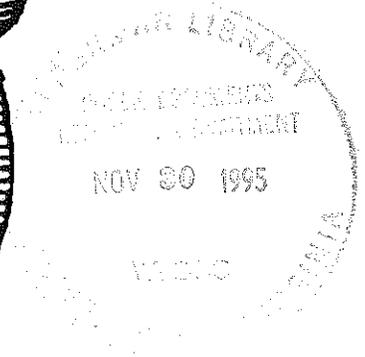
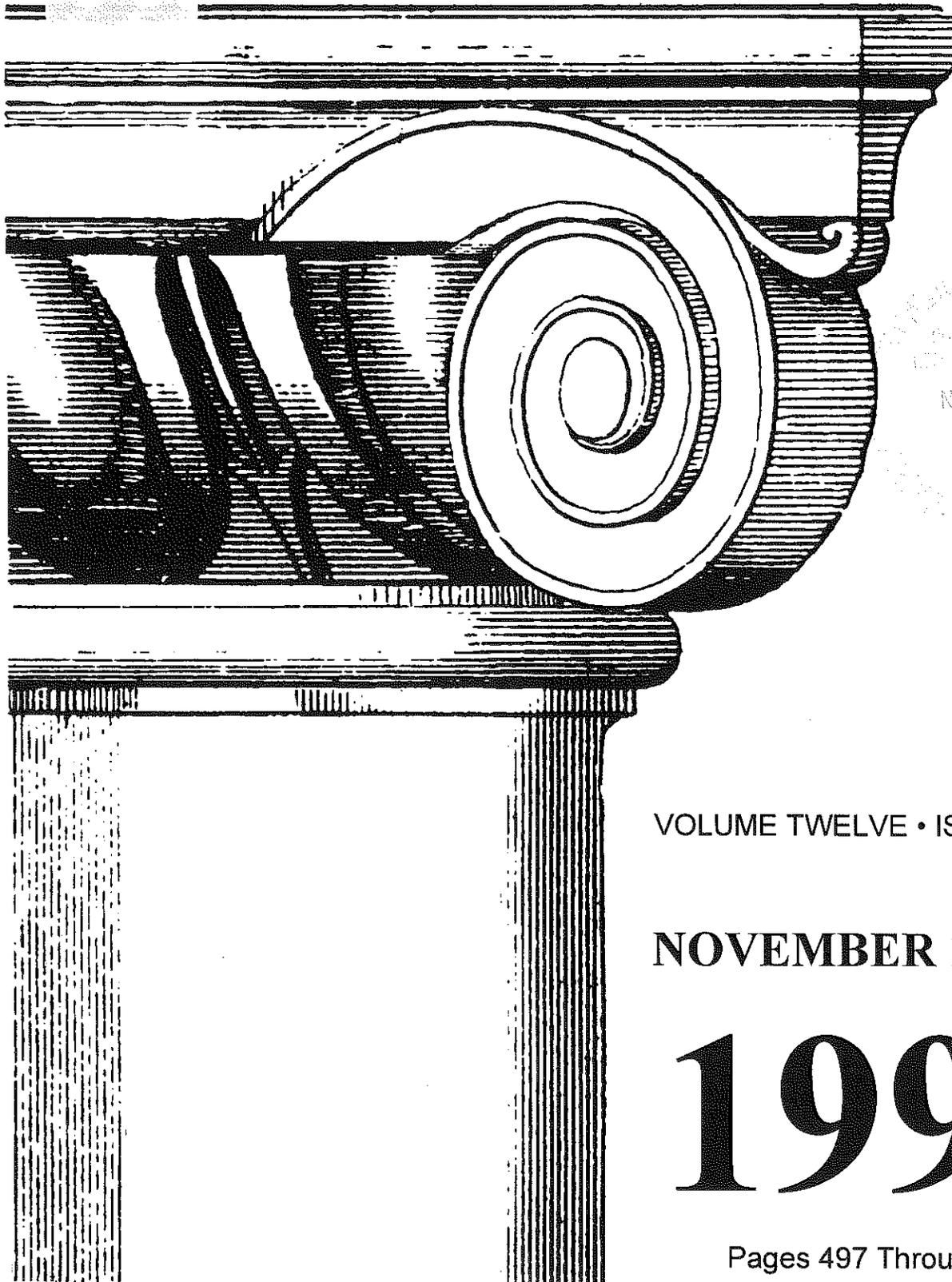


COD 5/R 26/12-4 c.2

# THE VIRGINIA REGISTER

OF REGULATIONS

VA  
DOC



VOLUME TWELVE • ISSUE FOUR

NOVEMBER 13, 1995

# 1995

Pages 497 Through 702

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# THE VIRGINIA REGISTER INFORMATION PAGE

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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.

"The Virginia Register of Regulations" (USPS-001831) is published bi-weekly, except four times in January, April, July and October, for \$100 per year by the Virginia Code Commission, General Assembly Building, Capitol Square, Richmond, Virginia 23219. Telephone (804) 786-3591. Second-Class Postage Rates Paid at Richmond, Virginia. **POSTMASTER:** Send address changes to *The Virginia Register of Regulations*, 910 Capitol Street, 2nd Floor, Richmond, Virginia 23219.

*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.

Members of the Virginia Code Commission: Joseph V. Gartlan, Jr., Chairman; W. Tayloe Murphy, Jr., Vice Chairman; Russell M. Carneal; Bernard S. Cohen; Frank S. Ferguson; E. M. Miller, Jr.; Theodore V. Morrison, Jr.; William F. Parkerson, Jr.; Jackson E. Reasor, Jr.; James B. Wilkinson.

Staff of the Virginia Register: E. M. Miller, Jr., Acting Registrar of Regulations; Jane D. Chaffin, Assistant Registrar of Regulations.

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By Noon Wednesday**

**Will Be Published On**

**Volume 12**

October 25, 1995

November 13, 1995

November 8, 1995

November 27, 1995

November 21, 1995 (Tuesday)

December 11, 1995

December 6, 1995

December 25, 1995

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**January 1996**

December 19, 1995 (Tuesday)

January 8, 1996

January 3, 1996

January 22, 1996

January 17, 1996

February 5, 1996

January 31, 1996

February 19, 1996

February 14, 1996

March 4, 1996

February 28, 1996

March 18, 1996

**INDEX 2 - Volume 12**

**April 1996**

March 13, 1996

April 1, 1996

March 27, 1996

April 15, 1996

April 10, 1996

April 29, 1996

April 24, 1996

May 13, 1996

May 8, 1996

May 27, 1996

May 22, 1996

June 10, 1996

June 5, 1996

June 24, 1996

**INDEX 3 - Volume 12**

**July 1996**

June 19, 1996

July 8, 1996

July 3, 1996

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July 17, 1996

August 5, 1996

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August 19, 1996

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September 2, 1996

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September 16, 1996

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**October 1996**

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# NOTICES OF INTENDED REGULATORY ACTION

## Symbol Key

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

## STATE AIR POLLUTION CONTROL BOARD

### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Air Pollution Control Board intends to consider amending regulations entitled: **VR 120-01. Regulations for the Control and Abatement of Air Pollution, specifically technical documents incorporated by reference (Appendix M)**. The purpose of the proposed action is to amend the regulations to incorporate the latest edition of referenced technical documents.

**Public meeting:** A public meeting will be held by the department in House Room One, State Capitol Building, Capitol Square, Richmond, Virginia, at 10 a.m. on December 13, 1995, to discuss the intended action. Unlike a public hearing, which is intended only to receive testimony, this meeting is being held to discuss and exchange ideas and information relative to regulation development.

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

**Need:** The amendments are needed because the regulations must be current and timely, which means that the technical documents incorporated must be the most recent edition. In addition to meeting federal requirements for the provision of enforceable test methods which are acceptable to EPA, incorporation of these documents has many additional advantages to the public and to the state.

The amendments concern documents that are technical in nature and pertain to areas in which the agency has limited expertise or resources to conduct extensive research. For example, the "Flammable and Combustible Liquids Code," which is published by the National Fire Protection Association as an American National Standard contains important information that would not otherwise be readily determined by the state with its own devices.

In addition, the agency must ensure that its references to technical standards--for example, test methods--must be consistent with standards developed and accepted by the scientific and industrial communities. By keeping state requirements consistent with these standards, the state and the regulated community avoid conflict and confusion, and ensure technical accuracy. The Annual Book of ASTM Standards, produced by the American Society for Testing and Materials, is an example of this type of document.

Use of these standards is advantageous to industry. Most of the standards have been developed by industrial professional societies. Like the state, many industries do not have the wherewithal to do their own research and develop their own standards. Use of these standards assures convenience and

consistency for their users, as well as a strong degree of confidence in their accuracy.

Relying on existing standards also saves the state time and financial resources by eliminating duplication of research. Finally, the regulations must reflect the most up-to-date technical information available to ensure that public health and welfare are protected.

**Alternatives:** Alternatives to the proposed regulation amendments being considered by the department are discussed below.

1. Amend the regulations to incorporate the most recent editions of technical documents.
2. Take no action to amend the regulations and continue using outdated references.

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

**Applicable statutory requirements:** Section 110(a)(2)(B) of the federal Clean Air Act Amendments of 1990 (42 USC 7471) requires that the state implementation plan shall "provide for the establishment and operation of appropriate devices, methods, systems, and procedures necessary to . . . monitor, compile, and analyze data on ambient air quality . . ." This law is implemented by the U.S. Environmental Protection Agency (EPA) through the Code of Federal Regulations, 40 CFR 51.212, which states that the plan must provide for "enforceable test methods for each emission limit specified in the plan."

To meet these requirements, the department has, where appropriate, incorporated by reference a series of primarily industry-generated test methods that reflect the most current technical information available, and that will enable the state to meet Clean Air Act requirements.

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

Public comments may be submitted until 4:30 p.m. on December 14, 1995, to the Director, Office of Air Program Development, Department of Environmental Quality, P.O. Box 10009, Richmond, Virginia 23240.

**Contact:** Karen G. Sabasteanski, Policy Analyst, Air Programs Section, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 762-4426.

VA.R. Doc. No. R96-75; Filed October 25, 1995, 11:29 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 Air Pollution Control Board intends to consider amending regulations entitled: **VR 120-01. Regulations for the Control and Abatement of Air Pollution (Revision UU)**. The purpose of the proposed action

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## Notices of Intended Regulatory Action

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is to amend the regulation to make it conform to the federal requirements for prevention of significant deterioration new source review programs by adding provisions concerning air quality increments for particulate matter (PM<sub>10</sub>) and modeling guidelines.

**Public Meeting:** A public meeting will be held by the Department of Environmental Quality in House Committee Room One, State Capitol Building, Capitol Square, Richmond, Virginia, at 10 a.m. on November 15, 1995, to discuss the intended action. Unlike a public hearing, which is intended only to receive testimony, this meeting is being held to discuss and exchange ideas and information relative to regulation development.

**Ad Hoc Advisory Group:** The department is soliciting comments on the advisability of forming an ad hoc advisory group, utilizing a standing advisory committee or consulting with groups or individuals registering interest in working with the department to assist in the drafting and formation of any proposal. Any comments relative to this issue must be submitted in accordance with the procedures described under the "Request for Comments" section.

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

**Need:** Among the primary goals of the Clean Air Act are the attainment and maintenance of the National Ambient Air Quality Standards (NAAQS) and the prevention of significant deterioration (PSD) of air quality in areas cleaner than the NAAQS. The NAAQS, developed and promulgated by the U.S. Environmental Protection Agency (EPA), establish the maximum limits of pollutants that are permitted in the outside ambient air. EPA requires that each state submit a plan (the State Implementation Plan or SIP), including any laws and regulations necessary to enforce the plan, showing how the air pollution concentrations will be reduced to levels at or below these standards (attainment). Once the pollution levels are within the standards, the plan must also demonstrate how the state will maintain the air pollution concentrations at the reduced levels (maintenance). The Virginia SIP was submitted to EPA in early 1972. Many revisions to the SIP have been made since the original submittal in 1972. The Clean Air Act is specific concerning the elements required for an acceptable SIP. If a state does not prepare a SIP, or EPA does not approve a submitted SIP, then EPA itself is empowered to take the necessary actions to attain and maintain the air quality standards. Generally, the SIP is revised, as needed, based upon changes in the federal Clean Air Act and its requirements.

The PSD program is designed to protect air quality in areas where the air is cleaner than required by the NAAQS. The program has three classifications for defining the level of allowable degradation: Class I is the most stringent classification, allowing for little additional pollution, while Class III allows the most. All of Virginia is classified at the moderate level, Class II, with the exception of two Class I federal lands.

PSD's primary control strategy is new source review. Prior to construction or expansion of an industrial facility, a permit must be obtained that demonstrates that the facility will not emit pollutants in sufficient quantity to make a significant

contribution to the deterioration of air quality or to violate the NAAQS.

In 1972, EPA declared all state plans to control air pollution inadequate because they did not provide for prevention of significant deterioration of air quality. EPA issued its own PSD regulations in 1974, which provided for three area classifications which would allow for three different levels of degradation, and required that new or modified major sources obtain a permit from EPA to construct. By 1978, EPA updated its PSD regulations, which then underwent considerable revision and controversy.

Because the federal PSD regulations were frequently in litigation and it was difficult to develop stable plans, most states, including Virginia, opted to accept a federal implementation plan (FIP) in lieu of a SIP. EPA promulgated a FIP but, due to limited enforcement resources, allowed states to enforce it under a delegated program approach. Since that time, the program has stabilized, and the states have gained considerable experience in carrying out the program.

EPA's plan, which consists of new source review, had been delegated to the State Air Pollution Control Board. To implement the EPA plan, the Board had new source review regulations (Section 120-08-02 of VR 120-01) for a PSD program that were essentially identical to EPA's. In 1993, Virginia submitted a SIP revision requesting that the state be granted full PSD authority.

Since the PSD SIP revision was submitted to EPA, EPA has revised its PSD program in two areas. The maximum allowable increases (increments) for particulate matter have been revised, from being based on total suspended particulate (TSP) to being based on particulate with an aerodynamic diameter of less than or equal to 10 micrometers (PM<sub>10</sub>). The "Guideline on Air Quality Models (Revised)", which sets forth air quality models and guidance for estimating ambient air concentrations for PSD purposes has also been revised.

EPA is in the process of reviewing Virginia's proposed PSD SIP. In the interim, the state must keep its PSD regulations on track with EPA's revisions and additions, specifically, revisions to particulate matter increments and to the modeling guidelines.

### Alternatives:

1. Amend the regulations to satisfy the provisions of the Clean Air Act and associated EPA regulations and policies.
2. Make alternative regulatory changes to those required by the Act. If these alternative regulatory changes do not meet EPA's PSD program requirements, then the state's PSD program will not be acceptable to EPA, which may then impose a Federal Implementation Plan.
3. Take no action to amend the regulations and continue to operate under the federal implementation plan.

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

**Applicable Statutory Requirements:** Part C of Title I of the Clean Air Act Amendments of 1990 (42 USC 7471) is entitled,

# Notices of Intended Regulatory Action

"Prevention of Significant Deterioration of Air Quality." As described in section 160, the purpose of Part C is to protect existing clean air resources. Part C requires that the state implementation plan include a prevention of significant deterioration (PSD) program. Section 161 of Part C says:

In accordance with the policy of section 101(b)(1), each applicable implementation plan shall contain emission limitations and such other measures as may be necessary, as determined under regulations promulgated under this part, to prevent significant deterioration of air quality in each region (or portion thereof) designated pursuant to section 107 as attainment or unclassifiable.

This means that the air in areas that meet national clean air standards may not be allowed to become less clean, that is, to deteriorate.

Section 165, "Preconstruction Requirements," is the section of the Act that deals with new source review permit programs. This section requires that sources obtain permits demonstrating that they will not contribute to air pollution in excess of that allowed by the Act. Section 165 also specifies what steps are needed to coordinate this permitting process with the Federal Land Managers, who are responsible for maintaining air quality in the cleanest areas of the country: the national parks.

Section 166 of the Act requires EPA to regulate certain types of pollutants in PSD areas. Subsection f of Section 166 authorizes EPA to specify maximum allowable increases in particulate matter in terms of very small particulate, that is, PM<sub>10</sub>. Part of the proposed regulatory amendments focus on this particular provision of the Act.

EPA's regulation promulgated in response to Part C of the Act is found in the Code of Federal Regulations, 40 CFR 51.166. This section requires that ". . . each applicable state implementation plan shall contain emission limitations and such other measures as may be necessary to prevent significant deterioration of air quality," and includes specific detail on how relevant new source review permit programs are to be developed and implemented. Ambient air increments are specified throughout this section, and include specific particulate matter levels. Subsection (l), "Air Quality Models," describes the EPA guidelines to be used when performing PSD modeling.

EPA has recently revised its PSD program in two areas. Particulate matter requirements in 40 CFR 51.166, Prevention of significant deterioration of air quality, have been changed. The maximum allowable increments for particulate matter have been revised from being based on total suspended particulate to being based on PM<sub>10</sub>. This revision is set out in the Federal Register of June 3, 1993 (58 FR 31622). The "Guidelines on Air Quality Models (Revised)," which sets forth air quality models and guidance for estimating ambient air concentrations for PSD purposes, has been revised twice. This primarily affects 40 CFR Part 51, Appendix W. The revisions are described in the Federal Register of July 20, 1993 (58 FR 38816) and of August 9, 1995 (60 FR 40465).

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

Public comments may be submitted until 4:30 p.m. on November 16, 1995, to the Director, Office of Air Program

Development, Department of Environmental Quality, P.O. Box 10009, Richmond, Virginia 23240.

**Contact:** Karen G. Sabasteanski, Policy Analyst, Office of Air Program Development, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 762-4426.

VA.R. Doc. No. R96-32; Filed September 27, 1995, 10:57 a.m.

## DEPARTMENT OF CRIMINAL JUSTICE SERVICES (CRIMINAL JUSTICE SERVICES BOARD)

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Criminal Justice Services Board intends to consider amending regulations entitled: **VR 240-03-2 [ 6 VAC 20-70-10 et seq. ] Regulations Relating to Private Security Services.** The purpose of the proposed action is to ensure that the schedule of fees associated with these regulations is consistent with the cost of administering the private security services program, and that the public safety and welfare is adequately secured against unfit or unqualified persons engaged in the activities of private security services. The agency intends to hold a public hearing on the proposed regulation after publication.

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

Public comments may be submitted until November 15, 1995, to Leon D. Baker, Private Security Section, Department of Criminal Justice Services, P.O. Box 10110, Richmond, VA 23240.

**Contact:** Paula Scott Dehetre, Regulatory Coordinator, Department of Criminal Justice Services, 805 E. Broad St., Richmond, VA 23219, telephone (804) 786-4000 or FAX (804) 786-6344.

VA.R. Doc. No. R96-37; Filed September 27, 1995, 12:08 p.m.

## DEPARTMENT OF GENERAL 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 General Services intends to consider amending regulations entitled: **VR 330-02-01 [ 1 VAC 30-50-10 et seq. ] Regulations for Breath Alcohol Testing.** The purpose of the proposed action is to provide a means of evaluation, approval, maintenance and certification of evidential breath test devices; training and licensing of breath test operators; and evaluation and approval of preliminary breath testing devices. The agency does not intend to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 18.2-267 and 18.2-268.9 of the Code of Virginia.

Public comments may be submitted until November 1, 1995, to Robin Porter, Division of Forensic Science, Department of

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## Notices of Intended Regulatory Action

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General Services, One North 14th Street, Richmond, VA 23219.

**Contact:** Frances V. Wright, Administrative Assistant, Department of General Services, 202 N. 9th St., Suite 209, Richmond, VA 23219, telephone (804) 786-3311, FAX (804) 371-8305 or (804) 786-6152 ☎

VA.R. Doc. No. R96-1; Filed September 1, 1995, 3:38 p.m.

### VIRGINIA HEALTH SERVICES COST REVIEW COUNCIL

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Health Services Cost Review Council intends to consider amending regulations entitled: **VR 370-01-001 [ 12 VAC 25-20-10 et seq. ]. Rules and Regulations of the Virginia Health Services Cost Review Council.** The purpose of the proposed action is to amend regulations in accordance with legislation enacted by the 1995 session of the General Assembly. That legislation exempts nursing homes from budgetary and Commercial Diversification Survey filing requirements and eliminates duplicative and unnecessary health care institution reporting requirements. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 9-158 and 9-160 of the Code of Virginia.

Public comments may be submitted until 5 p.m. on November 30, 1995.

**Contact:** Richard L. Walker, Director of Administration, Virginia Health Services Cost Review Council, 805 E. Broad St., 6th Floor, Richmond, VA 23219, telephone (804) 786-6371, FAX (804) 371-0284 or (804) 786-6371/TDD ☎

VA.R. Doc. No. R96-61; Filed October 11, 1995, 11:47 a.m.

### DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT (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 Board of Housing and Community Development intends to consider amending regulations entitled: **VR 394-01-101 [ 13 VAC 5-110-10 et seq. ]. Enterprise Zone Program.** The purpose of the proposed action is to amend the Enterprise Zone Programs regulations to implement new incentives and provisions provided in 1995 legislative action. Such incentives are intended to stimulate new job creation and private investment in designated distressed enterprise zones. Amendments will also implement greater flexibility for businesses in qualifying for the use of these incentives. Amendments reflect an increased number of zones statewide and greater flexibility for localities to have multiple zones. The agency intends to

hold a public hearing on the proposed regulation after publication.

Statutory Authority: § 59.1-278 of the Code of Virginia.

Public comments may be submitted until December 13, 1995.

**Contact:** Shea Hollifield, Associate Director, Department of Housing and Community Development, 501 North Second St., Richmond, VA 23219, telephone (804) 371-7030, FAX (804) 371-7093 or (804) 371-7089/TDD ☎

VA.R. Doc. No. R96-76; Filed October 25, 1995, 2:57 p.m.

### 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. Amount, Duration and Scope of Services (Supplement 1 to Attachment 3.1 A and B); and VR 460-02-4.1910. Methods and Standards for Establishing Payment Rates - Inpatient Hospital Care (Attachment 4.19 A).** The purpose of the proposed action is to make permanent policies to reduce the lengths of inpatient hospital and obstetric stays when medically appropriate in compliance with amendments to the budget. 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 November 29, 1995, to Scott Crawford, 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. R96-60; Filed October 11, 1995, 11:18 a.m.

### DEPARTMENT OF TRANSPORTATION (COMMONWEALTH TRANSPORTATION BOARD)

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Commonwealth Transportation Board intends to consider amending regulations entitled: **VR 385-01-6 [ 24 VAC 30-70-10 et seq. ]. Minimum Standards of Entrances to State Highways.** The purpose of the proposed action is to provide for improved safe and efficient movement of people and goods to commercial, industrial, and private properties abutting state roads, and to foster economic development in the Commonwealth. The agency intends to hold a public hearing on the proposed regulation after publication.

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## Notices of Intended Regulatory Action

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Statutory Authority: §§ 33.1-12(3), 33.1-197 and 33.1-198 of the Code of Virginia.

Public comments may be submitted until November 29, 1995.

**Contact:** Steve Edwards, Transportation Engineer, Department of Transportation, Traffic Engineering Division, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-0121 or FAX (804) 225-4978.

VA.R. Doc. No. R96-48; Filed October 4, 1995, 10:29 a.m.

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# FINAL REGULATIONS

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For information concerning Final Regulations, see Information Page.

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## Symbol Key

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

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## CHILD DAY-CARE COUNCIL

**Title of Regulation:** VR 175-08-01. Minimum Standards for Licensed Child Day Centers Serving Children of Preschool Age or Younger.

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

**Effective Date:** March 1, 1996.

### Summary:

This regulation lists the standards that child day centers, including therapeutic child development and special needs child day programs serving children of preschool age and younger, must meet to be licensed by the Department of Social Services. The following areas are addressed in the regulation: administration, personnel, physical plant, staffing and supervision, program, special care provisions and emergencies, special services and the Montessori Module. The amendments add therapeutic recreation standards as required by Chapters 730 and 742 of the 1993 Acts of Assembly. In addition, the standards are being revised as follows:

1. Tuberculosis examination for staff requires a tuberculosis test every two years instead of just when hired. This change is based on the increased incidence of tuberculosis in the last few years.
2. Administrators qualifications reduces the qualifications of administrators who also perform program director responsibilities. This will reduce the cost for owners and make it easier to hire administrators. It will also make it easier for owners of businesses to open centers. This revision lessens the impact of the regulation.
3. Tuberculosis tests for contract staff requires contract staff who work directly with children to meet applicable requirements including tuberculosis tests.
4. Food from home allows lunches to be brought from home for preschool children. The impact will be to families using licensed centers. This may reduce the cost for some providers who choose to stop serving lunches but it will also transfer the responsibility from the provider to the parents to provide the daily meals/snacks for the child at the center.

The council revised the proposed regulation taking into consideration the public comments received. Substantial changes made to the standards in response to public comments are as follows:

1. Revised the definition of "school age" so numerous four-year-old children, included in a group of school age children, are considered school age during the summer months if the children will be entering kindergarten that

year. The school age regulation requires a staff-to-children ratio of 1:15 in this mixed age group.

2. Revised the requirement to give parents "procedures for admission and registration of children" to "forms or other written instruments for admission and registration of children."

3. Deleted the requirement that the phone number of the center allows a message to be given "immediately" to center staff.

4. Restored the requirement to keep a report of any suspected incidence of child abuse.

5. Deleted the requirement that the reasons for terminating enrollment of a child be put in writing.

6. Deleted the requirement that a special needs child day program (i) complete or obtain an individual assessment on each enrolled child and (ii) meet with the child's parent to evaluate program placement and accommodations.

7. Revised to allow a center 21 days (instead of five working days) after employment of a staff member to obtain a statement that the staff member is free of tuberculosis.

8. Revised the standard so a physician or clinical psychologist (instead of a licensed mental health professional) must conduct the examination of a staff member when there is evidence that the safety of children may be jeopardized. Also, a physician or clinical psychologist must confirm that the risk has been eliminated or substantially reduced such that reasonable accommodations may be made.

9. Revised so administrators of therapeutic child development programs and special needs child day programs only need to meet qualifications when they perform program director responsibilities.

10. Revised this qualification option for a program leader at a therapeutic child development program or special needs child day program so six semester hours of college credit do not need to be specific to the group care of children with disabilities. Also, the experience requirement was revised to accept experience with adults with disabilities. In the school age regulation, the six months of experience was decreased to three months of experience.

11. Revised this qualification option for a program leader at a therapeutic child development program or special needs child day program so the experience does not need to be age appropriate. In the school age regulation, the one year of experience in the group care of children was decreased to six months of experience and the six months of experience with children with

disabilities was decreased to three months of experience.

12. Revised so family members 14 years of age or older (instead of only parents) who serve as volunteer personnel must meet only health requirements and any Code of Virginia requirements if sight supervised and not counted in the staff-to-children ratios.

13. Revised so staff must receive orientation training by the end of the first day assuming responsibility (instead of before assuming responsibilities).

14. Revised to specify that the training listed in this standard for staff at therapeutic child development programs and special needs child day programs shall be completed before assuming job responsibilities.

15. Allows posting a notice about the presence and location of asbestos containing materials instead of sending written notification. Specifies that the administrator of a center located in a public school building or state owned building must be familiar with the location of asbestos.

16. Revised to allow heating to be provided by stoves.

17. Revised to require all swing seats to be made of flexible material including special swing equipment for a child with a disability.

18. Added a new standard which states "With a parent's written permission and a written assessment by the program director and child care supervisor/program leader, a center may choose to assign a child to a different age group if such age group is more appropriate for the child's developmental level. If such developmental placement is made for a child with a disability, a written assessment by a recognized agency or professional shall be required at least annually."

19. Deleted the requirement to allow children to learn from self-directed problem-solving and experimentation.

20. Restored the requirement for language and communication experiences for preschool children.

21. Added a new requirement for the center to maintain written, signed permission from the parent of each child who participates in swimming or wading.

22. Deleted the requirement that a child be excluded if he has a communicable disease since there are other criteria for exclusion.

23. Deleted the requirement that camps have at least one staff member with first aid training for every 30 children present.

24. Deleted the requirement to have cardiopulmonary resuscitation training.

25. Extended the requirement for center-provided meals and snacks to meet USDA requirements to include children who attend four or fewer hours a day.

26. Deleted the requirement that centers allowing food from home must give parents the USDA requirements and a list of suggested nonperishable foods.

27. Revised the requirement so unused food from home must be discarded by the end of the day or returned to the parent.

28. Deleted standard to remove restrictions on foods served to children under four.

29. Deleted the requirement for at least one staff member on a field trip to be instructed on procedures to follow if there is a vehicle break down.

30. Revised to allow either an aide or an adult to be the second individual on a vehicle when 16 or more children are being transported (this standard is only applicable to therapeutic child development programs and special needs child day programs).

31. Revised to allow either an aide or an adult to be the additional person besides the driver of the vehicle when a therapeutic child development or special needs child day program transports a child with a known seizure disorder or neurological, genetic or physiological disability causing increased medical risk.

32. Revised so a Montessori preschool program wanting to use the Montessori Module must operate at least five hours (instead of six) for children five through six years of age.

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 regulations may be obtained from Arlene Kasper, Department of Social Services, 730 East Broad Street, 7th Floor, Richmond, Virginia 23219, telephone (804) 692-1791.

VR 175-08-01. Minimum Standards for Licensed Child Day Centers Serving Children of Preschool Age or Younger.

## PART I. INTRODUCTION.

### [ Article 1. Definitions. ]

#### § 1.1. Definitions.

Position titles used in these standards are descriptive only and do not preclude the use of other titles by centers.

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

"Admission" means a written or oral agreement for a child's provisional inclusion in the program.

"Adult" means any individual 18 years of age or older.

[ "Age and stage appropriate" means a philosophy which (i) applies a knowledge of child development to the curriculum, the environment, adult-child interactions, and staff-parent

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interactions, and (ii) recognizes the age span of the children within the group, as well as the needs of the individual child. ]

## "Age groups"

"Infant" means children from birth to 16 months.

"Toddler" means children from 16 months up to two years.

"Preschool" means children from two years up to the age of eligibility to attend public school, five years by September 30.

"School age" means children from the age of eligibility to attend public school and older, age five or older by September 30. [ ~~Several~~ ] *Four- or five-year-old children included in a group of school age children may be considered school age during the summer months if the children will be entering kindergarten that year [ and a staff-to-children ratio of 1:15 is maintained in that group ]*

"Center" means a child day center.

[ ~~"Character and reputation" means findings have established, and knowledgeable and objective people agree, that the individual (i) maintains business, professional, family, and community relationships which are characterized by honesty, fairness, and truthfulness, and (ii) demonstrates a concern for the well-being of others to the extent that the individual is considered suitable to be entrusted with the care, guidance, and protection of children. Relatives by blood or marriage, and people who are not knowledgeable of the individual, such as recent acquaintances, shall not be considered objective references. ]~~

"Child" means any individual under 18 years of age.

"Child day center" means a child day program offered to (i) two or more children under the age of 13 in a facility that is not the residence of the provider or of any of the children in care or (ii) 13 or more children at any location.

Exemptions: (§ 63.1-196.001 of the Code of Virginia)

1. A child day center that has obtained an exemption pursuant to § 63.1-196.3;

2. A program where, by written policy given to and signed by a parent or guardian, children are free to enter and leave the premises without permission or supervision. A program that would qualify for this exemption except that it assumes responsibility for the supervision, protection and well-being of several children with disabilities who are mainstreamed shall not be subject to licensure;

3. A program of instructional experience in a single focus, such as, but not limited to, computer science, archaeology, sport clinics, or music, if children under the age of six do not attend at all and if no child is allowed to attend for more than 25 days in any three-month period commencing with enrollment. This exemption does not apply if children merely change their enrollment to a different focus area at a site offering a variety of activities

and such children's attendance exceeds 25 days in a three-month period;

4. Programs of instructional or recreational activities wherein no child under age six attends for more than six hours weekly with no class or activity period to exceed 1 1/2 hours, and no child six years of age or above attends for more than six hours weekly when school is in session or 12 hours weekly when school is not in session. Competition, performances and exhibitions related to the instructional or recreational activity shall be excluded when determining the hours of program operation;

5. A program that operates no more than a total of 20 program days in the course of a calendar year provided that programs serving children under age six operate no more than two consecutive weeks without a break of at least a week;

6. Instructional programs offered by public and private schools that satisfy compulsory attendance laws or the Individuals with Disabilities Education Act and programs of school-sponsored extracurricular activities that are focused on single interests such as, but not limited to, music, sports, drama, civic service, or foreign language;

7. Education and care programs provided by public schools which are not exempt pursuant to subdivision A 6 of this section shall be regulated by the State Board of Education using regulations that incorporate, but may exceed, the regulations for child day centers licensed by the commissioner;

8. Early intervention programs for children eligible under Part H of the Individuals with Disabilities Education Act wherein no child attends for more than a total of six hours per week;

9. Practice or competition in organized competitive sports leagues;

10. Programs of religious instruction, such as Sunday schools, vacation Bible schools, and Bar Mitzvah or Bat Mitzvah classes, and child-minding services provided to allow parents or guardians who are on site to attend religious worship or instructional services;

11. Child-minding services which are not available for more than three hours per day for any individual child offered on site in commercial or recreational establishments if the parent or guardian (i) is not an on-duty employee, (ii) can be contacted and can resume responsibility for the child's supervision within 30 minutes, and (iii) is receiving services or participating in activities offered by the establishment;

12. A certified preschool or nursery school program operated by a private school which is accredited by a statewide accreditation accrediting organization recognized by the State Board of Education or accredited by the National Association for the Education of Young Children's National Academy of Early Childhood Programs [ and ] which [ ~~complies shall comply~~ ] with the provisions of § 63.1-196.3:1. ~~The provisions of this subdivision shall expire on July 1, 1994. [ of the Code of Virginia ] ; or~~

~~13. Prescribed therapeutic recreation programs provided for children with disabilities in programs that meet the child day center definition shall not be subject to licensure under this chapter until the appropriate regulations are promulgated; or~~

14. 13. By policy, a child day center that is required to be programmatically licensed by another state agency for that service.

"Child day program" means a regularly operating service arrangement for children where, during the absence of a parent or guardian, a person or organization has agreed to assume responsibility for the supervision, protection, and well-being of a child under the age of 13 for less than a 24-hour period.

Note: This does not include programs such as drop-in playgrounds or clubs for children when there is no service arrangement with the child's parent.

"Children with disabilities" means those children evaluated as having autism, deaf-blindness, a developmental delay, a hearing impairment which may include deafness, mental retardation, multiple disabilities, an orthopedic impairment, a serious emotional disturbance, a severe or profound disability, a specific learning disorder, a speech or language impairment, a traumatic brain injury, or a visual impairment which may include blindness.

"Commissioner" means the commissioner of Social Services, also known as the director of the Virginia Department of Social Services.

"Contract employee" means an individual who enters into an agreement to provide specialized services for a specified period of time.

"Department" means the Virginia Department of Social Services.

"Department's representative" means an employee or designee of the Virginia Department of Social Services, acting as the authorized agent of the commissioner.

~~[ "Developmentally appropriate" means a philosophy which applies a knowledge of child development to the curriculum, the environment, adult-child interactions, and staff-parent interactions, and which recognizes the age span of the children within the group, as well as the needs of the individual child. ]~~

"Enrollment" means the actual attendance of a child as a member of the center.

"Evening care" means care provided in a center between the hours of 7 p.m. and 1 a.m., inclusively.

"Fall zone" means the area underneath and surrounding equipment that requires a resilient surface. It shall encompass sufficient area to include the child's trajectory in the event of a fall while the equipment is in use.

[ "Good character and reputation" means knowledgeable and objective people agree that the individual (i) maintains business, professional, family, and community relationships which are characterized by honesty, fairness, and

truthfulness, and (ii) demonstrates a concern for the well-being of others to the extent that the individual is considered suitable to be entrusted with the care, guidance, and protection of children. Relatives by blood or marriage and people who are not knowledgeable of the individual, such as recent acquaintances, shall not be considered objective references. ]

"Individual service, education or treatment plan" means a plan identifying the child's strengths, needs, general functioning and plan for providing services to the child. The service plan includes specific goals and objectives for services, accommodations and intervention strategies. ~~[ In addition, ]~~ The service, education or treatment plan clearly indicates documentation and reassessment/evaluation strategies.

"Intervention strategies" means a plan for staff action that outlines methods, techniques, cues, programs, or tasks that enable the child to successfully complete a specific goal.

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

"Montessori Module" means a group of alternative, specific standards in the regulations allowed for all programs meeting the eligibility criteria of a Montessori preschool, as specified in the module.

"Montessori preschools" means educational programs wherein the teacher training and subsequent pedagogy are approved by either American Montessori Society, American Association Montessori Internationale, National [ Council Center ] of Montessori Education, or Saint Nicholas Montessori, thus verifying that the preschool meets the Montessori standards as outlined in the Montessori Module. Only Montessori schools which meet the Montessori criteria as outlined in the Montessori Module are eligible to comply with the modified licensing standards contained in that module.

"Overnight care" means care provided in a center between the hours of 1 a.m. and 5 a.m., inclusively.

"Parent" means the biological or adoptive parent or parents or legal guardian or guardians of a child enrolled in or in the process of being admitted to a center.

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

"Programmatic experience in the group care of children" means time spent working directly with children in a group, in a child care situation which is located away from the child's home (e.g., Sunday school, vacation Bible school, scouts, etc.).

"Special needs child day program" means a program exclusively serving children with disabilities ~~[ and which meets the child day center definition ]~~.

"Sponsor" means an individual, partnership, association, public agency, corporation or other legal entity in whom the ultimate authority and legal responsibility is vested for the administration and operation of a center subject to licensure.

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"Staff" means administrative, activity, service, and volunteer personnel including the licensee when the licensee is an individual who works in the facility.

"Staff positions" are defined as follows:

"Aide" means the individual designed to be responsible for helping the program leader or child care supervisor in supervising children and in implementing the activities and services for children.

"Program leader" or "child care supervisor" means the individual designated to be responsible for the direct supervision of children and for implementation of the activities and services for a group of children.

"Program director" means the primary, on-site director or coordinator designated to be responsible for developing and implementing the activities and services offered to children, including the supervision, orientation, training, and scheduling of staff who work directly with children, whether or not the program director personally performs these functions.

Exception: The administrator may perform staff orientation/training or program development functions if the administrator meets the qualifications [ of ] ~~§ 3.6 [ § 3.8 of these regulations in § 3.3 ]~~ and a written delegation of responsibility specifies the duties of the program director.

"Administrator" means a manager or coordinator designated to be in charge of the total operation and management of one or more centers. The administrator may be responsible for supervising the program director or, if appropriately qualified, may concurrently serve as the program director.

"Therapeutic child development program" means a specialized program, including but not limited to therapeutic recreation programs, exclusively serving children with disabilities [ ~~and meeting the child day center definition when~~ ] an individual service, education or treatment plan is developed and implemented with the goal of improving the functional abilities of the children in care.

[ "Universal precautions" means an approach to infection control. According to the concept of universal precautions, all human blood and certain human body fluids are treated as if known to be infectious for human immunodeficiency virus (HIV), hepatitis B virus (HBV), and other bloodborne pathogens. ]

"Volunteers" means persons who come to the center less than once a week and are not counted toward the required number of staff.

"Volunteer personnel" means persons who work at the center once a week or more often or who are counted in the required ratio of staff to children. Parent volunteers, such as parents helping in the classroom of a parent cooperative preschool, are considered volunteer personnel if they are counted in the staff-to-children ratio or if they volunteer once a week or more often.

[ Article 2.  
Legal Base. ]

§ 1.2. [ Legal base.

A. ] Chapter 10 (§ 63.1-195 et seq.) of Title 63.1 of the Code of Virginia describes the responsibility of the Department of Social Services for the regulation of residential and day programs for children, including child day centers.

[ ~~§ 1.3. B. ]~~ Section 63.1-202 of the Code of Virginia requires the Child Day-Care Council to prescribe standards for certain activities, services, and facilities for child day centers.

[ Article 3.  
Purpose.

~~§ 1.4. § 1.3. Purpose. ]~~

The purpose of these minimum standards is to protect children of preschool age or younger who are separated from their parents during a part of the day by:

1. Ensuring that the activities, services, and facilities of centers are conducive to the well-being of children, and
2. Reducing risks in the environment.

[ Article 4.  
Applicability.

~~§ 1.5. § 1.4. Applicability. ]~~

The minimum standards in Part I through VIII and the Montessori Module in Part IX of these regulations for Montessori preschools wanting to meet alternative standards, apply to child day centers serving children of preschool age or younger as defined in § 1.1 [ ~~of these standards~~ ] .

## PART II. ADMINISTRATION.

[ Article 1.  
Sponsorship. ]

§ 2.1. [ Sponsorship; operational responsibilities.

A. ] Each center shall have a clearly identified sponsor which shall be identified by its legal name in accordance with state requirements.

[ ~~§ 2.2. B. ]~~ The names and addresses of individuals who hold primary financial control and officers of the sponsor or governing body shall be disclosed fully to the Department of Social Services.

[ ~~§ 2.3. C. ]~~ The sponsor, [ *who may be* ] represented by the individual proprietor, partners, officers, and managers delegated authority to act for [ *a the* ] sponsor, shall be of good character and reputation and shall not have been convicted of a felony or a misdemeanor related to abuse, neglect, or exploitation of children or adults.

[ Article 2.  
Operational Responsibilities.

~~§ 2.4. D. ]~~ As required in § 63.1-198 of the Code of Virginia, the sponsor shall afford the commissioner or his agents the right at all reasonable times to inspect facilities, all

of his financial books and records, and to interview his agents, employees, and any child or other person within his custody or control.

[ ~~§-2.5. E.~~ ] The license shall be posted in a place conspicuous to the public, near the main entrance of the building or the main office.

