Department of Transportation, 1401 E. Broad Street, Richmond, Virginia 23219.

Contact: H. Charles Rasnick, Assistant Secondary Roads Engineer, Virginia Department of Transportation, 1401 E. Broad Street, Richmond, Virginia 23219, telephone (804) 786-7314.

TRANSPORTATION SAFETY BOARD

NOTE: CHANGE IN MEETING DATE
September 19, 1995 - 9 a.m. -- Open Meeting

Department of Motor Vehicles Headquarters, 2300 West Broad Street, Richmond, Virginia. (Interpreter for the deaf provided upon request)

October 4, 1995 - 9 a.m. -- Open Meeting
Virginia Military Institute, Lexington, Virginia. (Interpreter for the deaf provided upon request)

A meeting to discuss matters regarding highway safety.

Contact: Angelisa C. Jennings, Management Analyst, Department of Motor Vehicles, 2300 W. Broad St., Richmond, VA 23269, telephone (804) 367-2026 or FAX (804) 367-6031.

TREASURY BOARD

September 20, 1995 - 9 a.m. -- Open Meeting
James Monroe Building, 101 North 14th Street, Treasury Board Conference Room, 3rd Floor, Richmond, Virginia.

A regular meeting.

Contact: Gloria J. Hatchel, Administrative Assistant, Department of the Treasury, Monroe Bldg., 101 N. 14th St., Richmond, VA 23219, telephone (804) 371-6011.

BOARD FOR THE VISUALLY HANDICAPPED

† October 19, 1995 - 1:30 p.m. -- Open Meeting
Department for the Visually Handicapped, Administrative Headquarters, 397 Azalea Avenue, Richmond, Virginia. (Interpreter for the deaf provided if requested no later than 5 p.m. on October 5, 1995)

The Board for the Visually Handicapped is an advisory board responsible for advising the Governor, the Secretary of Health and Human Resources, the Commissioner, and the General Assembly on the delivery of public services to the blind and the protection of their rights. The board also reviews and comments on policies, budgets and requests for appropriations for the department. At this regular quarterly meeting, the board members will receive information regarding department activities and operations, review expenditures from the board's institutional fund, and discuss other issues raised by board members.

Contact: Katherine C. Proffitt, Administrative Assistant, Department for the Visually Handicapped, 397 Azalea Ave., Richmond, VA 23227, telephone (804) 371-3140/TDD☎ or toll-free 1-800-622-2155.

DEPARTMENT FOR THE VISUALLY HANDICAPPED

Advisory Committee on Services

† October 14, 1995 - 11 a.m. -- Open Meeting
Department for the Visually Handicapped, Administrative Headquarters, 397 Azalea Avenue, Richmond, Virginia. (Interpreter for the deaf provided upon request. Request must be received no later than 9/5/95 at 5 p.m.)

A quarterly meeting to advise the Board for the Visually Handicapped on matters related to services for blind and visually impaired citizens of the Commonwealth.

Contact: Barbara G. Tyson, Executive Secretary Senior, Department for the Visually Handicapped, 397 Azalea Ave., Richmond, VA 23227, telephone (804) 371-3140/TDD☎ or toll-free 1-800-622-2155.

Vocational Rehabilitation Advisory Council

September 16, 1995 - 10 a.m. -- Open Meeting
Department for the Visually Handicapped, Administrative Headquarters, 397 Azalea Avenue, Richmond, Virginia. (Interpreter for the deaf provided upon request. Request must be received no later than 9/5/95 at 5 p.m.)

Council meets quarterly to advise the Virginia Department for the Visually Handicapped on matters related to vocational rehabilitation services for blind and visually impaired citizens of the Commonwealth.

Contact: James G. Taylor, Vocational Rehabilitation Program Specialist, Department for the Visually Handicapped, 397 Azalea Ave., Richmond, VA 23227, telephone (804) 371-3140, (804) 371-3140/TDD☎, or toll-free 1-800-622-2155.