[ ~~§-2.6. F.~~ ] The operational responsibilities of the licensee shall include, but not be limited to, the following:

1. To develop a written statement of the purpose, scope, and philosophy of the services to be provided by the center and written policies under which the center will operate;
2. To ensure that the center's activities, services, and facilities are maintained in compliance with: these minimum standards; the terms of the current license issued by the department; other relevant federal, state, and local laws and regulations including the Americans with Disabilities Act and state law regarding disabilities; and the center's own policies and procedures; ~~and .~~ *These minimum standards are not intended to prevent reasonable accommodations for children with disabilities. If a variance is necessary to attain reasonable accommodation, contact your licensing specialist.*
3. To identify in writing the individuals responsible for the day-to-day operations and implementation of both these regulations and the facility's policies.

[ ~~§-2.7. G.~~ ] No center "shall make, publish, disseminate, circulate, or place before the public, or cause, directly or indirectly, to be made... an advertisement of any sort regarding services or anything so offered to the public, which... contains any promise, assertion, representation, or statement of fact which is untrue, deceptive, or misleading" (§ 63.1-196 of the Code of Virginia).

[ ~~§-2.8. H.~~ ] The center sponsor shall maintain public liability insurance for bodily injury for each center site with a minimum limit of at least \$500,000 each occurrence and with a minimum limit of \$500,000 aggregate ~~or .~~ *A public sponsor may have equivalent self-insurance which is in compliance with local codes state code.* Evidence of insurance coverage shall be made available to the department's representative upon request ~~unless the center is self-insured.~~

[ ~~§-2.9. I.~~ ] A plan of accident or school insurance shall be available to the parent. The center may designate whether the parent's participation in the plan is optional or mandatory.

[ ~~§-2.10. J.~~ ] The center shall develop [ ~~an annual plan~~ *written procedures* ] for injury prevention. [ ~~This plan~~ *These procedures* ] shall be based on documentation of injuries and a review of the activities and services.

[ ~~§-2.11. K.~~ ] The center shall develop [ ~~a written~~ ] playground safety [ ~~plan~~ *procedures* ] which shall include:

1. Provision for active supervision by staff;
2. Positioning of staff on the playground to help meet the safety needs of children; and
3. Method of maintaining resilient surface.

[ ~~§-2.12. L.~~ ] Hospital operated centers may temporarily exceed their licensed capacity during a natural disaster or other catastrophe if:

1. The center has developed a plan with defined limits for its emergency operation, and
2. The center has received prior approval of the plan by the department. [ ~~The department may monitor the center during this time and impose additional requirements for the safety of children or withdraw the approval to exceed the capacity.~~ ]

[ ~~§-2.13. M.~~ ] If children 13 years or older are enrolled in the program and receive supervision in the licensed program, they shall be counted in the number of children receiving care and the center shall comply with the standards for these children.

## [ Article 3. Policies and Procedures.

~~§-2.14. § 2.2. Policies and procedures.~~

A. ] Before a child's enrollment, parents shall be provided in writing the following:

1. Operating information:
  - a. The center's purpose, scope, philosophy, and any religious affiliations;
  - b. The hours and days of operation and holidays or other times closed;
  - c. The [ ~~procedures forms or other written instruments~~ ] for admission and registration of children;
  - d. Fees and tuition including whether participation in the accident or school insurance is mandatory;
  - e. The phone number of the center *where a message can [ immediately ] be given to center staff,*
  - f. The program and services provided and the ages of children accepted;
  - g. Organizational chart or other description of established lines of authority for persons responsible for center management within the organization;
  - h. Reasons and procedures for removal of children from rolls including the amount of notice required for the parent and center before removal from the program; and
  - i. Licensing information found in Appendix I.
2. Arrival and departure for children.
  - a. Policy governing a parent picking up a child after closing hours and procedures if the child is not picked up;
  - b. Policy for release of children from the center only to responsible persons for whom the center has written authorization; and

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c. Procedures for protecting children from traffic and other hazards during arrival and departure and when crossing streets.

3. Program and activities:

~~a. Procedures and policies about accepting and storing children's personal belongings;~~

b. a. Discipline policies including acceptable and unacceptable discipline measures;

e. b. Food policies; and

d. c. Transportation safety policies and procedures when provided.

4. Health and emergencies:

a. Procedures for storing and giving children's medications [~~and which shall include:~~

(1) Any general restrictions of the center;

(2) Duration of the parent's authorization for medication, provided that it shall expire or be renewed after 10 working days. Long-term prescription drug use may be excepted if a form such as the one in Appendix II is completed and on file; and

(3) Methods to prevent use of outdated medication. ]

b. Policy for ~~reporting~~ center staff to report suspected child abuse (Note: Section 63.1-248.3 of the Code of Virginia requires any person providing full or part-time child care for pay on a regularly planned basis to report suspected child abuse or neglect).

[ § 2-15. B. ] Before staff are allowed to supervise children, staff shall be provided *in writing* with the information listed in [ § 2-14 § 2.2 A ] and the following:

1. Procedures for ~~earing for~~ supervising a child who may arrive after ~~any scheduled start time of the center~~ scheduled classes or activities, including field trips, have begun;

2. Procedures to confirm absence of a child from the center when the child attends more than one care or educational arrangement a day;

3. Procedures for identifying where attending children are at all times including ~~field trips~~ procedures to assure that all children are accounted for before leaving a field trip site and upon return to center, and

4. Procedures for action in case of lost or missing children, ill or injured children, and medical emergencies, ; and

5. Procedures for natural disasters, including but not limited to fire, flood, or other severe weather.

[ Article 4.

Records, Logs, and Reports.

§ 2-16. § 2.3. ] General record keeping [ ; reports ] .

A. All children's records and personnel records shall be treated confidentially. Exception: Children's records shall be made available to the custodial parent upon request.

~~B. Records, logs, and reports shall be kept. Records may be kept at a central location except as indicated otherwise in these standards.~~

~~C. B.~~ All records, logs, and reports on children and staff required by these standards shall be maintained and made accessible for two years after termination of enrollment or employment unless specified otherwise. *Records may be kept at a central location except as indicated otherwise in these standards.*

[ § 2-17. § 2.4. ] Children's records.

Each center shall maintain and keep at the center a separate record for each child enrolled which shall contain the following information:

1. Name, nickname (if any), sex, and birth date of the child;

2. Name, home address, and home phone number of each parent who has custody;

3. When applicable, work phone number and place of employment of each parent who has custody;

4. Name and phone number of child's physician;

5. Name, address, and phone number of two designated people to call in an emergency if a parent cannot be reached;

6. Names of persons authorized to pick up the child. Appropriate legal paperwork shall be on file when the custodial parent requests the center not to release the child to the other parent;

7. Allergies and intolerance to food, medication, or any other substances, and actions to take in an emergency situation;

8. Chronic physical problems and pertinent developmental information *and any special accommodations needed;*

9. Health information as required by §§ 2-26 [ §§ 2-32 §§ 2.11 ] through 2-28 [ 2-34 of these regulations 2.13 ] ;

Exception: When a center is located in ~~the same building on the same premises~~ where a child attends school and the child's record has a statement verifying the school's possession of the health record, the center is not required to maintain duplicates of the school's health record for that child provided the school's records are accessible during the center's hours of operation.

10. Written agreements between the parent and the center as required by §§ 2-21 [ §§ 2-22 §§ 2.7 A ] and 2-22 [ 2-23 B ] ;

11. Name of any additional programs or schools that the child is concurrently attending and the grade or class level; and

12. Enrollment and termination date.

~~[ § 2.18. Records for therapeutic child development programs and special needs child day programs.~~

~~A. For therapeutic child development programs, in addition to the requirements in § 2.17, each child's record shall also contain copies of required individual assessment plans and individual service, education and treatment plans.~~

~~B. For special needs child day programs, in addition to the requirements in § 2.17, each child's record shall also contain a copy of his initial individual assessment plan. ]~~

~~§ 2.18. [ § 2.19. § 2.5. ] Staff records.~~

Staff records shall be kept for paid staff and volunteer personnel which shall include the following:

1. Name, address, verification of age requirement, job title, and date of employment or volunteering;

2. Documentation that two or more references as to character and reputation as well as competency were checked before employment or volunteering. If a reference check is taken over the phone, documentation shall include dates of contact, names of persons contacted, the firms contacted, results, and signature of person making call.

Exceptions: Reference checks are not required for:

a. Staff hired before April 1, 1986, in centers initially licensed before July 1, 1993;

b. Staff who began work before July 1, 1993, in previously excepted centers that were initially required to be licensed after July 1, 1993; and

c. Parents who are volunteer personnel at a cooperative preschool if the parent was referred to the school by another parent or if the board of the preschool documents in writing each year that it agrees not to obtain reference checks on families not referred by other members.

3. A criminal record check as required by the Regulation for Criminal Record Checks for Child Welfare Agencies [ (22 VAC 15-55-10 et seq.) ] ;

4. Name, address, and telephone number of a person to be notified in an emergency which shall be kept at the center;

5. Written information to demonstrate that the individual possesses the education, orientation training, staff development, certification, and experience required by the job position;

6. First aid and other certification as required by the responsibilities held by the staff member;

7. Health information as required by ~~§§ 2.20 [ §§ 2.35 through §§ 2.14 and ] 2.31 [ 2.37 of these regulations 2.15 ] ;~~

8. Information, to be kept at the center, about any health problems which may interfere with fulfilling the job responsibilities; and

9. Date of termination when applicable.

Note: Staff records on parents who are volunteer personnel at a cooperative preschool may be combined with the children's records if the parent agrees to this arrangement.

~~§ 2.19. [ § 2.20. § 2.6. Attendance records; reports.~~

~~A. ] The center shall keep a written log record of the following: 1. Children children in attendance each day; .~~

~~2. Medication given to children as required by subdivisions 1 through 4 of § 7.17;~~

~~3. Children's accidents or injuries as required in subdivisions 1 through 7 of § 7.35;~~

~~4. Asbestos inspections as required in subdivision C 2 of § 4.2; and~~

~~5. Emergency evacuation practice drills as required in § 7.20.~~

~~§ 2.20. Reports shall be filed and maintained as follows:~~

~~[ § 2.21. B. Reports shall be filed and maintained as follows: ]~~

~~[ 1. ] The center shall inform the commissioner's representative within two working days [ immediately as soon as practicable but not to exceed one working day ] of the circumstances surrounding the following incidences:~~

~~a. Death of a child while under the center's supervision, and~~

~~b. Missing child when local authorities have been contacted for help.~~

~~[ 2. Any suspected incidence of child abuse shall be reported in accordance with § 63.1-248.3 of the Code of Virginia. ]~~

~~[ Article 5.~~

~~Enrollment and Termination Procedures. ]~~

~~§ 2.21. [ § 2.22. § 2.7. Enrollment and termination procedures.~~

~~A. ] A written agreement between the parent and the center shall be in each child's record at the time of the child's enrollment. The agreement shall be signed by the parent and include:~~

~~1. An authorization for emergency medical care should an emergency occur when the parent cannot be located immediately, and~~

~~2. A statement that the center will notify the parent when the child becomes ill and that the parent will arrange to have the child picked up as soon as possible.~~

~~§ 2.22. [ § 2.23. B. ] When applicable, written permission from the parent authorizing the child's participation in the~~

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center's transportation and field trips shall be in the child's record.

~~§ 2-23. [ § 2-24. C. ]~~ Reserved.

~~§ 2-24. [ § 2-25. D. ]~~ When a center decides to terminate the enrollment of a child, the center shall provide the parent [ ~~in writing~~ ] the reasons for termination.

~~§ 2-25. [ § 2-26. E. ]~~ Before the admission of a preschool or younger child, there shall be personal communication among a staff person, the parent, and the child unless there are unusual circumstances which do not allow the child to be present for the communication. The purpose of the communication shall be to provide the opportunity for the parent and staff to share information and agree about the admission of the child.

Exception: Programs, where children attend two or fewer weeks, are not required to involve the child during this communication.

~~[ § 2-27. For therapeutic child development programs and special needs child day programs, § 2.8. Enrollment procedures of therapeutic child development programs and special needs child day programs.~~

A. ] Before admission of a child, there shall be personal communication between the director, or his designee, and the parent to determine the child's:

1. Level of general functioning as related to physical, affective/emotional, cognitive and social skills required for participation;
2. Activities for daily living; and
3. Any special medical procedures needed.

[ B. The information required in subsection A of this section shall be documented and retained in the child's record. ]

~~[ § 2-28. C. ]~~ Based upon the results of the personal communication required in [ ~~§ 2-27 subsection A of this section~~ ], the director, or his designee, shall determine the initial placement of the child [ ~~pending completion of an individual assessment plan~~ ].

~~[ § 2-29. § 2.9. ]~~ Individual assessment [ for therapeutic child development programs ] .

A. [ ~~For therapeutic child development programs and special needs child day programs,~~ ] An individual assessment for each newly enrolled child shall be [ obtained or ] completed within six months before enrollment or 30 days after enrollment.

B. The assessment shall include:

1. Documentation of disability;
2. Current functional levels and skills capabilities in the areas of activities of daily living, affective/communicative, perceptual motor, physical and social development;
3. Recommendations for program placement;

4. Recommendations for accommodations for program participation [ - ; ]

5. Recommendations for program adjustments and special services; and

6. A description of physical adaptations and equipment [ need needed ] .

C. An individual assessment shall be [ completed reviewed and updated ] for each child no less than once every 12 months.

[ D. Each child's record shall contain copies of the required individual assessment plans. ]

~~[ § 2-30. E. ]~~ For therapeutic child development programs [ and special needs child day programs ], upon [ completion of obtaining or completing ] the individual assessment [ for a newly enrolled child ], the director or his designee, in a meeting with the child's parent and other professionals as deemed necessary, shall evaluate program placement and program accommodations for the child.

~~[ § 2-31. § 2.10. ]~~ Individual service, education or [ training treatment ] plan [ for therapeutic child development programs ] .

A. [ ~~For therapeutic child development programs,~~ ] An individual service, education or [ training treatment ] plan for each newly enrolled child shall be developed [ and implementation shall begin ] within 60 days after enrollment.

B. The individual service, education or [ training treatment ] plan shall be based on an analysis of the child's individual assessment and developed by the director or his designee, and staff persons who supervise the child. The plan shall include the following:

1. An assessment of the child's general functioning;
2. Specific program accommodations and intervention strategies necessary for participation;
3. Monthly documentation of the child's progress; and
4. Evaluation criteria goals and goal attainment measures.

C. The initial and subsequent service, education or treatment plans [ - ] and any changes made to the plans shall be reviewed and approved in writing by the staff person who supervises the child and the administrator or director of the facility prior to implementation.

D. The individual service, education or treatment plan shall be reviewed and revised every three months and rewritten annually.

E. The child's individual service, education or treatment plan shall be developed and reviewed in partnership with the parent.

[ F. A copy of the initial plan and subsequent or amended service, education or treatment plans shall be given to the child's parent.

G. Each child's record shall contain copies of the required individual service, education or treatment plans. ]

[ Article 6.  
Health for Children and Staff. ]

~~§ 2-26. [ § 2-32. § 2.11. ]~~ Immunizations for children.

~~A. [ Regulations by the State Board of Health for the immunization of school children require documentation of all age appropriate immunizations prescribed in the regulations before each child's enrollment to a center licensed by this Commonwealth. The center shall obtain documentation before each child's enrollment in the center that the child has received all immunizations required by the State Board of Health. ]~~

Exemptions (subsection C of § 22.1-271.2 of the Code of Virginia and [ ~~§ 3-03 12 VAC 5-110-110~~ ] of the Regulations for the Immunizations of School Children): Documentation of immunizations is not required for any child whose (i) parent submits an affidavit to the center, on the form entitled "Certification of Religious Exemption," stating that the administration of immunizing agents conflicts with the parent's or child's religious tenets or practices, or (ii) physician or a local health department states on a MCH 213B or MCH 213C Form that one or more of the required immunizations may be detrimental to the child's health.

B. Updated information on immunizations received shall be obtained once every six months for children under the age of two years.

C. Updated information on immunizations received shall be obtained once between each child's fourth and sixth birthdays.

~~§ 2-27. [ § 2-33. § 2.12. ]~~ Physical examinations for children.

Each child shall have a physical examination by or under the direction of a physician before enrollment or within one month after enrollment. The schedules for examinations prior to enrollment for children are listed below:

1. Within two months prior to enrollment for children six months of age and younger;
2. Within three months prior to enrollment for children aged seven months through 18 months;
3. Within six months prior to enrollment for children aged 19 months through 24 months; and
4. Within 12 months prior to enrollment for children two years of age through five years of age.

Exceptions:

1. Children transferring from a facility licensed by the Virginia Department of Social Services, certified by a local department of public welfare or social services, registered as a small family day home by the Virginia Department of Social Services or by a contract agency of the Virginia Department of Social Services, or approved by a licensed family day system:

a. If the initial report or a copy of the initial report of immunizations is available to the admitting facility, no additional examination is required.

b. If the initial report or a copy of the initial report is not available, a report of physical examination and immunization is required in accordance with ~~§§ 2-26 [ §§ 2-32 § 2.11 ]~~ and 2-27 [ ~~2-33 2.12~~ ] .

2. (Subsection D of § 22.1-270 of the Code of Virginia): Physical examinations are not required for any child whose parent objects on religious grounds. The parent must submit a signed statement noting that the parent objects on religious grounds and certifying that to the best of the parent's knowledge the child is in good health and free from communicable or contagious disease.

~~§ 2-28. [ § 2-34. § 2.13. ]~~ Form and content of immunizations and physical examination reports for children.

A. The current form required by the Virginia Department of Health shall be used to report immunizations received and the results of the required physical examination. See Appendix [ ~~II III~~ ] for a copy of this form.

Exception: When the current Health Department form has not been used such as, but not limited to, when a child transfers from another state, other documentary proof of the child having received the required examination and immunization shall be accepted. Documentary proof may include, but not be limited to, an International Certificate of Immunization, another state's immunization form, or a physician's letterhead.

B. Each report shall include the date of the physical examination and dates immunizations were received.

C. Each report shall be signed by a physician, his designee, or an official of a local health department.

~~§ 2-29. [ § 2-35. § 2.14. ]~~ Tuberculosis examination for staff.

A. Each staff member, including the licensee, administrator, and volunteer personnel, shall obtain and submit a statement that he is free of tuberculosis in a communicable form. The statement shall be submitted no later than [ ~~five working 21~~ ] days after employment or volunteering and shall:

1. Be dated within ~~30 days~~ two years before or [ ~~five working 21~~ ] days after employment of the individual;

Exception: *Staff hired before November 1, 1993, in centers newly subject to licensure effective July 1, 1993, shall submit a tuberculosis statement by [ ~~June 1, 1996~~ March 1, 1996 ] , that is dated no more than two years before [ ~~the effective date of these regulations~~ March 1, 1996 ] .*

2. Include the types of tests used and the results; and
3. Include the signature of the physician, the physician's designee, or an official of a local health department.

Exceptions: ~~When a staff member terminates work at one licensed facility or public or private school and begins work at a licensed center with a gap in service of six months or less, the previous statement of tuberculosis screening may be transferred to the licensed center. Centers newly subject to licensure do~~

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~~not need to require staff hired before November 1, 1993 to submit a statement of tuberculosis screening.~~

B. The tuberculosis examination shall be repeated *before the date on the statement is two years old and as required by a licensed physician or the local health department.*

C. Any staff member who comes in contact with a known case of tuberculosis or who develops chronic respiratory symptoms shall within one month after exposure or development receive an evaluation in accordance with subsections A and B of this section.

~~§ 2.30. [ § 2.36. § 2.15. Physical and mental health of staff.~~

A. ] When there is evidence that the safety of children may be jeopardized by the physical health or mental health of a staff member or volunteer, a report of examination of this person by a physician or, if appropriate, a ~~clinical psychologist [ licensed mental health professional clinical psychologist ]~~ skilled in the diagnosis and treatment of mental illness shall be obtained. The request for obtaining an examination may come from the licensee, administrator, or department.

~~§ 2.34. [ § 2.37. B. ] If a staff member's or volunteer's examination or test results indicate that his physical or mental condition may jeopardize the safety of children or prevent his performance of duties and no reasonable accommodation can be made to eliminate the risk, the staff member shall not be allowed contact with children or food served to children. The staff member may return when his condition is cleared to the satisfaction of the physician or clinical psychologist as evidenced by [ licensed mental health professional clinical psychologist ] confirms that the risk has been eliminated or substantially reduced such that reasonable accommodations may be made. Such confirmation shall include a signed, dated statement from the physician or clinical psychologist [ licensed mental health professional clinical psychologist ] .~~

## PART III. PERSONNEL.

### [ Article 4. General Qualifications. ]

§ 3.1. [ *General qualifications.*

A. ] No staff shall have been convicted of a felony or a misdemeanor related to abuse, neglect, or exploitation of children or adults.

[ § 3.2. B. ] All staff shall understand and be sensitive to the varying capabilities, interests, needs, and problems of children in care.