STATE WATER CONTROL BOARD

August 28, 1995 - 7 p.m. -- Public Hearing
Prince William County Administration Center, 1 County Complex, McCoart Building, Board Chambers, 4850 Davis Ford Road, Prince William, Virginia.

August 29, 1995 - 7 p.m. -- Public Hearing
James City County Board of Supervisors Room, 101 C Mounts Bay Road, Building C, Williamsburg, Virginia.

August 31, 1995 - 7 p.m. -- Public Hearing
Roanoke County Administration Center, 5204 Bernard Drive, Board of Supervisors Room, Roanoke, Virginia.

September 25, 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 Water Control Board intends to repeal regulations entitled: **VR 680-14-01. Permit Regulation.** The purpose of the proposed regulatory action is to repeal the permit regulation in order to eliminate confusion and duplication from the concurrent adoption of a VPDES permit regulation and a VPA permit regulation.

Question and Answer Period: A question and answer period will be held one-half hour prior to the beginning of each public hearing at the same location. The Department of Environmental Quality staff will be present to answer questions regarding the proposed action.

Accessibility to Persons with Disabilities: The meetings will be held at public facilities believed to be accessible to persons with disabilities. Any person with questions

on the accessibility of the facilities should contact Zelda Hardy, Office of Regulatory Services, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 762-4377 or (804) 762-4261/TDD. Persons needing interpreter services for the deaf must notify Ms. Hardy no later than 4 p.m. on Monday, August 14, 1995.

Other Pertinent Information: The department has conducted analyses on the proposed action related to basis, purpose, substance, issues and estimated impacts. These are available upon request from Richard Ayers at the Department of Environmental Quality.

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

Written comments may be submitted until 4 p.m., Monday, September 25, 1995, to Zelda Hardy, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240.

Contact: Richard Ayers, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 527-5059 or (804) 762-4261/TDD☎

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August 31, 1995 - 7 p.m. -- Public Hearing
Roanoke County Administration Center, 5204 Bernard Drive, Board of Supervisors Room, Roanoke, Virginia.

September 25, 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 Water Control Board intends to adopt regulations entitled: **VR 680-14-01:1. Virginia Pollutant Discharge Elimination System (VPDES) Permit Regulation.** The purpose of the proposed regulation is to adopt a VPDES permit regulation which will administer the VPDES program which controls the point source discharge of pollutants to surface waters of the state.

Question and Answer Period: A question and answer period will be held one-half hour prior to the beginning of each public hearing at the same location. The Department of Environmental Quality staff will be present to answer questions regarding the proposed action.

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Roanoke County Administration Center, 5204 Bernard Drive, Board of Supervisors Room, Roanoke, Virginia.

September 25, 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 Water Control Board intends to repeal regulations entitled: **VR 680-14-03. Toxics Management Regulation.** The purpose of the proposed regulatory action is to repeal the Toxics Management Regulation to avoid duplication and confusion with the adoption of a VPDES permit regulation.

Question and Answer Period: A question and answer period will be held one-half hour prior to the beginning of each public hearing at the same location. The Department of Environmental Quality staff will be present to answer questions regarding the proposed action.

Accessibility to Persons with Disabilities: The meetings will be held at public facilities believed to be accessible to persons with disabilities. Any person with questions on the accessibility of the facilities should contact Zelda Hardy, Office of Regulatory Services, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 762-4377 or (804) 762-4261/TDD. Persons needing interpreter services for the deaf must notify Ms. Hardy no later than 4 p.m. on Monday, August 14, 1995.

Other Pertinent Information: The department has conducted analyses on the proposed action related to basis, purpose, substance, issues and estimated impacts. These are available upon request from Richard Ayers at the Department of Environmental Quality.

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

Written comments may be submitted until 4 p.m., Monday, September 25, 1995, to Zelda Hardy, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240.

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August 31, 1995 - 7 p.m. -- Public Hearing
Roanoke County Administration Center, 5204 Bernard Drive, Board of Supervisors Room, Roanoke, Virginia.