[ § 3.3. C. ] All staff shall be:

1. Of good character and reputation;
2. Capable of carrying out assigned responsibilities;
3. Willing and able to accept training and supervision;
4. Able to communicate effectively both orally and in writing as applicable to the job responsibility; and

5. Able to understand and apply the minimum standards in this booklet which relate to their respective responsibilities.

[ § 3.4. D. ] All staff who work directly with children shall have the ability to:

1. Communicate with emergency personnel and understand instructions on a prescription bottle;
2. Communicate effectively and appropriately with the age group to which the staff person is assigned;
3. Communicate effectively with parents;
4. Provide a stimulating and safe environment for the age group to which the staff person is assigned; and
5. Use materials, activities, and experiences to encourage children's growth and development.

[ § 3.5. E. ] *For therapeutic child development programs and special needs child day programs, staff [ who work with children ] shall have knowledge of [ diagnostic the ] groups being served and [ disability—issues skills specific to the disabilities of the children in care ] including, but not limited to, functional abilities, accommodations, assessment techniques, behavior management, medical and health concerns.*

[ § 3.6. F. ] *For therapeutic child development programs and special needs child day programs:*

1. Staff who work with children shall adapt or modify activities based on the assessment of the children's needs and functional abilities, and
2. Each child shall always be supervised by staff appropriately trained in the form of communication needed.

### [ Article 2. Qualifications by Job Responsibility. ]

~~§ 3.5. [ § 3.7. § 3.2. Qualifications by job responsibility. ]~~

All staff who work in multiple positions within the center shall meet the qualifications for each position.

Note: Personnel titles used in the standards are descriptive only. Centers are not required to use the same titles. The administrator or program director may have responsibilities for several centers at one site.

~~§ 3.6. [ § 3.8. Administrators. § 3.3. Administrator qualifications.~~

A. ] There shall be an administrator designated to be in charge of the total operation of the center. Administrators ~~hired who assume the administrator responsibilities [ on or ] after the effective date of these regulations November 1, 1993, who also perform responsibilities of the program director shall be at least 21 years of age and shall possess an endorsement, bachelor's degree or associate degree in a child-related field from an accredited college or university and one year of programmatic experience in the group care of children meet one of the program director qualification options listed in [ § 3.11 § 3.4 C 1 through 4 ] .~~

Exception: Montessori preschools may meet the alternative requirements in the Montessori Module.

~~[ § 3.9. B. ] In addition to the requirements under [ § 3.8 subsection A of this section ] , the administrator of a therapeutic child development program [ and or ] a special needs child day program [ , who also performs responsibilities of the program director, ] shall have completed at least 15 semester hours [ or 21 quarter hours ] from an accredited college or university [ , 21 quarter hours from an accredited college or university in areas related to special needs children ] , or 60 hours of training and education in areas related to special needs children [ , such as special education, early childhood special education, therapeutic recreation, human development, human services or rehabilitation services ] .~~

~~§ 3.7. [ § 3.10. § 3.4. Program director qualifications for centers with children of preschool age or younger.~~

A. ] There shall be a program director designated to be responsible for developing and implementing the activities and services offered to children. There may be one program director for a center offering care to both school age and preschool children at one site or there may be two directors, according to the age of the children, for a center serving school age and preschool children. If a program director is responsible for a center with school age children and a center with children of preschool age or younger, the qualifications applicable to both school age and preschool age and younger shall apply.

~~§ 3.8. [ § 3.11. Program directors for centers with children of preschool age or younger.~~

A. B. ] Program directors hired or promoted before November 1, 1993, shall have until July 1, 1996, to meet one of the qualifications of subsection [ B C ] of this section. Program directors hired or promoted [ on or ] after November 1, 1993, shall meet one of the qualifications of subsection [ B C ] of this section immediately.

[ B. C. ] Program directors [ for centers with children of preschool age or younger ] shall be at least 21 years of age and [ shall ] possess one of the following:

1. A graduate degree in a child related field from an accredited college or university and six months of age appropriate, programmatic experience in the group care of children; or
2. An endorsement or bachelor's degree in a child related field from an accredited college or university and one year of age appropriate, programmatic experience in the group care of children; or
3. Forty-eight semester hours or 72 quarter hours of college credit from an accredited college or university of which 12 semester hours or 18 quarter hours are in subjects relating to group care of children and one year of age appropriate, programmatic experience in the group care of children; or
4. Two years of age appropriate, programmatic experience in the group care of children, of which one year of this experience shall be in a staff supervisory

capacity, and at least one of the following educational backgrounds:

- a. Forty-eight semester hours or 72 quarter hours of college credit from an accredited college or university;
- b. One year early childhood certificate from an accredited college or university that consists of at least 30 semester hours; or
- c. A Child Development Associate credential or equivalent as determined by the department based on documentation supplied by those claiming equivalency.

Note: For the programmatic experience to be considered age appropriate at least some of the experience shall be with children of preschool age or younger.

Exception: Montessori preschools may meet the alternative requirements in the Montessori Module.

~~[ § 3.12. § 3.5. ] Program directors for therapeutic child development programs [ or and ] special needs child day programs [ with children of preschool age or younger ] .~~

A. Program directors hired or promoted before [ June 1, 1995 March 1, 1996 ] , shall have until June 1, 1998, to meet the qualifications of subsection B of this section. Program directors hired or promoted [ on or ] after [ the effective date of these regulations March 1, 1996, ] shall meet the qualifications of subsection B of this section immediately.

B. Program directors [ for therapeutic child development programs and special needs child day programs with children of preschool age or younger ] shall be at least 21 years of age and possess one of the following:

1. A graduate degree in a special needs related field from an accredited college or university and six months of programmatic experience in the group care of children with disabilities; or
2. An endorsement, or bachelor's degree in a special needs related field from an accredited college or university and one year of programmatic experience in the group care of children with disabilities; or
3. Forty-eight semester hours or 72 quarter hours of college credit from an accredited college or university of which 12 semester hours or 18 quarter hours are in subjects relating to group care of children with disabilities and one year of programmatic experience in the group care of children with disabilities; or
4. Two years of programmatic experience in the group care of children with disabilities of which one year of this experience shall be in a staff supervisory capacity, and at least one of the following education backgrounds:
  - a. Forty-eight semester hours or 72 quarter hours of college credit from an accredited college or university;
  - b. One year early childhood certificate from an accredited college or university that consists of at least 30 semester hours; or

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c. A Child Development Associate credential or equivalent as determined by the department based on documentation supplied by those claiming equivalency.

[ The requirements in this standard are in lieu of the requirements specified in § 3.4 B and C. ]

§ 3.9. [ ~~§ 3.13.~~ § 3.6. ] Back-up for program directors.

A. For centers operating eight hours or more per day, if the program director is regularly present in the facility fewer than four hours per day, there shall be an officially designated person who shall assume the responsibility in the absence of the program director and meet [ ~~one of the qualifications of~~ ] § 3.8 [ ~~§ 3.11 § 3.4 or for therapeutic child development programs or special needs child day programs,~~ § 3.5 ]. In addition, if the program operates multiple shifts for working parents, a program director shall be regularly present for at least four hours of each shift or have a back-up program director who shall assume responsibility in the absence of the director and meet [ ~~one of the qualifications of~~ ] § 3.8 [ ~~§ 3.11 § 3.4 or for therapeutic child development programs or special needs child day programs,~~ § 3.5 ]. [ ~~The grandfather clause as stated in subsection A of~~ ] § 3.8 [ ~~§ 3.11 shall also apply to back-up program directors.~~ ]

B. For centers operating eight hours or less per day, if the program director is regularly present in the facility less than 50% of the hours of operation, there shall be an officially designated person who shall assume responsibility in the absence of the program director and meet [ ~~one of the qualifications of~~ ] § 3.8 [ ~~§ 3.11 § 3.4 or for therapeutic child development programs or special needs child day programs,~~ § 3.5 ]. [ ~~The grandfather clause stated in subsection A of~~ ] § 3.8 [ ~~§ 3.11 shall also apply to back-up program directors.~~ ]

Exception: Montessori preschools may meet the alternative requirements in the Montessori Module.

§ 3.10. [ ~~§ 3.14.~~ § 3.7. ] Program [ ~~leaders leader~~ ] and child care [ ~~supervisors supervisor~~ ] qualifications ] .

Program leaders and child care supervisors shall be at least 18 years of age and have a high school diploma or G.E.D. In addition, program leaders and child care supervisors who are hired or promoted [ ~~on or~~ ] after the effective date of these regulations November 1, 1993, [ ~~and who work with children of preschool age or younger~~ ] shall meet one of the program director qualifications in § 3.8 [ ~~§ 3.11 § 3.4 C~~ ] or possess one of the following:

1. An endorsement or bachelor's degree in a child related field from an accredited college or university; or
2. Forty-eight semester hours or 72 quarter hours of college credit from an accredited college or university of which 12 semester hours or 18 quarter hours are in subjects relating to group care of children and six months of age appropriate, programmatic experience in the group care of children; or
3. A one year early childhood certificate from an accredited college or university that consists of at least 30 semester hours and six months of age appropriate,

programmatic experience in the group care of children; or

4. A Child Development Associate credential [ or equivalent as determined by the department based on documentation supplied by those claiming equivalency ] ; or

5. One year of age appropriate, programmatic experience in the group care of children and participation in a staff training plan of at least 10 hours. The training plan shall reflect [ ~~developmentally appropriate care and education~~ ] practices [ ~~that are age and stage appropriate for children~~ ] and [ ~~shall~~ ] be conducted within six months of employment or promotion to a program leader at the center.

Note: For the programmatic experience to be considered age appropriate, at least some of the experience shall be with children of preschool age or younger.

Exception: Montessori preschools may meet the alternative requirements in the Montessori Module.

[ ~~§ 3.15.~~ § 3.8. ] Program leaders and child care supervisors [ ~~for of~~ ] therapeutic child development programs [ ~~or and~~ ] special needs child day programs.

Program leaders and child care supervisors [ ~~of a therapeutic child development program or a special needs child day program~~ ] shall be at least 18 years of age and have a high school diploma or G.E.D. In addition, program leaders and child care supervisors who are hired or promoted [ ~~on or~~ ] after [ ~~November 1, 1993~~ March 1, 1996 ] , shall meet one of the program director qualifications in [ ~~§ 3.12 § 3.5 B~~ ] or possess one of the following:

1. An endorsement or bachelor's degree in a special needs related field from an accredited college or university; or
2. Forty-eight semester hours or 72 quarter hours of college credit from an accredited college or university of which [ ~~six~~ 12 ] semester hours or [ ~~nine~~ 18 ] quarter hours are in subjects relating to group care of children [ ~~and six semester hours or nine quarter hours are in subjects relating to group care of children with disabilities;~~ , ] and six months of programmatic experience in the group care of [ ~~children individuals~~ ] with disabilities; or
3. One year of [ ~~age appropriate,~~ ] programmatic experience in the group care of children, of which at least six months shall be with children with disabilities.

[ The requirements in this standard are in lieu of the requirements specified in § 3.7. ]

§ 3.11. [ ~~§ 3.16.~~ § 3.9. ] Aides.

[ A. ] Aides shall be at least 16 years of age and shall meet the general qualifications, health, orientation training, and staff development requirements for the applicable position.

[ ~~B.~~ For therapeutic child development programs and special needs child day programs, all aides shall possess competency-based knowledge and skills specific to the

~~disabilities of the children in care prior to working with children.~~ ]

[ § 3.10. Contract staff.

Contract staff working with children shall meet the personnel, health, and orientation training requirements for the applicable position. ]

~~§ 3.12.~~ [ ~~§ 3.17.~~ § 3.11. ] Volunteer personnel [ ; volunteers ] .

[ A. ] Volunteer personnel shall meet the qualifications for the applicable position [ ~~except that volunteer personnel who are parents and are sight supervised when with children and not counted in the staff-to-children ratios only need to meet the health requirements of §§ 2.29 through 2.31~~ ] .

[ Exception: Volunteer personnel only need to meet the health requirements of §§ 2.14 and 2.15 and any applicable Code of Virginia requirements if they (i) are family members 14 years of age or older, (ii) are sight supervised when with children, and (iii) are not counted in the staff-to-children ratios. ]

~~§ 3.13.~~ [ ~~§ 3.18.~~ Volunteers. ]

[ A. B. ] The duties of volunteers shall be clearly defined.

[ B. C. ] Volunteers who work with children [ ~~of preschool age or younger~~ ] shall be at least 14 years of age.

[ Article 3.  
Staff Orientation Training and Development. ]

~~§ 3.14.~~ [ ~~§ 3.19.~~ Orientation training. § 3.12. Staff orientation training and development.

A. ] [ ~~Before assuming job responsibilities,~~ ] All staff shall receive the following training [ ~~by the end of their first day of assuming job responsibilities~~ ] :

1. Job responsibilities and to whom they report;
2. The policies and procedures listed in [ ~~§§ 2.14 and 2.15~~ § 2.2 ] that relate to the staff member's responsibilities;
3. The center's playground safety [ ~~plan procedures~~ ] unless the staff member will have no responsibility for playground activities or equipment;
4. Confidential treatment of personal information about children in care and their families; and
5. The minimum standards in this booklet which relate to the staff member's responsibilities.

~~§ 3.15.~~ [ ~~§ 3.20.~~ Staff development.

A. B. ] The center shall have a *written* plan for staff development.

[ ~~B.~~ Staff development activities to meet subsection C of this section shall: C. *In addition to first aid and orientation training required elsewhere in these regulations, employed staff who work directly with children shall annually attend eight hours of staff development activities that shall:* ]

1. Be related to children and the function of the center;

2. Consist of some sources outside the center which may include but not be limited to audio and visual tapes, conferences, and workshops;

3. Be from someone with verifiable expertise or experience when conducted as in-service training; and

4. Include annually the topics of safety for children, child development and discipline, and playground [ ~~and outdoor~~ ] supervision for staff.

[ ~~C.~~ ~~In addition to first aid, CPR, and orientation training required elsewhere in these regulations, employed staff who work directly with children shall annually attend eight hours of staff development activities.~~ ]

Exception: Montessori preschools may meet the alternative requirements in the Montessori Module [ ~~as long as the criteria in subdivisions C 1 through 4 are met~~ ] .

[ D. There shall be at least one staff member on duty at all times who has obtained instruction in performing the daily health observation of children. This instruction shall be obtained from a physician, registered nurse, or health department medical personnel at a three-year interval. Staff with this training shall observe daily each child for signs and symptoms of illness. ]

[ ~~§ 3.21.~~ E. ] *In addition to the topics required elsewhere in these standards, [ before assuming job responsibilities, ] therapeutic child development and special needs child day staff [ working directly with children ] shall also receive training in:*

1. Universal precautions procedures;
2. Activity adaptations;
3. Medication administration and medical procedures;
4. Disabilities precautions and health issues; and
5. Intervention strategies.

[ ~~§ 3.22.~~ F. *For [ therapeutic child development [ programs ] and special needs child day [ programs, employed ] staff who work directly with children shall annually attend 16 hours of staff development activities. In addition to the requirements of [ ~~§ 3.20-B~~ § 3.12 C ] , staff shall attend at least eight hours of training on topics related to the disabilities of the children in care.*

~~§ 3.16.~~ [ ~~§ 3.23.~~ There shall be at least one staff member on duty at all times who has obtained instruction in performing the daily health observation of children. This instruction shall be obtained from a physician, registered nurse, or health department medical personnel at a three-year interval. ]

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## PART IV. PHYSICAL PLANT.

### [ ~~Article 4.~~ ~~Approval from Other Agencies.~~ ]

§ 4.1. [ *Approval from other agencies;* ] requirements prior to initial licensure.

A. Before issuance of initial license and before use of newly constructed, renovated, remodeled, or altered buildings or sections of buildings, written documentation of the following shall be provided by the applicant or licensee to the licensing representative:

1. Inspection and approval from the appropriate authority that the buildings meet building codes or that the center has an approved plan of correction; and
2. Inspection and approval from the local health department, or approval of a plan of correction, for meeting requirements for:
  - a. Water supply;
  - b. Sewage disposal system; and
  - c. Food service, if applicable.

Exception: Any building which is currently approved for school occupancy and which houses a public or private school during the school year shall be considered to have met the requirements of subdivision A 1 of this section when housing a center only serving children two and a half years of age or older.

B. If a building was under construction before 1978, a written statement from a Virginia licensed asbestos inspector and management planner shall be submitted before initial licensure in order to comply with § 63.1-198.01 of the Code of Virginia. The statement shall include:

1. Verification that the building in which the child day center is located was inspected for asbestos according to the requirements of the Asbestos Hazard Emergency Response Act - 40 CFR 763 - Asbestos Containing Materials in Schools;
2. The dates of the inspection;
3. Whether asbestos was found *or assumed* in the building;
4. Signature of the licensed asbestos inspector and management planner, including the Virginia license numbers *and a copy of the asbestos inspector license and management planner license valid at the time of the inspection;* and
5. If asbestos is found or assumed; the statement shall include:
  - a. The location of any [ *significant friable* ] asbestos [ *hazard areas* ] ;
  - b. Verification of completion of the management plan; *and*
  - c. Response actions recommended by the inspector; *and*

~~d. Verification that response actions have been completed.~~

Exception: Private, nonprofit schools providing educational instruction to children five years of age or older are also subject to the federal requirements of the Asbestos Hazard Emergency Response Act (AHERA). Private, nonprofit schools which are also subject to licensure and have had an asbestos inspection completed prior to [ ~~the implementation of these regulations July 1, 1993,~~ ] may submit the letter of completion they have received from the Department of Education, in lieu of the requirements of this subsection.

Private, nonprofit schools subject to the federal AHERA requirements, but which have not already received an asbestos inspection must comply with [ ~~subsections B and C of this section~~ *this subsection* ] .

C. If asbestos was found *or assumed* in the building, before a license will be issued the prospective licensee shall:

1. Submit to the department a signed, written statement that:

- a. Response actions to remove all asbestos containing materials have been completed; or
- b. The recommendations of the [ ~~operations and maintenance management~~ ] plan will be followed, appropriate staff will receive the necessary training and documentation of required inspections will be completed.

2. Maintain documentation *provided by a Virginia licensed asbestos [ abatement ] contractor of removal* :

- a. *Removal, where applicable, at the center for review by the department's representative; and*
- b. *Response actions to encapsulate, enclose or repair the asbestos material have been completed, where applicable.*

3. [ ~~Send written notification to the parents, department, and other adult occupants of the building~~ *The center shall post a notice* ] about the presence and location of the asbestos containing material as well as the advisement that the asbestos inspection report and ~~operation and maintenance management plan~~ are available for review. A copy of this [ ~~notification notice~~ ] shall be submitted to the department.

Note: The department may request that the complete asbestos inspection report and [ ~~operations and maintenance management~~ ] plan be submitted for review.

Exception: The asbestos requirements of subsections B and C of this section do not apply to child day centers located in a currently operating public school building or a state owned building since the asbestos requirements of these buildings are regulated by other agencies. [ *However, the center administrator shall become familiar with the location of any asbestos containing material in the building in which the center is located and any applicable management plan.* ]

§ 4.2. [ *Approval from other agencies;* ] requirements subsequent to initial licensure.

A. Every 12 months, written documentation shall be obtained and provided to the licensing representative of inspection and approval from the appropriate fire prevention official that the center's facility complies with the Statewide Fire Prevention Code [ 13 VAC 5-50-10 *et seq.* ] .

Exception: If a center is located in a building currently housing a public or private school during the school year, the school's fire inspection report may be accepted in lieu of the requirements of subsection A of this section if the inspection was completed within the past 12 months.

B. Subsequent to initial licensure, and as required by the local health department, written documentation shall be provided of any additional inspections and approvals, or approvals of a plan of correction, for meeting:

1. Water supply;
2. Sewage disposal system; and
3. Food service, if applicable.

C. For those buildings where asbestos containing materials are found or assumed and not removed:

1. The administrator or a designated staff member shall take the required asbestos training as specified in the [ ~~operations and maintenance management~~ ] plan for the facility;
2. The administrator or a designated staff member who has received the required asbestos training shall conduct visual inspections of all asbestos containing materials according to the schedule recommended in the management plan and document the date and the findings of these inspections; and
3. [ ~~New parents and new adult occupants of the building shall be provided written notification of the presence and location of asbestos in the building and be advised that the asbestos inspection report and operations and maintenance plan are available for their review. The center shall post a notice about the presence and location of the asbestos containing material as well as the advisement that the asbestos inspection report and management plan are available for review.~~ ] A [ ~~copy of this written notification posted notice~~ ] shall be maintained at the center [ ~~for review by the department's representative~~ ] ; and
4. *The administrator shall submit to the department a signed, written statement that the [ recommendations of the management plan will be followed center is following the recommendations of the management plan ] .*

D. For those buildings where asbestos containing materials have been found or assumed and asbestos has been removed, the center shall maintain at the center documentation of that removal for review by the department's representative, provided by a Virginia licensed asbestos contractor, where applicable, indicating specific locations where asbestos containing material was removed or stating that all asbestos material was removed. Unless all asbestos

containing materials have been removed, the [ ~~operations and maintenance management~~ ] plan shall be followed for any remaining asbestos material.