September 25, 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 Water Control Board intends to adopt regulations entitled: **VR 680-14-21. Virginia Pollution Abatement (VPA) Permit Regulation.** The purpose of the proposed regulation is to adopt a VPA permit regulation which will administer the VPA permit program which controls activities that do not result in a point source discharge to surface waters of the state.

Question and Answer Period: A question and answer period will be held one-half hour prior to the beginning of each public hearing at the same location. The Department of Environmental Quality staff will be present to answer questions regarding the proposed action.

Accessibility to Persons with Disabilities: The meetings will be held at public facilities believed to be accessible to persons with disabilities. Any person with questions on the accessibility of the facilities should contact Zelda Hardy, Office of Regulatory Services, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 762-4377 or (804) 762-4261/TDD. Persons needing interpreter services for the deaf must notify Ms. Hardy no later than 4 p.m. on Monday, August 14, 1995.

Other Pertinent Information: The department has conducted analyses on the proposed action related to basis, purpose, substance, issues and estimated impacts. These are available upon request from Richard Ayers at the Department of Environmental Quality.

Statutory Authority: §§ 62.1-44.15, 62.1-44.16, 62.1-44.17, 62.1-44.18, 62.1-44.19, 62.1-44.20 and 62.1-44.21.

Written comments may be submitted until 4 p.m., Monday, September 25, 1995, to Zelda Hardy, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240.

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THE COLLEGE OF WILLIAM AND MARY

Board of Visitors

† September 8, 1995 - 9:30 a.m. -- Open Meeting
Ash Lawn-Highland, Route 6, Box 37, Charlottesville, Virginia.♿

A regularly scheduled meeting of the board to receive reports from several committees of the board, and to act on those resolutions that are presented by the administrations of The College of William and Mary and Richard Bland College. An information release will be available four days prior to the board meeting for those individuals or organizations who request it.

Contact: Peggy J. Shaw, Information Manager, Office of University Relations, College of William and Mary, P.O. Box 8795, Williamsburg, VA 23187-8795, telephone (804) 221-2626.

LEGISLATIVE

VIRGINIA CODE COMMISSION

† September 20, 1995 - 10 a.m. -- Open Meeting
General Assembly Building, 910 Capitol Square, Speaker's Conference Room, 6th Floor, Richmond, Virginia.♿

A regular meeting.

Contact: Joan W. Smith, Registrar of Regulations, General Assembly Bldg., 910 Capitol St., 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591.

Title 15.1 Recodification Task Force

August 24, 1995 - 10 a.m. -- Open Meeting
General Assembly Building, 910 Capitol Square, 6th Floor, Speakers Conference Room, Richmond, Virginia. ♿

A meeting to review working documents for Title 15.1 recodification.

Contact: Michelle Browning, Senior Operations Staff Assistant, Division of Legislative Services, 910 Capitol St., 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591.

CHRONOLOGICAL LIST

OPEN MEETINGS

August 21
Alcoholic Beverage Control Board, Virginia
Cosmetology, Board for
Disability Services Council
Local Government, Commission on
Nursing, Board of

August 22
Aviation Board, Virginia
Cosmetology, Board for
Marine Resources Commission
Opticians, Board for

August 23
Architects, Professional Engineers, Land Surveyors and Landscape Architects, Board for
- Land Surveyor Board
Aviation Board, Virginia
Conservation and Recreation, Department of
Independent Living Council, Statewide
Lottery Board, State
Medicine, Board of
- Advisory Committee on Physician Assistants
Motor Vehicle Dealer Board
Outdoors Foundation, Virginia

August 24
† Architects, Professional Engineers, Land Surveyors and Landscape Architects, Board for
- Board for Land Surveyors
† Audiology and Speech-Language Pathology, Board of
Game and Inland Fisheries, Board of
Health, Department of
- Biosolids Use Regulations Advisory Committee
† Medicine, Board of
- Legislative Committee
Richmond Hospital Authority
- Board of Commissioners
Title 15.1 Recodification Task Force

August 25
Architects, Professional Engineers, Land Surveyors and Landscape Architects, Board for
- Board for Architects
Aviation Board, Virginia
† Executive Council, State
† School Health, Blue Ribbon Commission on

August 26
Military Institute, Virginia
- Board of Visitors

August 28
Agricultural Council, Virginia

August 29
† Gaming Commisison, Charitable
Nursing and Medicine, Joints Boards of

August 30
Asbestos Licensing and Lead Certification, Board for
† Medicine, Board of
Optometry, Board of

August 31
Architects, Professional Engineers, Land Surveyors and Landscape Architects, Board for
- Board for Professional Engineers

September 5
Hopewell Industrial Safety Council
Museum of Fine Arts, Virginia
- Board of Trustees

September 6
Alcoholic Beverage Control Board, Virginia
Chesapeake Bay Local Assistance Board
- Northern Area Review Committee
† Higher Education in Virginia, Commission on the Future of

September 7
Chesapeake Bay Local Assistance Board
- Central Area Review Committee
- Southern Area Review Committee

September 8
Conservation and Recreation, Department of
- Shenandoah Scenic River Advisory Board
† Dentistry, Board of
† William and Mary, The College of
- Board of Visitors

September 11
† Intergovernmental Relations, Advisory Commission on
Local Government, Commission on

September 12
† Aging, Disability and Long-Term Care Sevices, Advisory Committee on
Historic Resources, Department of
Local Government, Commission on
† Pharmacy, Board of

September 13
Interagency Coordinating Council, Virginia
Museum of Fine Arts, Virginia
- Board of Trustees
† Pharmacy, Board of

September 14
† Health, State Board of
Land Evaluation Advisory Council, State
Museum of Fine Arts, Virginia
- Board of Trustees
† Pharmacy, Board of

September 15
† Dentistry, Board of
† Health, State Board of

September 16
Visually Handicapped, Department for the
- Vocational Rehabilitation Advisory Council

September 18
Alcoholic Beverage Control Board
Museum of Fine Arts, Virginia
- Board of Trustees
Professional and Occupational Regulation, Board for

September 19
Museum of Fine Arts, Virginia
- Board of Trustees
† Transportation Safety Board

September 20
† Code Commission, Virginia
† George Mason University
- Board of Visitors
† Higher Education for Virginia, State Council of
Local Debt, State Council on
† Sewage Handling and Disposal Appeals Review Board
Treasury Board

September 21
† Health, Department of
- Commissioner's Waterworks Advisory Committee
† Sewage Handling and Disposal Appeals Review Board

September 22
† Dentistry, Board of
† Medicine, Board of
† Social Work, Board of

September 26
† Agriculture and Consumer Services, Department of
- Virginia Marine Products Board
† Polygraph Examiners Advisory Board

September 27
Contractors, Board for
† Labor and Industry, Department of
- Migrant and Seasonal Farmworkers Board
Motor Vehicle Dealer Board

September 28
Education, Board of
Rehabilitative Services, Board of
† Richmond Hospital Authority
- Board of Commissioners

September 29
† Dentistry, Board of

September 30
† Dentistry, Board of

October 2
Alcoholic Beverage Control Board

October 4
† Agriculture and Consumer Services, Department of
- Virginia Horse Industry Board
Transportation Safety Board

October 5
Emergency Planning Committee, Local - Chesterfield County

October 9
† Intergovernmental Relations, Advisory Commission on

October 14
† Visually Handicapped, Department for the
- Advisory Committee on Services

October 16
Alcoholic Beverage Control Board

October 19
† Visually Handicapped, Board for the

October 30
Alcoholic Beverage Control Board

November 2
† Emergency Planning Committee, Local - Chesterfield County

PUBLIC HEARINGS

August 21
Local Government, Commission on

September 11
Local Government, Commission on

September 14
† Dentistry, Board of

September 18
† Conservation and Recreation, Department of

September 19
† Conservation and Recreation, Department of

September 21
† Conservation and Recreation, Department of