Exception: Subsections C and D do not apply to child day centers located in a currently operating public school building or a state owned building since the asbestos requirements of these buildings are regulated by other agencies. [ *However, the center administrator shall become familiar with the location of any asbestos containing material in the building in which the center is located and any applicable management plan.* ]

## [ Article 2. General Requirements. ]

§ 4.3. [ *General requirements; heating and cooling equipment.*

A. [ The facility's areas and equipment, inside and outside, shall be:

1. Maintained in clean and sanitary condition;
2. Maintained in conditions that are safe and free of hazards such as, but not limited to, sharp points or corners, splinters, protruding nails, loose rusty parts, and objects small enough to be swallowed; and

Exception: Montessori preschools may meet the alternative requirements in the Montessori Module.

3. Maintained in operable condition.

[ ~~§ 4.4. Heating provisions.~~

~~A. B. ] A heating system shall be provided. Heat shall be supplied from an [ officially ] approved [ ~~central~~ ] heating system. The heating system shall [ ~~meet the following specifications~~ ] :~~

- ~~1. It shall be approved by the appropriate building official;~~
- ~~2. [ 1. Heating shall not be provided by stoves; ]~~
- ~~3. [ 2. It shall 1. ] Be installed to prevent accessibility of children to the system; and~~
- ~~4. [ 3. It shall 2. ] Have appropriate barriers to prevent children from being burned, shocked, or injured from heating equipment. In addition, proper supervision shall be available to prevent injury.~~

Exception: In case of emergency, portable electric or kerosene heaters may be used if they have been previously inspected and approved by the appropriate building official in accordance with the manufacturer's instructions.

[ B. C. ] In areas used by children, the temperature shall be maintained no lower than 68°F.

[ ~~§ 4.5. D.~~ ] Fans or other cooling systems shall be used when the temperature of areas used by children exceeds 80°F.

[ ~~§ 4.6. E.~~ ] Drinking water fountains or individual disposable cups, or both, shall be provided. Drinking water shall be available and accessible at all times.

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[ F. Reserved. ]

[ G. Reserved. ]

[ H. Reserved. ]

[ ~~§ 4.7. I.~~ ] Building Equipment shall include, but not be limited to, the following:

1. Outside lighting provided at entrances and exits used by children before sunrise or after sundown; , and
2. A working, nonpay telephone; .
3. ~~First-aid kit or kits; and~~
4. ~~Provision for locking medication as described in standard 7.16.~~

[ ~~§ 4.8. § 4.4.~~ ] Hazardous substances and other harmful agents.

A. No center shall be located where conditions exist that would be hazardous to the health and safety of children.

B. Hazardous substances such as cleaning materials, insecticides, and pesticides shall be kept ~~away from food preparation and storage areas~~ and in a locked place using a safe locking method that prevents access by children. If a key is used, the key shall not be accessible to the children.

C. Pesticides [ ~~and or~~ ] insecticides shall not be stored in areas used by children [ ~~and or~~ ] in areas used for food preparation or storage.

D. Cleaning materials shall not be located above food, food equipment, utensils or single-service articles and shall be stored in areas physically separate from food.

E. Cleaning materials (e.g., detergents, sanitizers and polishes) and insecticides/pesticides shall be stored in areas physically separate from each other.

G. F. Hazardous substances shall be stored in the original container unless this container is of such a large size that its use would be impractical.

D. G. If hazardous substances are not kept in original containers, the substitute containers shall clearly indicate their contents and shall not resemble food or beverage containers.

E. H. Cosmetics, medications, or other harmful agents of staff members shall not be stored in areas, purses or pockets that are accessible to children.

F. I. Hazardous art and craft materials, such as those listed in Appendix [ ~~III IV~~ ] , shall not be used with children.

[ ~~§ 4.9. § 4.5.~~ ] *General physical plant requirements for centers serving children of preschool age or younger.* ]

In areas used by children of preschool age and younger, the following shall apply:

1. Steps with three or more risers shall have:
  - a. Handrails within the normal handgrasp of the children or

- b. A banister with vertical posts, between the handrail and each step, which can be safely grasped by the children. The distance between the posts shall be no greater than three and one half inches.

2. Fans, when used, shall be secured and out of reach of children.

3. All electrical outlets shall have protective caps or other equivalent, approved, protective devices and be of a size that cannot be swallowed by children.

[ ~~§ 4.10. § 4.6.~~ ] Reserved.

[ ~~§ 4.11. Reserved~~ ]

[ ~~§ 4.12. Reserved~~ ]

[ ~~§ 4.13. Reserved~~ ]

[ ~~Article 3.  
Indoor Areas.~~ ]

[ ~~§ 4.14. § 4.7.~~ ] *Indoor areas.*

A. ] There shall be 25 square feet of indoor space available to each child where activities are conducted.

Exception: ~~Centers in operation before November 1, 1993, and newly subject to licensure~~ Centers newly subject to licensure effective July 1, 1993, which were in operation before November 1, 1993, may have until July 1, 1996, to meet this requirement.

[ ~~§ 4.15. B.~~ ] Areas not routinely used for children's activities shall not be calculated as available activity space. Space not calculated shall include, but not be limited to, offices, hallways, restrooms, kitchens, storage rooms or closets, and space occupied by equipment which is not used in or does not contribute to the children's activities.

[ ~~§ 4.16. C.~~ ] A place away from the children's activity area shall be designated for children who are ill, injured, tired, or emotionally upset.

[ ~~§ 4.17. D.~~ ] Smoking shall be prohibited inside the center and outside the center in the presence of children.

Exception: Smoking may be allowed inside the building if it occurs in a room with a separate air circulation system from the one used for children's areas and the circulation system is vented directly to the outdoors.

[ ~~§ 4.18. E.~~ ] Activity space shall be arranged so that when playing on the floor, children at each developmental stage shall be protected from children at more advanced developmental stages.

[ ~~§ 4.19. F.~~ ] Space in areas used by infants shall be calculated separately from space for older children. One of the following methods to calculate available activity space for infants shall be used:

1. Centers shall have a minimum of 25 square feet of available activity space per infant when space occupied by cribs and changing tables is deducted from the calculation of available activity space; or

2. Centers shall have a minimum of 35 square feet of available activity space per infant when space occupied

by cribs and changing tables is included in the calculation of available activity space.

~~[ § 4.20. For ]~~ G. *Therapeutic child development programs and special needs child day programs [ , serving children who use wheelchairs shall have ] an area equipped with vinyl-covered floormats [ shall be ] available to [ children who ] use [ wheelchairs ] when activities call for children to be out of their wheelchairs.*

~~[ Article 4.  
Restroom Areas and Furnishings. ]~~

~~§ 4.20. [ § 4.21. § 4.8. Restroom areas and furnishings.~~

A. ] Centers shall have at least two toilets and two sinks.

~~§ 4.21. [ § 4.22. B. ]~~ Each restroom provided for children shall:

1. Be within a confined area;
2. Be accessible and within the building used by the children;
3. Have toilets that are all flushable;
4. Have sinks that are all equipped with running water which does not exceed 120°F; and
5. Be equipped with soap, toilet paper, and disposable towels.

~~§ 4.22. [ § 4.23. C. ]~~ For restrooms available to boys, urinals may be substituted for not more than one-half the required number of toilets, provided the center has at least ~~two toilets~~ *one toilet is available to boys.*

~~§ 4.23. [ § 4.24. D. ]~~ An adult size toilet with privacy shall be provide for staff use. Staff toilets may be counted in the number of required toilets for children only if children are allowed unrestricted access to them on a routine basis.

~~§ 4.24. [ § 4.25. E. ]~~ Restroom areas shall have at least one toilet and one sink for every 15 preschool children. When sharing restroom areas with other programs, the children in the other programs shall be included in the toilet and sink ratio calculations. The toilet and sink ratio appropriate to the younger age group shall apply.

Exceptions: ~~Centers in operation before November 1, 1993, and newly subject to licensure~~ *Centers newly subject to licensure effective July 1, 1993, which were in operation before November 1, 1993, may have until July 1, 1996, to meet this requirement and Montessori preschools may meet the alternative requirements in the Montessori Module.*

~~§ 4.25. [ § 4.26. F. ]~~ When child size toilets, urinals, and low sinks are not available in restrooms used by children of preschool age and younger, one or more platform or set of steps shall be available so that children may use adult size toilets and sinks without help or undue delay.

~~§ 4.26. Reserved.~~

~~[ § 4.27. G. ] Reserved.~~

~~[ § 4.28. H. ] Reserved.~~

~~[ § 4.29. I. ] Reserved.~~

~~§ 4.29. [ § 4.30. § 4.9. ]~~ Requirements for centers with children who are not toilet trained.

A. Centers that serve children who are not toilet trained shall provide a diapering area which allows for sight and sound supervision of children in the classroom or is accessible and within the building used by children if the staff-to-children ratios required by subdivisions 1 through 4 of ~~[ § 5.17 § 5.3 E ]~~ are maintained in the classroom ~~[ while other children are being escorted to toileting locations ]~~. The diapering area shall have at least the following:

1. A sink with running warm water not to exceed 120°F;
2. A changing table or counter equipped with a nonabsorbent surface for changing diapers of children below the age of three;
3. A nonabsorbent surface for changing diapers of children three years of age or older;
4. A leakproof storage system for diapers that is not hand generated;
5. A covered receptacle for soiled bed linens; and
6. Soap and disposable towels.

B. For every 10 children in the process of being toilet trained there shall be at least one toilet chair, or one child-sized toilet, or at least one adult sized toilet with a platform or steps and an available adapter seat. The location of these items shall allow for sight and sound supervision of children in the classroom or be accessible and within the building used by children if the staff-to-children ratios required by subdivisions 1 through 4 of ~~[ § 5.17 § 5.3 E ]~~ are maintained in the classroom while other children are being escorted to toileting locations.

C. When only toilet chairs are used, there shall be a toilet located in an area or room in which the door is not more than 10 feet from the area used for the majority of the day by the children being toilet trained.

~~[ Article 5.  
Outdoor Areas. ]~~

~~§ 4.30. [ § 4.31. § 4.10. Outdoor areas.~~

A. ] ~~Centers in operation before November 1, 1993, and newly subject to licensure~~ *Centers newly subject to licensure effective July 1, 1993, which were in operation before November 1, 1993, may have until July 1, 1996, to meet the requirements of §§ 4.30 [ §§ 4.31 through ] 4.39 [ 4.40 subsections B through J of this section ]*.

~~§ 4.31. [ § 4.32. B. ]~~ The outdoor play area shall provide a minimum of 75 square feet of space per child in the area at any one time.

~~§ 4.32. [ § 4.33. C. ]~~ Playgrounds shall be located and designed in a way to protect children from ~~[ hazardous situations hazards ]~~.

~~§ 4.33. [ § 4.34. D. ]~~ While ~~[ § 6.35 § 6.6 B ]~~ addresses the variety and amount of materials and equipment available for children, the specific playground equipment the center shall have is not designated. If playground equipment is provided,

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resilient surfacing that helps absorb the shock if a child falls off the equipment shall be placed under all fixed playground equipment with moving parts or climbing apparatus to create a fall zone free of hazardous obstacles. Fall zones are defined as the area underneath and surrounding equipment that requires a resilient surface. [ ~~#~~ A fall zone ] shall encompass sufficient area to include the child's trajectory in the event of a fall while the equipment is in use. For recommendations concerning resilient surfacing, see Appendix [ ~~IV~~ V ].

Exception: Montessori preschools may meet the alternative requirements in the Montessori Module.

§ 4.34. [ ~~§ 4.35. E.~~ ] Ground supports shall be covered with materials which would protect children from injury.

§ 4.35. [ ~~§ 4.36. F.~~ ] Equipment used by children shall meet the following requirements:

1. ~~Have no accessible openings between 3 1/2 inches and nine inches; All bounded openings which allow a 3 1/2 inch by 6 1/4 inch rectangle to fit through shall also allow a nine inch circle to fit through to avoid head entrapment. See Appendix [ ~~V~~ VI ] for additional information.~~
2. Have closed S-hooks when provided; and
3. Have no protrusions, sharp points, shearing points, or pinch points.

§ 4.36. [ ~~§ 4.37. G.~~ ] All [ outdoor ] swing seats shall be made of flexible material [ ~~except for special swing equipment for a child with a disability or infant swings if they are specifically designed to provide the necessary support required for infants~~ ] and if the swings are located in a separate area where no other children can enter or walk around in the protected swing area. [ ~~If special swings and infant swings are made of nonflexible material, precautions shall be taken to keep all other children out of the swing area~~ ].

§ 4.37. [ ~~§ 4.38. H.~~ ] Sandboxes with bottoms which prevent drainage shall be covered when not in use.

§ 4.38. [ ~~§ 4.39. I.~~ ] For activity areas, both inside and outside, that are used by toddlers and preschool children, the climbing portion of slides and climbing equipment shall not be more than seven feet high.

§ 4.39. [ ~~§ 4.40. J.~~ ] Centers licensed for the care of infants and toddlers shall provide a separate playground area for these children which has at least 25 square feet of unpaved surface per infant/toddler on the outdoor area at any one time. This unpaved surface shall be suitable for crawling infants and for toddlers learning to walk. This space may be counted as part of the 75 square feet required in § 4.34 [ ~~§ 4.32 subsection B of this section~~ ].

## PART V. STAFFING AND SUPERVISION.

### [ Article 1. Supervision of Staff and Volunteers. ]

§ 5.1. [ *Supervision of staff and volunteers.* ]

A. ] All aides, volunteer personnel, and volunteers shall be under the individual supervision of a staff member on site who meets the qualifications of a program leader, child care supervisor, or program director.

[ ~~§ 5.2. B.~~ ] Each person serving in the [ ~~positions~~ position ] of a program director, back-up program director, program leader or child care supervisor shall not be responsible for the individual supervision of more than two aides at any one time.

Exception: In a training environment, aides used beyond the required staff-to-children ratio of subdivisions 1 through 4 of [ ~~§ 5.17~~ § 5.3 E ] shall not be included in the above requirement.

[ ~~§ 5.3.~~ ] ~~When with children, contract employees shall be eight supervised by a staff member unless the contract employee meets [ Contract employees working with children shall meet the personnel, health, and orientation training requirements for the applicable position. ]~~

### [ Article 2. Supervision of Children.

§ 5.4. § 5.2. *Supervision of children.*

A. ] All staff assigned responsibility for supervision of children shall ensure their care, protection, and guidance at all times.

[ ~~§ 5.5. B.~~ ] During the center's hours of operation, one adult on the premises shall be in charge of the administration of the center. This person shall be either the administrator or an adult appointed by the licensee or designated by the administrator.

[ ~~§ 5.6. C.~~ ] There shall be in each building of the center and on field trips at all times when one or more children are present:

1. At least two staff, one of whom meets the qualifications of a program leader, child care supervisor, or program director; or
2. One staff member who meets the qualifications of a program leader, child care supervisor, or program director and a readily available designated support person with direct means for communication between the two of them.

[ ~~§ 5.7. D.~~ ] In each grouping of children at least one staff member who meets the qualifications of a program leader, child care supervisor, or program director shall be regularly present.

[ ~~§ 5.8. E.~~ ] Children under 10 years of age shall be within actual sight and sound supervision of staff at all times, except that staff need only be able to hear a child who is using the restroom provided that:

1. There is a system to assure that individuals who are not staff members or persons allowed to pick up a child in care do not enter the restroom area while in use by children, and

2. Staff check on a child who has not returned from the restroom after five minutes.

[ § 5.9. F. ] Reserved

[ § 5.10. G. ] When the outdoor activity area is not adjacent to the center, there shall be at least two staff on the outdoor activity area whenever one or more children are present.

[ § 5.11. H. ] Staff shall greet each child upon arrival at the center and oversee each child's departure from the center.

[ § 5.12. I. ] Staff shall ensure the immediate safety of a child during diapering.

[ Article 3.

Staff-to-Children Ratio Requirements.

§ 5.13. § 5.3. Staff-to-children ratio requirements.

A. ] Staff shall be counted in the required staff-to-children ratios only when they are directly supervising children.

[ § 5.14. B. ] A child volunteer [ 14 years of age or older ] not enrolled in the program shall not be counted as a child in the staff-to-children ratio requirements.

[ § 5.15. C. ] When children are regularly in ongoing mixed age groups, the staff-to-children ratio applicable to the youngest child in the group shall apply to the entire group.

Exception: Montessori preschools may meet the alternative requirements in the Montessori Module.

[ § 5.16. D. ] During the designated rest period, the ratio of staff to children may be double the number of children to each staff required by subdivisions [ E ] 2 through 4 of [ § 5.17 this section ] if:

1. A staff person is within sight and sound of the resting/sleeping children;
2. All staff counted in the overall rest period ratio are within the facility and available to assure safe evacuation in an emergency; and
3. An additional person is present at the center to help, if necessary.

[ § 5.17. In each grouping of children, E. ] The following ratios of staff to children are required wherever children are in care:

1. For children from birth to the age of 16 months: one staff member for every four children;
2. For children 16 months old to two years: one staff member for every five children;
3. For children from two years to four years: one staff member for every 10 children; and

Exception: Montessori preschools may meet the alternative requirements in the Montessori Module.

4. For children from four years to the age of eligibility to attend public school, five years by September 30: one staff member for every 12 children.

Exception: Montessori preschools may meet the alternative requirements in the Montessori Module.

[ F. Reserved.

G. With a parent's written permission and a written assessment by the program director and child care supervisor or program leader, a center may choose to assign a child to a different age group if such age group is more appropriate for the child's developmental level. If such developmental placement is made for a child with a disability, a written assessment by a recognized agency or professional shall be required at least annually. ]

[ § 5.18. H. ] For therapeutic child development programs, in each grouping of children, the following ratios of staff to children are required according to the disabilities of the children in care:

1. For children with severe and profound disabilities, multiple disabilities, or serious emotional disturbance: one staff member to three children.
2. For children diagnosed as trainable mentally retarded (TMR), or with physical and sensory disabilities, or with autism: one staff member to four children.
3. For children diagnosed as educable mentally retarded (EMR), or developmentally delayed: one staff member to five children.
4. For children diagnosed with attention deficit [ disorder ] /hyperactivity disorder ( [ ADD AD ] /HD): one staff member to five children.
5. [ For ] children diagnosed with specific learning disabilities: one staff member to six children.
6. When children with varied disabilities are regularly in ongoing groups, the ratios indicated in subdivisions 1 through 5 of this [ section subsection ] shall be maintained for each level.

[ Note: Whenever § 5.3 E requires more staff than § 5.3 H because of the children's ages, § 5.3 E shall take precedence over § 5.3 H. ]

PART VI.  
PROGRAMS.

[ Article 4.  
Daily Schedule. ]

§ 6.1. [ Daily schedule.

A. ] There shall be a predictable sequence to the day for children 16 months or older but the schedule shall be flexible, based on children's needs.

[ § 6.2. B. ] For centers operating more than two hours per day or more than two hours per session per day, outdoor activity shall be provided daily, weather allowing, according to the following:

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1. If the center operates between two and five and one half hours per day or per session, there shall be at least 30 minutes of outdoor activity per day or per session.
2. If the center operates more than five and one half hours per day or per session, there shall be at least one hour of outdoor activity per day or per session.

Exceptions: Outdoor activity is not required on days when an all day field trip occurs and Montessori preschools may meet the alternative requirements in the Montessori Module for subdivision 2 of this [ ~~section subsection~~ ].

[ ~~§ 6.3. C.~~ ] Staff shall provide opportunities for children to engage in self-chosen tasks and activities [ ~~and allow children to learn from self-directed problem solving and experimentation~~ ].

[ ~~§ 6.4. D.~~ ] The daily schedule which describes the typical sequence of daily activities for toddlers and preschoolers shall be posted in a place conspicuous to parents and staff.

[ ~~§ 6.5. E.~~ ] There shall be a flexible schedule for infants based on their individual needs.

[ ~~§ 6.6. F.~~ ] Centers operating five or more hours per day or per session shall have a designated rest period for preschool children and toddlers in attendance at the time of the rest period.

[ ~~§ 6.7. G.~~ ] For centers operating five or more hours per day or per session, the following requirements for preschool children and toddlers during the designated rest period shall apply:

1. The rest period shall be at least one hour but no more than two hours unless children are actually sleeping;
2. Cots, beds, or rest mats shall be used during the rest period; and
3. After the first 30 minutes of a rest period, nonsleeping children shall be allowed to participate in quiet activities, which may include, but not be limited to, books, records, puzzles, coloring, or manipulatives.

[ Article 2-  
Activities-

~~§ 6.8.~~ § 6.2. *Activities.*

A. ] The daily activities shall be [ ~~developmentally age and stage~~ ] appropriate and promote the individual child's physical, intellectual, emotional, and social well-being and growth as well as promoting curiosity and exploration.

[ ~~§ 6.9. B.~~ ] To promote emotional development, the center shall provide for:

1. Opportunities for individual self-expression;
2. Recognition that each child is an individual;
3. Respect for personal privacy; and
4. Respect for each child's cultural, ethnic, and family background, as well as the child's primary language or dialect.

[ ~~§ 6.10. C.~~ ] To promote social development, the center shall provide:

1. Guidance to children in developing and working out ways of getting along with one another;
2. Staff interaction with children in ways which emphasize and foster attitudes of mutual respect between adults and children; and
3. Staff behavior which demonstrates respect for all other persons as individuals and appreciation of cultural and ethnic diversity.

[ ~~§ 6.11. D.~~ ] The center shall provide for the self-direction of the children by:

[ ~~1. Allowing children opportunities to choose activities according to personal desires and interests and to move freely from one activity to another;~~

~~2. 1. ] Encouraging children to do things independently and to help with daily routines as appropriate to the child's developmental level but to be available to comfort and help when needed [ ; ] and~~

[ ~~3. 2. ] Supporting children's friendships and providing children opportunities to be involved in decision making about group and individual activities.~~

[ ~~§ 6.12. E.~~ ] A variety of children's activities shall be provided that allow for group and individual involvement and child and staff initiation.

[ ~~§ 6.13. F.~~ ] For children who cannot move without help, staff shall offer to change the places and position of the child and the selection of toys or objects available to the child at least every 30 minutes or more frequently depending on the individual needs of the child.

[ ~~§ 6.14. G.~~ ] The center shall provide a balance of active and quiet activities.

[ ~~§ 6.15. H.~~ ] Children of all ages shall be allowed to rest or sleep as needed on cribs, cots, mats, or beds, as appropriate.

[ 1. Reserved. ]

[ ~~§ 6.16.~~ § 6.3. *Activities for preschool age children.* ]

Daily activities and experiences for preschool children, which are explained in Appendix V [ ~~V~~ VII ] , shall include, but not be limited to:

1. Art activities;
2. Rhythm, movement, and music;
- [ 3. *Language and communication experiences;* ]
- ~~3. Language and communication experiences;~~
4. [ ~~3. 4. ] Sensory experiences and exploration of the environment;~~
5. [ ~~4. 5. ] Construction;~~
6. [ ~~5. 6. ] Social living;~~
7. [ ~~6. 7. ] Water and sand play;~~

~~8.~~ [ ~~7.~~ 8. ] Small motor activities; and

~~9.~~ [ ~~8.~~ 9. ] Large motor activities.

Exception: Montessori preschools may meet the alternative requirements in the Montessori Module.

[ ~~§ 6.17.~~ § 6.4. *Activities for infants and toddlers.*

A. ] For toddlers, the center shall provide daily equipment and opportunities for sensory and perceptual experiences, large and small motor development, and language development.

[ ~~§ 6.18.~~ B. ] Daily activities and experiences for toddlers, which are explained in Appendix ~~V~~ [ ~~VII~~ VIII ], shall include, but not be limited to:

1. Art activities;
2. Rhythm, movement, and music;
3. Language and communication experiences;
4. Sensory experiences and exploration of the environment;
5. Construction;
6. Social living;
7. Water and sand play;
8. Small motor activities; and
9. Large motor activities.

[ ~~§ 6.19.~~ C. ] Staff shall encourage language development by one-to-one face-to-face conversations giving toddlers time to initiate and respond; labeling and describing objects and events; helping children put feelings into words; and expanding on toddler language.

[ ~~§ 6.20.~~ D. ] Staff shall express affection, support toddler's growing independence such as dressing and eating, and making choices in activities and routines.

[ ~~§ 6.21.~~ E. ] Staff shall support toddler's developing self-control by expressing feelings with words, giving positively worded directions, and modeling and redirecting behavior.

[ ~~§ 6.22.~~ F. ] Parents of toddlers shall receive daily verbal feedback about:

1. Daily activities;
2. Physical well-being; and
3. Developmental milestones.

[ ~~§ 6.23.~~ G. ] For infants, the center shall provide daily equipment and opportunities for sensory and perceptual experiences, large and small motor development, and language development.

[ ~~§ 6.24.~~ H. ] Staff shall promptly respond to infants' needs for food and comfort.

[ ~~§ 6.25.~~ I. ] Infant play spaces shall:

1. Offer opportunities for least restrictive environment;
2. Offer a diversity of experiences for the infant; and

3. Provide frequent opportunities to creep, crawl, toddle, and walk.

Note: Play spaces may include but not be limited to cribs, infant seats, infant swings, high chairs, and floor area.

[ ~~§ 6.26.~~ J. ] An awake infant not playing on the floor or ground shall be provided a change in play space at least every 30 minutes, and more often as determined by the needs and demands of the individual infant. For awake infants playing on the floor or ground, staff shall change the position of the infant and selection of toys available to the infant every 30 minutes or more often as determined by the needs and demands of the individual infant.

[ ~~§ 6.27.~~ K. ] An infant or toddler who falls asleep in a play space other than his own crib, cot, mat, or bed shall be moved promptly to his own crib, cot, mat, or bed *if he is uncomfortable or unsafe.*

[ ~~§ 6.28.~~ L. ] Stimulation shall be regularly provided for infants in a variety of ways including being held, cuddled, talked to, and played with by staff.

[ ~~§ 6.29.~~ M. ] For each infant, the center shall post a daily record which can be easily seen by both the parent and by the staff working with the children. The record shall include the following information:

1. The amount of time the infant slept;
2. The amount of food consumed and the time;
3. A description and the time of bowel movements; and
4. Developmental milestones.

[ ~~§ 6.30.~~ N. ] Resting or sleeping infants and toddlers shall be individually checked at least every 30 minutes.

## [ Article 3.

### Parental Involvement.

~~§ 6.31.~~ § 6.5. *Parental involvement.*

A. ] The center shall be open for parents to visit and observe their children at any time as stated in § 63.1-210.1 of the Code of Virginia.

[ ~~§ 6.32.~~ B. ] The center shall encourage parental involvement on a volunteer basis in appropriate center activities.

[ ~~§ 6.33.~~ C. ] Staff shall frequently and in person share information with parents about their child's health, development, behavior, adjustment, and needs.

## [ Article 4.

### Equipment and Materials.

~~§ 6.34.~~ § 6.6. *Equipment and materials.*

A. ] All furnishings, equipment, and materials shall be of [ a developmentally an ] appropriate size for the child using it.

[ ~~§ 6.35.~~ B. ] The amount and variety of materials and equipment available and the arrangement and use of the materials and equipment shall be [ developmentally age and

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*stage* ] appropriate for the children and shall include equipment and materials which:

1. Are in sufficient supply to avoid excessive competition among the children and to avoid long waits for use of the materials and equipment;
2. Provide for a variety of experiences and appeal to the individual interests and abilities of children;
3. Are accessible to children for the activities required by these standards; [ *and* ]
4. Allow children to use small and large muscles for imaginative play and creative activities [ *and* ]
5. ~~Include multicultural materials ] .~~

[ ~~§-6.36. C.~~ ] Indoor slides and climbing equipment shall not be over bare concrete, hardwood floors, masonry, vinyl, tile surface or similar surface flooring constructed of wood, masonry or vinyl.

[ ~~§-6.37. D.~~ ] Storage space for play materials and equipment used by the children shall be accessible to children either independently or with help.

[ ~~§-6.38. E.~~ ] If combs, toothbrushes, or other personal articles are used, they shall be individually assigned.

[ ~~§-6.39. F.~~ ] All disposable products shall be used once and discarded.

[ ~~§-6.40. G.~~ ] Disposable dishes and utensils shall be sturdy enough to contain food without leakage and to prevent harm and injury to children.

[ ~~§-6.41. H.~~ ] Individualized space such as, but not limited to, lockers or cubbies for each preschool and younger child's clothing and personal items shall be provided.

[ ~~§-6.42. I.~~ ] In each classroom grouping of children of preschool age or younger, at least one area, shelf, or cupboard space where materials can be readily and freely chosen by children during active play periods shall be available.

[ ~~§-6.43. J.~~ ] Equipment and play materials for infants shall include, but not be limited to balls, busy boards, books, rattles, dolls, play mats, soft blocks, nesting and stacking toys, squeeze toys, music boxes, and mirrors placed where infants can see themselves.

[ ~~§-6.44. K.~~ ] Playpens and walkers shall not be used.

[ ~~§ 6.7. Crib, cots, rest mats, and beds.~~ ]

[ ~~§-6.45. A.~~ ] Cribs, cots, rest mats or beds shall be provided to children present during the designated rest period and no more than one child at a time shall occupy a crib, cot, rest mat, or bed.

[ ~~§-6.46. B.~~ ] Cribs, cots, rest mats, and beds shall be marked or identified in some way for use by a specific child.

[ ~~§-6.47. C.~~ ] Double decker cribs, cots, or beds, or other sleeping equipment which is when stacked shall not be used.

[ ~~§-6.48. D.~~ ] Occupied cribs, cots, rest mats, and beds shall be at least 2-1/2 feet from any heat source in use.

[ ~~§-6.49. E.~~ ] There shall be at least 15 inches of space between sides and ends of occupied cots, beds, and rest mats.

Exception: Fifteen inches of space are not required where cots, beds, or rest mats touch the wall or where screens are placed between cots or beds as long as one side is open at all times to allow for passage.

[ ~~§-6.50. F.~~ ] If rest mats are used, they shall have comfortable cushioning and be sanitized between each use.

[ ~~§-6.51. G.~~ ] Cribs shall be used for children under 12 months of age and for children over 12 months of age who are not developmentally ready to sleep on a cot or mat.

[ ~~§-6.52. H.~~ ] Cribs shall meet the following requirements:

1. They shall meet the Consumer Product Safety Commission Standards at the time they were made;
2. There shall be no more than six centimeters or 2-3/8 inches of space between slats;
3. Mattresses shall fit snugly next to the crib; and
4. End panel cut-outs in cribs shall be of a size not to cause head entrapment.

[ ~~§-6.53. I.~~ ] No cribs shall be placed where objects outside the crib such as cords from blinds or curtains are in reach of infants or toddlers.

[ ~~§-6.54. J.~~ ] There shall be at least:

1. Twelve inches of space between the sides and ends of occupied cribs except where they touch the wall, and
2. Thirty inches of space between service sides of occupied cribs and other furniture when that space is the walkway for staff to gain access to any child in any crib.

[ ~~§-6.55. K.~~ ] Crib sides shall always be up and the fastenings secured when a child is in the crib, except when staff is giving the child immediate attention.

[ ~~§-6.56. L.~~ ] Pillows shall not be used by children under two years of age.

~~§-6.57. No toys shall be hung over or attached to cribs.~~

~~§-6.58. [ ~~§-6.57. § 6.8.~~ ] Linens.~~

A. Linens for cribs, cots, rest mats, or beds shall consist of a top cover and a bottom cover or a one-piece covering which is open on three edges.

B. Linens shall be assigned for individual use.

C. Linens shall be maintained in clean and sanitary condition and shall be washed at least weekly except for crib sheets which shall be cleaned daily.

D. When pillows are used, they shall be assigned for individual use and covered with pillow cases.

E. Mattresses when used shall be covered with a waterproof material which can be easily sanitized.

[ Article 5-  
Behavior Guidance. ]

~~§ 6.59.~~ [ ~~§ 6.58.~~ § 6.9. *Behavior guidance.*

A. ] Discipline shall be constructive in nature and include techniques such as:

1. Using limits that are fair, consistently applied, and appropriate and understandable for the child's level;
2. Providing children with reasons for limits;
3. Giving positively worded directions;
4. Modeling and redirecting children to acceptable behavior;
5. Helping children to constructively express their feelings and frustrations to resolve conflict; and
6. Arranging equipment, materials, activities, and schedules in a way that promotes desirable behavior.

~~§ 6.60.~~ [ ~~§ 6.59. B.~~ ] There shall be no physical punishment or disciplinary action administered to the body such as, but not limited to, spanking; roughly handling a child; forcing a child to assume an uncomfortable position (e.g., standing on one foot, keeping arms raised above or horizontal to the body); restraining to restrict movement through binding or tying; enclosing in a confined space, box, or similar cubicle; or using exercise as punishment.

~~§ 6.64.~~ [ ~~§ 6.60. C.~~ ] A child shall not be shaken at any time.

~~§ 6.62.~~ [ ~~§ 6.64. D.~~ ] Staff shall not be verbally abusive which would include, but not be limited to, threats, belittling remarks about any child, his family, his race, his religion, or his cultural background, or other statements that are frightening or humiliating to the child.

~~§ 6.63.~~ [ ~~§ 6.62. E.~~ ] When disciplining a child, staff shall not:

1. Force, withhold, or substitute food;
2. Force or withhold naps; or
3. Punish a child for toileting accidents.

~~§ 6.64.~~ [ ~~§ 6.63. F.~~ ] When separation is used as a discipline technique, it shall be brief and appropriate to the child's developmental level and circumstances. The child who is separated from the group shall be in a safe, lighted, well-ventilated place and shall be within hearing and vision of a staff member.

~~§ 6.65.~~ [ ~~§ 6.64. G.~~ ] No child, for punishment or any other reason, shall ever be confined in any space that the child cannot open, such as but not limited to closets, locked rooms, latched pantries, or containers. *This does not apply to safety equipment such as cribs, high chairs and safety gates when used for the intended purpose.*

~~§ 6.66.~~ [ ~~§ 6.65. H.~~ ] Staff shall not give a child authority to punish another child nor shall staff consent to a child punishing another child.

~~§ 6.67.~~ [ ~~§ 6.66. I.~~ ] Staff shall follow the center's policy on acceptable and unacceptable discipline methods.

~~§ 6.68.~~ [ ~~§ 6.67. J.~~ ] Behavior problems of children of preschool age and younger shall be dealt with promptly.

[ Article 6-  
Swimming and Wading Activities. ]

~~§ 6.69.~~ [ ~~6.68. § 6.10.~~ *Swimming and wading activities;* ] staff and supervision.

A. The staff-child ratios required by subdivisions 1 through 4 of [ ~~§ 6.17 § 5.3 E~~ ] shall be maintained while children are participating in swimming or wading activities. The designated water safety instructor or senior lifesaver shall not be counted in the staff-to-children ratios.

B. If a pool, lake, or other swimming area has a water depth of more than two feet, a water safety instructor or senior lifesaver holding a current certificate shall be on duty supervising the children participating in swimming or wading activities at all times when one or more children are in the water. The certification shall be obtained from an organization such as, but not limited to, the American Red Cross, the YMCA, or the Boy Scouts.

C. A minimum of two staff members of the center shall be on duty supervising the children during swimming or wading activities when one or more children are in the water.

~~§ 6.70.~~ [ ~~§ 6.69. § 6.11.~~ ] Pools and equipment.

A. When permanent swimming or wading pools are located on the premises of the center, the following shall apply:

1. The manufacturer's specifications for operating the pool shall be followed as well as any local ordinance and any Department of Health requirements for swimming pools;
2. All pools constructed, renovated, or remodeled after April 1, 1986, shall have a statement in writing of their inspection and approval from the local building official when such appraisal is required;
3. Outdoor swimming pools shall be enclosed by safety fences and gates which shall be kept locked when the pool is not in use;
4. Entrances to swimming pools shall be locked when the pool is not in use; and
5. A whistle or other audible signaling device, a buoy or a lemon line, a reach pole, and a backboard shall be available at the swimming or wading site.

B. If children are allowed to swim in a lake or other place other than a pool, safe swimming areas shall be clearly marked.

C. All piers, floats, and platforms shall be in good repair and where used for diving, the minimum water depth shall be indicated on the deck or planking.

D. If children are allowed to swim at a lake or other body of water larger than a pool, there shall be a rescue boat

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available at all times which is equipped with a reach pole and a lemon line or buoy.

E. If portable wading pools are used, they shall be emptied of dirty water and filled with clean water for each day's use and more frequently as necessary.

§ 6.74. [ ~~§ 6.70.~~ § 6.12. *Swimming and wading;* ] general.

A. The center shall have emergency procedures and written safety rules for swimming or wading that are:

1. Posted in the swimming area when the pool is located on the premises of the center;
2. Given to staff involved in swimming or wading activities;
3. Given to parents of children participating in swimming or wading activities; and
4. Explained to children participating in swimming or wading activities.

[ ~~B.~~ *The center shall maintain written, signed permission from the parent of each child who participates in swimming or wading.* ]

[ ~~B. C.~~ ] Staff shall have a system for accounting for all children in the water.

[ ~~G. D.~~ ] Each child's swimming skills shall be determined before the child is allowed in water above the child's shoulder height.

[ ~~D. E.~~ ] Outdoor swimming activities shall occur only during daylight hours unless underwater and deck lighting is provided.

[ ~~E. F.~~ ] Children who are not toilet trained shall not use portable wading pools.

## PART VII.

### SPECIAL CARE PROVISIONS AND EMERGENCIES.

#### [ ~~Article 4.~~ ~~Preventing the Spread of Disease.~~ ]

§ 7.1. [ ~~Preventing the spread of disease.~~ ]

A. ] If a child arrives at the center with the signs or symptoms listed in [ ~~§ 7.3 subsection B of this section~~ ], the child shall not be allowed to attend for that day.

[ ~~§ 7.2. Staff with training as required in~~ ] § 3.16 [ ~~§ 3.23 shall observe daily each child for signs and symptoms of illness.~~ ]

[ ~~§ 7.3. B.~~ ] Unless otherwise instructed by the child's health care provider, that child shall be excluded if [ ~~he has~~ ]:

1. [ ~~He has~~ ] A temperature over 100°F, [ or ]
2. ~~Recurrent vomiting or diarrhea~~ [ ; ~~or.~~ ]
2. [ ~~3. He has a communicable disease as delineated in the current Communicable Disease Chart recommendations for the exclusion of sick children. (Refer to Appendix ) VII [ VIII].~~ ]

[ ~~§ 7.4. C.~~ ] If a child needs to be excluded according to [ ~~§ 7.3 of these regulations subsection B of this section~~ ], the following shall apply:

1. Arrangements shall be made for the child to leave the center as soon as possible after the signs or symptoms are noticed, and
2. The child shall remain in the designated quiet area until leaving the center.

[ ~~§ 7.5. D.~~ ] When a child at the center has been exposed to a reportable communicable disease, the parent shall be informed.

[ ~~§ 7.6. E.~~ ] Children's hands shall be washed with soap and water before eating meals or snacks, after toileting, and after any contact with body fluids.

[ ~~§ 7.7. F.~~ ] Staff shall wash their hands with soap or germicidal cleansing agent and water after helping a child with toileting, after the staff member uses the toilet, after any contact with body fluids, and before feeding or helping children with feeding.

[ ~~§ 7.8. G.~~ ] When a child's clothing or diaper becomes wet or soiled, it shall be changed immediately.

[ ~~§ 7.9. H.~~ ] Children not toilet trained.

[ ~~A. 1.~~ ] The child's soiled area shall be thoroughly cleaned with a disposable wipe during each diapering.

[ ~~B. 2.~~ ] Staff shall wash their hands with soap or germicidal cleansing agent and water after each diaper change.

[ ~~C. 3.~~ ] Disposable diapers shall be used for children in diapers unless the child's skin reacts adversely to disposable diapers. If cloth diapers are used, there shall be separate step-on diaper pails for the cloth and disposable diapers.

[ ~~D. 4.~~ ] Toilet chairs shall be emptied promptly and sanitized after each use.

[ ~~E. 5.~~ ] Surfaces for changing diapers shall be used only for changing diapers or cleaning children.

[ ~~F. 6.~~ ] Diapers shall be changed on a nonabsorbent surface which shall be washed with soap and warm water or a germicidal cleansing agent after each use.

[ ~~G. 7.~~ ] Tables used for children's activities or meals shall not be used for changing diapers.

#### [ ~~Article 2.~~ ~~Medication.~~ ]

§ 7.10. § 7.2. *Medication.*

A. ] Prescription and nonprescription medication shall be given to a child according to the center's written medication policies and only with written authorization from the parent.

[ ~~§ 7.11. The center's medication policies shall address methods for administering medication and shall include:~~ ]

1. Any general restrictions of the center;

~~2. Duration of the parent's authorization for medication, provided that it shall expire or be renewed after 40 work days. Long term prescription drug use may be excepted if a form such as the one in Appendix VIII is completed and on file; and~~

~~3. Methods to prevent use of outdated medication. ]~~

[ ~~§ 7.12. B.~~ ] The medication authorization shall be available to staff during the entire time it is effective.

[ ~~§ 7.13. C.~~ ] All medication shall be labeled with the child's name, the name of the medication, the dosage amount, and the time or times to be given.

[ ~~§ 7.14. D.~~ ] All medication shall be in the original container with the prescription label or direction label attached.

[ ~~§ 7.15. E.~~ ] When needed, medication shall be refrigerated. When medication is stored in a refrigerator used for food, the medications shall be stored together in a container or in a clearly defined area away from food.

[ ~~§ 7.16. F.~~ ] All medication, including refrigerated medication and staff's personal medication, shall be kept in a locked place using a safe locking method that prevents access by children. If a key is used, the key shall not be accessible to the children.

[ ~~§ 7.17. G.~~ ] Centers shall keep a log record of medication given children which shall include the following:

1. Child to whom medication was administered;
2. Amount and type of medication administered to the child;
3. The day and time the medication was administered to the child; and
4. Staff member administering the medication.

[ ~~§ 7.18. H.~~ ] Medication shall be returned to the parent as soon as the medication is no longer being administered.

~~[ Article 3.  
Specialized Staff Training.~~

~~§ 7.19. § 7.3. ] First aid training.~~

~~There shall be at least one staff member who is trained in first aid on the premises during the center's hours of operation and also one person on all field trips who is trained in first aid and wherever children are in care. This person shall be available to children and meet one of the following qualifications for first aid training:~~

1. Has a current first aid certificate by the American Red Cross;
2. Has a current first aid certificate by the National Safety Council;
3. Has successfully completed, within the past three years, a competency based first aid course equivalent to the curriculum which has been approved by the State Board of Health which meets the criteria described in Appendix [ X IX ] ; or

4. Be a R.N. or L.P.N. with a current license from the Board of Nursing.

[ ~~§ 7.20. Reserved~~

~~§ 7.21. CPR training.~~

~~There shall be at least one staff member on the premises during the center's hours of operation and also one person on all field trips and wherever children are in care who has a current cardiopulmonary resuscitation (CPR) certificate. This training shall be appropriate to the age group the center serves and the instructor shall have a current certificate from the certifying agency which indicates that he meets one of the following qualifications:~~

1. Standard First Aid Instructor (American Red Cross);
2. CPR Instructor (American Red Cross); or
3. CPR Instructor (American Heart Association). ]

~~§ 7.21. Reserved~~

[ ~~§ 7.22. Reserved~~

~~§ 7.23. Reserved. ]~~

~~[ Article 4.  
First Aid and Emergency Supplies. ]~~

~~§ 7.23. [ § 7.24. § 7.4. First aid and emergency supplies.~~

~~A. ] A first aid kit shall be [ :~~

1. ] On each floor of each building used by children and [ ;
2. Accessible to outdoor play areas;
3. ] On all field trips [ ; ] and
- [ 4. ] Wherever children are in care.

~~§ 7.24. [ § 7.25. B. ] The required first aid kits shall include at a minimum:~~

1. Scissors;
2. Tweezers;
3. Gauze pads;
4. Adhesive tape;
5. Band-aids, assorted types;
6. An antiseptic cleansing solution;
7. An antibacterial ointment;
8. 7. Thermometer;
- 9- 8. Two or more triangular bandages;
- 10- 9. Disposable gloves; and
- 14- 10. The first aid instructional manual.

~~§ 7.25. [ § 7.26. C. ] Each first aid kit shall be stored so that it is not available to children but is easily available to staff.~~

~~§ 7.26. [ § 7.27. D. ] The following emergency supplies shall be required [ and be available on field trips ] :~~

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1. Syrup of ipecac or activated charcoal preparation (to be used only upon the advice of the physician or the Poison Control Center); [ *and* ]

2. Chemical cooling agents, zip-lock bags, and sponges readily available for icing down contusions, sprains, and breaks [ ; . ]

[ *E. The following emergency supplies shall be required:* ]

[ ~~3. 1.~~ ] A working, battery-operated flashlight on each floor of each building of the facility that is used by children; and

[ ~~4. 2.~~ ] One working, battery-operated radio in each building of the facility used by children and any camp location without a building.

[ ~~Article 5.  
Procedures for Emergencies.~~ ]

~~§ 7.27. [ § 7.28. § 7.5. Procedures for emergencies.~~

A. ] The center shall have an emergency evacuation plan that addresses staff responsibility with respect to:

1. Sounding of fire alarms and notification of local authorities;
2. Evacuation procedures including assembly points, head counts, primary and secondary means of egress, and checking to ensure complete evacuation of the buildings;
3. Fire containment procedures, e.g., closing of fire doors or other barriers; and
4. Other special procedures developed with local authorities.

~~§ 7.28. [ § 7.29. B. ]~~ Emergency evacuation procedures shall be posted in a location conspicuous to staff and children on each floor of each building of the center.

~~§ 7.29. [ § 7.30. C. ]~~ The center shall implement these emergency evacuation procedures through monthly practice drills and shall maintain a *log record* of the dates of the monthly drills for one year. For centers offering multiple shifts, the evacuation procedures shall be divided evenly among the various shifts.

~~§ 7.30. [ § 7.31. D. ]~~ A generic emergency number such as 911 shall be posted in a conspicuous place near each telephone. If a generic number is not available, the following numbers shall be posted near each phone:

1. A physician or hospital;
2. An ambulance or rescue squad service;
3. The local fire department; and
4. The local police department.

~~§ 7.31. [ § 7.32. E. ]~~ The number of a regional poison control center shall be posted in a conspicuous place near each phone.

~~§ 7.32. The center shall develop a plan for action in case of a missing or injured child which shall address:~~

~~1. Immediate notification of emergency services;~~

~~2. Stabilization of injured child; and~~

~~3. Transportation of injured child if necessary.~~

[ ~~§ 7.33. F.~~ ] If an ambulance service is not readily available within 10-15 minutes, other transportation shall be available at all times in case of emergency.

[ ~~§ 7.34. G.~~ ] The center or other appropriate official shall notify the parent immediately if a child is lost, experiences a serious accident, needs emergency medical care, or dies. The center shall notify the parent at the end of the day of any known minor accidents or injuries.

NOTE: Examples of a serious accident might include unconsciousness; broken bones; deep cut requiring stitches; concussion; foreign object lodged in eye, nose, ear, or other body orifice. Examples of a minor accident might include a small scratch, cut or scrape; minor bruise or discoloration of the skin.

[ ~~§ 7.35. H.~~ ] The center shall maintain a written *log record* of children's injuries in which entries are made the day of occurrence. The [ *log record* ] shall include the following:

1. Date and time of injury;
2. Name of injured child;
3. Type of injury;
4. Circumstances of the injury;
5. Names of staff present during the injury;
6. Treatment; and
7. Method of notifying parents.

[ ~~§ 7.36. Reserved.~~ ]

## PART VIII. Special Services.

### [ ~~Article 1. Nutrition and Food Services.~~ ]

§ 8.1. [ *Nutrition and food services.* ]

A. ] Centers shall [ *serve schedule* ] appropriate [ *times for* ] snacks or meals, or both, based on the hours of operation and time of the day [ ; e.g., *a center open only for after school care shall serve an afternoon snack; a center open from 7 a.m. to 1 p.m. shall serve a morning snack and midday meal* ]

[ ~~§ 8.2. B.~~ ] The center shall ensure that children arriving from a half-day, morning kindergarten program who have not yet eaten lunch receive a lunch.

[ ~~§ 8.3. C.~~ ] ~~There shall be at least 1-1/2 hours between each meal and snack but no more than three hours between meals and snacks. The center shall [ serve schedule ] snacks or meals [ at time intervals of at least one and one-half hours but no more than three hours so there is a period of at least 1½ hours but no more than three hours between each meal or snack ] unless there is a scheduled rest or sleep period for children between the meals and snacks.~~

[ ~~§-8.4. D.~~ ] Drinking water or other beverage not containing caffeine shall be offered at regular intervals to nonverbal children.

[ ~~§-8.5. E.~~ ] In environments of 80°F or above, constant attention shall be given to the fluid needs of all children. Children in such environments shall be encouraged to drink fluids.

[ ~~§-8.6. F.~~ ] ~~Centers serving children of preschool age or younger shall provide appropriate meals for these children as provided in these standards. When food is provided by the center When centers choose to provide meals or snacks, the following shall apply:~~

1. ~~Centers [ providing care to the same children more than four hours a day ] shall comply with the nutritional requirements of a recognized authority such as the Child and Adult Care Food Program of the United States Department of Agriculture (USDA) or the meal patterns in Appendix IX [ ~~X~~ X ] .~~
2. Centers offering both meals and snacks shall serve a variety of nutritious foods and shall serve at least three sources of vitamin A and at least three sources of vitamin C on various days each week. Appendix X ~~XII~~ lists sources of vitamin A and vitamin C.
3. A menu listing all foods to be served for all meals and snacks during the current one-week period shall be:
  - a. Dated;
  - b. Posted in a location conspicuous to parents or given to parents;
  - c. Indicate any substituted food; and
  - d. Kept on file for six weeks at the center.
4. Powdered milk shall [ ~~be~~ ] not be used except for cooking.

~~Exceptions: Programs are not required to provide meals for children of preschool age or younger if the children attend four or fewer hours per day. Programs in operation before November 1, 1993, and newly subject to licensure may have until July 1, 1996, to provide meals.~~

[ ~~§-8.7. G.~~ ] When food is brought from home, the following shall apply:

1. ~~The food shall not be subject to rapid deterioration or spoilage;~~
2. [ ~~1. The center shall give parents the USDA requirements and a list of suggested nonperishable food. Appendix IX [ ~~XI~~ has the requirements of USDA. ]~~ ]
3. [ ~~2. 1.~~ ] The food shall be clearly labeled in a way that identifies the owner;
4. [ ~~3. 2.~~ ] The center shall have extra food or shall have a plan available to obtain food to serve to children so they can have an appropriate snack or meal if they forget to bring food from home, bring an inadequate meal or snack, or bring perishable food; and

5. [ ~~4. 3.~~ ] All unused portions of food shall be discarded [ ~~and not served again by the end of the day or returned to the parent~~ ] .

[ ~~§-8.8. H.~~ ] If a catering service is used, it shall be approved by the local health department.

[ ~~§-8.9. Food during cookouts.~~

A. ~~1.~~ ] All food [ *during cookouts* ] shall be prepared in a clean and sanitary manner.

[ ~~B. J.~~ ] Unused, perishable food [ *during cookouts* ] shall be discarded and not served again.

[ ~~§-8.10. K.~~ ] Children of preschool age and younger shall be encouraged to feed themselves.

[ ~~§-8.11. L.~~ ] During meal and snack times with preschoolers and toddlers, staff shall sit with these children when not serving food to them.

[ ~~§-8.12. Foods easily causing choking, such as but not limited to hard candy, popcorn, ] raisins, [ seeds, nuts, whole hot dogs, hot dogs sliced in rounds, and uncut grapes, shall not be served to children three years of age or younger. ]~~

[ ~~§-8.13. § 8.2. Feeding of infants; special feeding needs.~~

A. ] High chairs, infant carrier seats, or feeding tables shall be used for children under 12 months who are not held while being fed.

[ ~~§-8.14. B.~~ ] The record of each child on formula shall contain:

1. The brand of formula, and
2. The child's feeding schedule.

[ ~~§-8.15. C.~~ ] Infants shall be fed on demand or in accordance with parental instructions.

[ ~~§-8.16. D.~~ ] Prepared infant formula shall be refrigerated and clearly labeled in a way that identifies the child. See Appendix ~~XI~~ [ ~~XIII~~ ~~XII~~ ] for recommendations about the safe use of microwaves to heat infant formula.

[ ~~§-8.17. E.~~ ] Bottle fed infants who cannot hold their own bottles shall be picked up and held when fed. Bottles shall not be propped.

[ ~~§-8.18. F.~~ ] No child shall be allowed to drink or eat while walking around.

[ ~~§-8.19. G.~~ ] Formula, bottled breast milk, and prepared baby food not consumed by an infant may be used by that same infant later in the same day, if dated and stored in the refrigerator; otherwise, it shall be discarded or returned to the parent at the end of the day.

[ ~~§-8.20. H.~~ ] A one-day's emergency supply of disposable bottles, nipples, and commercial formulas appropriate for the children in care shall be maintained at the facility.

[ ~~§-8.21. I.~~ ] Mothers shall be allowed to breastfeed their infants at the facility.

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[ ~~§ 8.22. J.~~ ] Unless written instructions from a physician indicate differently, staff shall feed semisolid food with a spoon.

[ ~~§ 8.23. K.~~ ] Children using infant seats or high chairs shall be carefully supervised during snacks or meals. When a child is placed in an infant seat or high chair the protective belt shall be fastened securely.

[ ~~§ 8.24. L.~~ ] *For therapeutic child development programs and special needs child day programs, the consistency of food shall be appropriate to a child's special feeding needs. Necessary and adaptive feeding equipment and feeding techniques shall be used for children with special feeding needs.*

## [ Article 2. Transportation and Field Trips. ]

~~§ 8.24.~~ [ ~~§ 8.25.~~ § 8.3. *Transportation and field trips.*

A. ] If the center transports children to the site of the center, the center shall assume responsibility for the child between the place where the child boards the vehicle and the center site, while at the center and on any center field trips, and from the time the child leaves the center site until the child is delivered to a designated location or to a responsible person designated by his parent.

~~§ 8.25.~~ [ ~~§ 8.26. B.~~ ] Any vehicle used by the center for the transportation of children shall meet the following requirements:

1. The vehicle shall be enclosed and provided with door locks *manufactured for the purpose of transporting human beings seated in an enclosed area;*
2. The vehicle's seats shall be attached to the floor;
3. The vehicle shall be insured with at least the minimum limits set *established* by the Virginia state statutes; and
4. The vehicle shall meet the safety standards set by the Department of Motor Vehicles and shall be kept in satisfactory condition to assure the safety of children; *and*
5. *If volunteers supply personal vehicles, the center is responsible for ascertaining that the requirements of this [ section subsection ] are met.*

~~§ 8.26.~~ [ ~~§ 8.27. C.~~ ] The center shall ensure that during transportation of children:

1. Virginia state statutes about safety belts and child restraints are followed;
2. The children remain seated and each child's arms, legs, and head remain inside the vehicle;
3. Doors are closed properly and locked *unless locks were not installed by the manufacturer of the vehicle;*
4. At least one staff member or the driver always remain in the vehicle when children are present;

5. The telephone numbers for obtaining emergency help as stated in §§ 7.30 [ ~~§§ 7.31 § 7.5 D~~ ] and 7.34 [ ~~7.32 E~~ ] are in the vehicle and available to staff;

6. The name, address, and phone number of the center and an additional emergency contact number is in the vehicle and available to staff; and

7. A list of the names of the children being transported is kept in the vehicle.

~~§ 8.27.~~ [ ~~§ 8.28. D.~~ ] When entering and leaving vehicles, children shall enter and leave the vehicle from the curb side of the vehicle or in a protected parking area or driveway.

~~§ 8.28.~~ [ ~~§ 8.29. E.~~ ] When necessary to cross streets, children shall cross streets at corners or crosswalks or other designated safe crossing point if no corner or crosswalk is available.

~~§ 8.29.~~ [ ~~§ 8.30. F.~~ ] The staff-to-children ratios of subdivisions 1 through 4 of [ ~~§ 5.17 § 5.3 E~~ ] shall be followed on all field trips but not necessarily in each vehicle. The staff-to-children ratios may not be followed during transportation of children to and from the center.

Exception: Montessori preschools may meet the alternative requirements in the Montessori Module.

~~§ 8.30.~~ [ ~~§ 8.31.~~ *At least one staff member on field trips shall be trained in first aid according to subdivisions 1 through 4 of [ § 7.19 [ § 7.25 and shall be instructed on procedures to follow if there is a vehicle break down. ]*

~~§ 8.31.~~ [ ~~§ 8.32.~~ *A first aid kit with the supplies mentioned in subdivisions 1 through 11 [ 10 of ] § 7.24 [ § 7.25 of these regulations, syrup of ipecac or activated charcoal preparation, and chemical cooling agents, for icing down contusions, sprains, and breaks shall be available to staff on field trips. ]*

~~§ 8.32.~~ [ ~~§ 8.33. G.~~ ] The center shall make provisions for providing children on field trips with adequate food and water.

~~§ 8.33.~~ [ ~~§ 8.34. H.~~ ] If perishable food is taken on field trips, the food shall be stored in insulated containers with ice packs to keep the food cold.

~~§ 8.34.~~ [ ~~§ 8.35. I.~~ ] Before leaving on a field trip, a schedule of the trip's events and locations shall be posted and visible at the center site.

~~§ 8.35.~~ [ ~~§ 8.36. J.~~ ] There shall be an established plan of communication between staff at the center site and staff who are away from the center site transporting children or on a field trip.

~~§ 8.36.~~ *The center shall develop and implement procedures to assure that all children return to the facility after a field trip.*

[ ~~§ 8.37.~~ *Staff shall follow the center's transportation safety policy. ]*

[ ~~§ 8.38. K.~~ ] Parental permission for transportation and field trips shall be secured at least 24 hours before the scheduled activity. If a blanket permission is used instead of a separate written permission, the following shall apply:

1. Parents shall be notified of the field trip; and

2. Parents shall be given the opportunity to withdraw their children from the field trip.

~~§ 8.39.~~ § 8.4. *Transportation for nonambulatory children.* ]

A. *For therapeutic child development programs [ and special needs child day programs ] providing transportation, nonambulatory children shall be transported in a vehicle which is equipped with a ramp or hydraulic lift to allow entry and exit.*

B. *Wheelchairs shall be equipped with seat belts and shall be securely fastened to the floor when used to seat children in a vehicle.*

C. *Arrangements of wheelchairs in a vehicle shall not impede access to exits.*

~~§ 8.40.~~ D. ] *For therapeutic child development programs and special needs child day programs, when the center is responsible for providing transportation, the center shall develop a plan based on the needs of the children in care to assure their safe supervision during on-loading, off-loading and transporting and when 16 or more children are being transported, there shall be at least one [ center aide or ] adult besides the driver, for each group of 16.*

~~§ 8.41.~~ E. ] *For therapeutic child development programs [ and special needs child day programs ] , if a child has a known seizure disorder or neurological, genetic or physiological disability causing increased medical risk and that child is being transported, one [ center aide or ] adult who is not the driver and who is trained in CPR shall be present in the vehicle.*

[ ~~Article 3.~~  
Animals and Pets. ]

~~§ 8.39.~~ ~~§ 8.42.~~ § 8.5. *Animals and pets.*

A. ] *Animals that are kept on the premises of the center shall be vaccinated, if applicable, against diseases which present a hazard to the health of children.*

~~§ 8.40.~~ ~~§ 8.43.~~ B. ] *Animals which are, or are suspected of being, ill or infested with external lice, fleas and ticks or internal worms shall be removed from contact with children.*

~~§ 8.44.~~ ~~§ 8.44.~~ C. ] *If a child is bitten by an animal, an attempt shall be made to confine the animal for observation or laboratory analysis for evidence of rabies. The site of the bite shall be washed with soap and water immediately, and the child's physician or local health department shall be contacted as soon as possible for medical advice. The center shall report the animal bite incident to the local health department.*

~~§ 8.42.~~ ~~§ 8.45.~~ Reserved ]

[ ~~Article 4.~~  
Evening and Overnight Care. ]

~~§ 8.43.~~ ~~§ 8.46.~~ Resting § 8.6. *Evening and overnight care ]*

A. *For evening care, beds with mattresses or cots with at least one inch of dense padding shall be used by children*

who sleep longer than two hours and are not required to sleep in cribs.

B. *For overnight care, beds with mattresses or cots with at least two inches of dense padding shall be used by children who are not required to sleep in cribs.*

C. *For overnight care which occurs for a child on a weekly or more frequent basis, beds with mattresses shall be used.*

D. *In addition to ~~§ 6.58~~ [ ~~§ 6.57~~ § 6.8 ] about linens, bedding appropriate to the temperature and other conditions of the rest area shall be provided.*

[ ~~E.~~ Reserved. ]

[ ~~F.~~ Reserved. ]

[ ~~G.~~ Reserved. ]

~~§ 8.44.~~ ~~§ 8.47.~~ H. ] *In centers providing overnight care, an operational tub or shower with heated and cold water shall be provided.*

~~§ 8.45.~~ ~~§ 8.48.~~ I. ] *When bath towels are used, they shall be assigned for individual use.*

~~§ 8.46.~~ ~~§ 8.49.~~ Activities.

A. J. ] *Activities for children in evening or overnight care shall include, as time allows, age-appropriate activities as described in [ ~~§§ 6.46~~ §§ 6.3 ] through [ ~~6.24~~ 6.4 E ] and [ ~~6.23~~ through ~~6.28~~ 6.4 G through L ].*

[ ~~B.~~ K. ] *Quiet activities and experiences shall be available immediately before bedtime.*

~~§ 8.47.~~ ~~§ 8.50.~~ L. ] *For children receiving evening and overnight care, the provider shall offer a regularly scheduled evening meal and snack.*

PART IX.  
MONTESSORI MODULE.

[ ~~Article 1.~~  
Qualifications of a Montessori Preschool. ]

§ 9.1. [ *Qualifications of a Montessori preschool.*

A. ] *Montessori preschools are educational programs wherein the teacher training and subsequent pedagogy are approved by either American Montessori Society, American Association Montessori Internationale, National [ Council Center ] of Montessori Education, or Saint Nicholas Montessori, thus verifying that the school meets the Montessori standards as outlined in the Montessori Module.*

[ ~~§ 9.2.~~ B. ] *Meeting these Montessori standards shall afford the Montessori preschool a waiver from specific minimum standards that conflict with the Montessori educational philosophy as referenced in the regulations. Only preschools which meet the Montessori criteria as outlined in the module are eligible to comply with the modified licensing standards contained in the Montessori Module.*

[ ~~§ 9.3.~~ C. ] *Programs operated by a Montessori preschool which go outside the scope of the regular Montessori preschool classes shall comply with the minimum standards for licensed child day centers without the benefit of the*

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Montessori Module for the extended care portion of the day. Programs going beyond four hours per day for children ages 2 1/2 through four and beyond 6 1/2 hours per day for children five through six years of age, exclusive of the allowable two hour additional enrichment program once a week, shall comply with the minimum standards for licensed child day centers without the benefit of the Montessori Module for the extended care portion of the day. Regular Montessori preschool classes within an all day program shall meet the minimum standards for licensed child day centers with the option of meeting the Montessori Module to obtain waivers from specified standards that conflict with the Montessori philosophy for the regular day portion of their program only.

[ ~~Article 2.~~

~~Specific Alternatives for Qualifying Montessori Preschools.~~

~~§ 9.4. Administrators.~~ § 9.2. *Specific alternatives for qualifying Montessori preschools.*

A. ] The administrator of a Montessori preschool shall be at least 21 years of age and shall have or meet one of the following:

1. An endorsement or bachelor's degree in a child related field from an accredited college or university and one year of programmatic experience in the group care of children;
2. An associate degree in a child related field from an accredited college or university and one year of programmatic experience in the group care of children;
3. The teacher qualification standards of American Montessori Society, ~~American Association~~ Montessori Internationale, National [ ~~Council Center~~ ] of Montessori Education, or Saint Nicholas Montessori; or
4. Five years of Montessori programmatic experience if the program director meets one of the qualifications of subdivisions 1 through 3 of this [ ~~section subsection~~ ] .

~~[ § 9.5. Program directors and back-up program directors.~~

B. ] The program director and back-up program director at a Montessori preschool shall be at least 21 years of age and shall have or meet one of the following:

1. An endorsement or bachelor's degree in a child related field from an accredited college or university and one year of programmatic experience in the group care of children;
2. An associate degree in a child related field from an accredited college or university and one year of programmatic experience in the group care of children;
3. The Montessori teacher qualification standards of American Montessori Society, ~~American Association~~ Montessori Internationale, National [ ~~Council Center~~ ] of Montessori Education, or Saint Nicholas Montessori; or
4. Five years of Montessori programmatic experience.

~~[ § 9.6. Teachers.~~

C. ] Montessori teachers at a Montessori preschool shall:

1. Be at least 21 years of age, and

2. Hold a teaching diploma recognized by American Montessori Society, ~~American Association~~ Montessori Internationale, National [ ~~Council Center~~ ] of Montessori Education, or Saint Nicholas Montessori for the level the teacher is teaching.

~~[ § 9.7. Staff development.~~

A. D. ] In addition to first aid and orientation training required elsewhere in these regulations, employed staff who work directly with a single group of children for more than three hours daily at a Montessori preschool shall:

1. Take advantage of formal and informal opportunities for personal and professional growth, including methodology and specific subject matter, as recognized by Montessori standards for a minimum of eight hours annually; or

2. In the event of a staff member's participation in a credit course or a seminar longer than eight hours, these hours may be prorated over a period of no more than five years at the rate of 12 hours annually.

[ ~~B. E.~~ ] Specialty staff at a Montessori preschool providing enrichment activities to a single group of children less than three hours a week shall take advantage of opportunities for professional growth to remain current in their field of expertise.

[ ~~§ 9.8. F.~~ ] The facilities of a Montessori preschool, inside and outside, shall be maintained in conditions that are safe and free of hazards, protruding points or sharp corners, splinters, protruding nails, and loose rusty parts.

[ ~~§ 9.9. G.~~ ] The Montessori materials at a Montessori preschool shall be maintained in an attractive, accessible, and safe manner, so as to afford the children complete and appropriate opportunity to develop individual and group skills according to the Montessori curriculum standard.

[ ~~§ 9.10. H.~~ ] A Montessori preschool shall have restrooms that are easily accessible with a ratio of one toilet and one sink for every 20 children.

[ ~~§ 9.11. I.~~ ] A Montessori preschool shall have a safe outdoor play area which allows for exploration of nature and provides a resilient surface in fall zones.

[ ~~§ 9.12. J.~~ ] A Montessori preschool shall maintain a balanced multi-age grouping, with a ratio of one staff member for every 15 children.

[ ~~§ 9.13. K.~~ ] Teachers at a Montessori preschool shall be, at all times during the Montessori program, responsible for the development and activities of the children in his Montessori class. In the event of the teacher's extended absence, there shall be sufficient substitute staff to comply with a ratio of one staff member for every 12 children.

[ ~~§ 9.14. L.~~ ] A Montessori preschool shall have readily accessible, and in close classroom proximity, auxiliary persons sufficient to maintain a 1:10 adult-to-child ratio for 2 1/2 to four year olds or 1:15 for balanced mixed age

groupings of 2 1/2 to six year olds, to be available in the event of emergency evacuation.

[ ~~§ 9.15. M.~~ ] A Montessori preschool shall offer outdoor and indoor space affording the children complete opportunity to develop individual and group skills, including large and small motor development.

[ ~~§ 9.16. N.~~ ] In a Montessori preschool program operating between five and 6 1/2 hours per day there shall be at least one-half hour of outdoor activity per day.

[ ~~§ 9.17. O.~~ ] A Montessori preschool shall abide by the pedagogy and curriculum guidelines in the Montessori Module.

[ ~~§ 9.18. P.~~ ] During transportation of children and on all field trips, the staff-to-children ratio for a multi-age grouping of students in a Montessori preschool shall be no more than one to 20.

[ Article 3.  
Montessori Preschool Standards.

~~§ 9.19.~~ § 9.3. ] Hours and scope of operation.

A. A Montessori preschool shall operate, at a minimum, nine months a year, five days a week, allowing for holidays, teacher in-service days, and parent-teacher conferences, as deemed necessary by the preschool in accordance with Montessori standards.

B. The hours of operation for a Montessori preschool program for children, ages 2 1/2 through four years, shall be at least three hours a day, but not more than four hours a day.

C. The hours of operation for a Montessori preschool program for children five through six years of age shall be at least [ ~~six five~~ ] hours a day but no more than 6 1/2 hours a day.

D. Enrichment programs, compatible with Montessori standards shall be acceptable when operated, in keeping with the Montessori curriculum; physical, emotional, and developmental welfare of the child; and available to the individual child not more than an additional two hours once a week.

E. Any program operated beyond these specified school hours and ages of children shall comply with the minimum standards for licensed child day centers without the benefit of the Montessori Module for the extended care portion of the day. Regular Montessori preschool classes within an all day program shall meet the minimum standards for licensed child day centers with the option of meeting the Montessori Module to obtain waivers from specified standards that conflict with the Montessori philosophy for the regular day portion of their program only.

[ ~~§ 9.20.~~ § 9.4. ] Montessori class structure and supervision.

A. A class shall be deemed a group of children under the direct and continuous supervision of a fully qualified Montessori teacher.

B. Teachers at a Montessori preschool shall maintain a safe Montessori environment for the class.

C. Teachers at a Montessori preschool shall give the appropriate, individual or group lessons and supervise the ongoing work of the children in accordance with all Montessori pedagogical standards, included herein.

D. Teachers at a Montessori preschool shall be observant of the needs of the children in the class at all times and, accordingly, shall provide [ ~~developmentally age and stage~~ ] appropriate materials and class designation regardless of age.

E. Teachers at a Montessori preschool shall be aware of the family backgrounds and individual needs and development of the children within the Montessori program.

F. Teachers at a Montessori preschool shall maintain appropriate and confidential communication and records with other school personnel and parents as necessary for the development of the child.

G. Children enrolled in a Montessori class at a Montessori preschool shall demonstrate to the teacher an adequate level of development indicating a readiness for formal Montessori education.

H. Children enrolled in the Montessori class at a Montessori preschool shall be toilet trained and demonstrate a level of large and small motor development acceptable to working in a positive manner within the Montessori classroom environment.

I. Children enrolled in the Montessori class at a Montessori preschool shall demonstrate adequate communication skills and the ability to function with appropriate independence outside the home or away from a day-care provider.

J. Children are initially accepted into a Montessori program at a Montessori preschool on an observational basis, and shall be given adequate, but limited, time to demonstrate individual readiness for the Montessori program.

K. A newly established Montessori class at a Montessori preschool shall be comprised of no more than 12 to 15 children between the ages of 2 1/2 and six years and shall not increase enrollment to more than 25 children during its first year.

L. As the children and the class develop at a Montessori preschool, the class structure may gradually build to the recommended Montessori size of 25 to 30 children between the ages of 2 1/2 and six years of age.

M. The class and the children at a Montessori preschool shall function at all times during the Montessori program according to the Montessori standards as outlined herein.

[ ~~§ 9.21~~ § 9.5. ] Classroom materials.

A. Classrooms at a Montessori preschool shall contain the necessary and appropriately approved Montessori materials for each age level in the class. These Montessori materials may be complemented by appropriate, teacher-approved materials, but shall not displace or detract from the implementation of the Montessori materials.

B. The children at a Montessori preschool shall have continuous access to these materials as deemed appropriate by the Montessori teacher.

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C. These materials at a Montessori preschool shall be organized in the classroom and used by the children in work areas that afford safe and ample working space under the direction of the Montessori teacher.

D. Use of Montessori materials in a Montessori preschool shall be presented by the Montessori teacher in accordance with the Montessori curriculum standards as included herein.

[ ~~§ 9-22~~: § 9.6. *Curriculum.* ]

Curriculum guidelines, including appropriate materials for children from two years to six years, as stated below shall be followed in a Montessori preschool.

These requirements are based on guidelines used by American Montessori Society, American Association Montessori Internationale, National [ Council Center ] of Montessori Education, and Saint Nicholas Montessori teacher training.

## PRACTICAL LIFE

Preliminary Exercises	Purpose
Spooning; Pouring rice; Pouring water	To teach the child muscular control, care, exactness, how to pour. Indirect preparation for writing.
Age: 2 1/2 - 3 1/2	
Napkin folding	Purpose To teach muscular control, exactness. Indirect preparation for geometry.
Age: 2 1/2 - 4	
Care of the Environment	Purpose
Table washing; Dusting; Polishing wood; Polishing metal; Arranging flowers; Sweeping	To teach the child how to care for his environment so that he might adapt to his environment and gain independence. To teach control of action, acquisition of movement, order and sequence, conscious awareness, development of large and small muscles, left to right movement, increased concentration through repetition. Preparation for life and future learning.
Age: 2 1/2 - 4 and up	
Care of the Person	Purpose
Dressing frames; Polishing shoes; Washing hands	To teach the child to care for himself, to take pride in his person, to gain independence and self-worth
Age: 2 1/2 - 4 and up	

Grace and Courtesy	Purpose
How to interrupt, listen, make way, pass How to greet, introduce oneself, offer a chair, take a cookie, serve others, carry scissors, etc.	To help the child develop understanding or rules of grace and courtesy, to adapt and be accepted into a social group.

Age: 2 1/2 and up	
Movement	Purpose
How to walk, move around the room, move furniture, stop when hear bell, walk on line, carry a chair, sit properly, carry mats & materials, roll a mat, where to place mat, open & close a door, play silence game, respect silence, etc.	To learn control of movement, self awareness of ones self, purposeful activity order, respect for persons and property, attention to details, and environment.

Age: 2 1/2 and up

## SENSORIAL - Aid to child's processes of classification

Visual Discrimination	Purpose
Pink Tower Broad Stair Long Stair Solid Cylinders Color tablets Geometric Cabinet Biology Cabinet Binomial & trinomial cube Constructive triangles Super imposed geometric figures Knobless Cylinders Solid Geometric shapes Mystery bag Progressive Exercises	To teach visual discrimination of dimension (length, width, height). Indirect preparation for number work, algebra and proof of formulas, geometry, art, biology. Indirect preparation for writing. Development of vocabulary.
Age: Progressive from 2 1/2 to 4 1/4 +	
Auditory Discrimination	Purpose
Sound boxes, Bells, Listening exercises	Training of auditory sense, discrimination of sounds, development of listening skills, discrimination of tones.
Age: 2 1/2 and up	
Tactile Sense	Purpose
Rough and smooth boards, Rough and smooth tablets, Fabrics	Development of tactile sense, control of muscular action and lightness touch. Indirect preparation for writing.

Age: 2 1/2 - 3 1/2

Baric, Thermic,  
Olfactory Senses

Purpose

Baric tablet, Thermic  
bottles, Scent boxes,  
and bottles

Further develop senses. Help  
one to be aware of one's  
environment.

Age: 2 1/2 and 3 1/2

## LANGUAGE

Oral Vocabulary

Purpose

Enrichment of  
vocabulary; Language  
training

Through giving the names of  
objects in the environment, the  
sensorial materials and their  
relations, picture card materials,  
stories, poems, etc., help the  
child develop a fluent  
vocabulary so that he might  
express himself both orally and  
in written form.  
Preparation for reading, writing,  
self expression, research in  
cultural areas.

Age: 0 and up

Writing

Purpose

Sand paper letters  
(sound game);  
Moveable Alphabet;  
Metal Insets; Perfection  
of writing

To make the child aware of the  
sounds in words and to unite  
these sounds by muscular and  
visual memory.  
To help him explore and  
analyze his vocabulary.  
To acquire mastery of the hand  
in wielding a writing instrument.

Age: Progressive 2 1/2  
- 4

Reading

Purpose

Phonetic object game;  
Phonograms;  
Puzzle/Secret words

To give facility to phonetic  
reading.  
To give the keys to further  
reading and exploration of  
language.

Age: 4 1/2 - 5

Reading Classification

Purpose

Social cards, cultural  
cards; Definition  
booklets; Labels for  
environment, etc.

To further the child's reading  
and knowledge by introducing  
him to the written symbols for  
words he knows.  
To enable him to classify his  
knowledge.

Age: 4 1/2 on

Function of Words

Purpose

Article; Adjective,  
Logical Adjective game;

To make the child aware of the  
individual function of words in

Conjunction,  
Preposition, Verb,  
Adverb, Commands

his reading and writing.  
To give him further keys to the  
perfection of reading, writing,  
and self expression.

Age: 4 1/2 - 5

Reading Analysis

Purpose

Simple sentence (first  
stage, second stage  
and extensions,  
attributes, and  
appositives)

To give the child the keys to  
total reading, full awareness of  
the intent feeling and style of  
the writer.  
Help the child in his own  
reading and writing.

Age: 5 1/2 and up

[ *Work Word* ] Study

[ *Purpose* ]

To allow the child to explore  
words on a more advanced  
level.

Punctuation

[ *Purpose* ]

To help the child communicate  
more effectively in his written  
work.

Reading & Writing of  
Music

Purpose

Green boards with  
notes; Green  
manuscript board;  
White music charts;  
Summary exercises;  
Learning songs;  
Musical instruments;  
etc.

To recognize and create the  
language of musical  
composition through notation  
and lyrics.

Age: 4 1/2 and up

## MATHEMATICS

Numbers (1 to 10)

Purpose

Number rods;  
Sandpaper numbers;  
Number rods and cards;  
Spindle boxes; Cards  
and counters; Memory  
game

To give the keys to the world of  
written numbers.  
To understand that each  
number is an entity unto itself.  
To teach the quantity, the  
symbol of sequence of  
numbers.  
To teach the concept of zero.  
Preparation for addition math.

Age: 4

Decimal system  
(Golden Bead  
Exercises)

Purpose

Introduction of beads  
Introduction of cards  
Cards and beads  
together  
Processes of Addition,

To teach the concepts of the  
decimal system through 1000s.  
To give the child the overall  
picture of the workings of the  
decimal system and all its

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Subtraction, Multiplication, division  
 Age: 4 1/2 to 5 1/2 +  
 Further Exercises in Math  
 Linear and skip counting  
 Teen board, Tens board, Stamp game, Dot game, Snake game, Addition strip board, Negative snake game, Negative strip board, Bead bar layouts, Multiplication bead board, Division unit board, Charts, Small bead frame, Hierarchical materials, Large bead frame, Racks and tubes, Fractions

processes.

Purpose

To give the child opportunity for further exploration with numbers, the opportunity for repetition and perfection in executing the processes in math.  
 The opportunity to commit to memory the math facts.  
 Steps to total abstraction.

Age: 5 - 6 1/2 and up  
 GEOGRAPHY  
 Sandpaper globe; Land and water forms; Painted globe; Puzzle maps; Pictures; Definition cards; Stories; Simple reference books

Purpose

To introduce the child to the concepts of physical political, economic geography, interdependence of man and related language.

Age: 2 1/2 +  
 HISTORY  
 Artifacts, Pictures, Definition cards, Simple reference books, Stories

Purpose

To introduce the child to world cultures, physical and spiritual needs of man throughout history, famous persons, holidays, etc.

Age: 2 1/2 +  
 MUSIC  
 Songs, records, tapes, Rhythm and movement, Tone bells, Tone charts Composers/famous music

Purpose

To give the child a variety of musical experiences, including pitch, tone, rhythm, movement, auditory comparisons, related symbols and language.

Age: 2 1/2 +  
 CREATIVITY  
 Appropriate media, Pictures, Stories, Reference books, Practical life, Sensorial lessons

Purpose

To introduce the child to concepts of color, tone, light, form, history and art appreciation; and, afford the child appropriate opportunities for self expression.

Age: 3 +  
 BOTANY/BIOLOGY

Purpose

Botany leaf cabinet, Plants, Pictures/plants and animals, Definition cards, Classifications materials, Stories, Simple reference books, Opportunities to explore nature

To introduce the child to nature, the vast variety of plants and animals, the characteristics and functions; simple classification of the plant and animal kingdom; interdependence and ecology.

Age: 2 1/2 +

\* All work in the areas of science, history, culture, music, and creativity are interrelated and presented to give the child an age appropriate understanding of these areas, factual information, the tools and ability to work with the materials, and the opportunity to share this knowledge.

\*\* Important prerequisites are practical life lessons and skills, sensorial and related language lessons and skills, and an understanding of reality and factual concepts.

**NOTICE:** The appendices and forms used in administering the Minimum Standards for Licensed Child Day Centers Serving Children of Preschool Age or Younger are not being published due to the large number; however, the name of each appendix and form is listed below and are available for public inspection at the Department of Social Services, 730 E. Broad Street, Richmond, Virginia 23219, or at the Office of the Registrar of Regulations, General Assembly Building, 2nd Floor, 910 Capitol Street, Richmond, Virginia 23219.

Licensing Information for Parents about Child Day Programs, Appendix I (10/95)

Medication Authorization, Appendix II

School Entrance Physical Examination and Immunization Certification, Appendix III (8/94)

Art Materials: Recommendations for Children Under 12, Appendix IV

Critical Heights for Various Types and Depths of Resilient Material: Information from Handbook for Public Playground Safety, U.S. Consumer Product Safety Commission, Appendix V

Head Entrapment: Information from Handbook for Public Playground Safety, U.S. Consumer Product Safety Commission, Appendix VI

Preschool Activities, Appendix VII

Toddler Activities, Appendix VIII

First Aid Training, Appendix IX

Child Care Food Program Meal Patterns, Appendix X

Some Foods with Vitamin A and Vitamin C, Appendix XI

Protocols for Microwave Heating of Refrigerated Infant Formula, Appendix XII (9/92)

Initial Application for a License to Operate a Child Day Center (032-05-512/10, 6/94)

Renewal Application for a License to Operate a Child Day Center (032-05-225/9, 6/94)

VA.R. Doc. No. R96-72; Filed October 25, 1995, 10:45 a.m.

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**Title of Regulation:** VR 175-09-01. Minimum Standards for Licensed Child Day Centers Serving School Age Children.

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

**Effective Date:** March 1, 1996.

**Summary:**

*This regulation lists the standards that child day centers including therapeutic child development programs and special needs child day programs serving school age children must meet to be licensed by the Department of Social Services. The following areas are addressed in the regulation: administration, personnel, physical plant, staffing and supervision, program, special care provisions and emergencies, special services and the Montessori Module. The amendments add therapeutic recreation standards as required by Chapters 730 and 742 of the 1993 Acts of Assembly. In addition, the standards are being revised as follows:*

1. Tuberculosis examination for staff is being revised to require a tuberculosis test every two years instead of just when hired. This change is based on the increased incidence of tuberculosis in the last few years.

2. Administrators qualifications reduces the qualifications of administrators who also perform program director responsibilities. This will reduce the cost for owners and make it easier to hire administrators. It will also make it easier for owners of businesses to open centers. This revision lessens the impact of the regulation.

*The council revised the proposed regulation taking into consideration the public comments received. Substantial changes made to the standards in response to public comments are as follows:*

1. Revised the definitions of "child day camp" so a center operating only during the summer vacation months for school age children does not need to emphasize outdoor activities to be considered a camp. The definition was also revised to state that four-year-old children who will be five by September 30 may be included in this group of school age children if a staff-to-children ratio of 1:15 is maintained.

2. Revised the definition of "school age" so numerous four-year-old children, included in a group of school age children, are considered school age during the summer months if the children will be entering kindergarten that year. The school age regulation requires a staff-to-children ratio of 1:15 in this mixed age group.

3. Revised the requirement to give parents "procedures for admission and registration of children" to "forms or other written instruments for admission and registration of children."

4. Deleted the requirement that the phone number of the center allows a message to be given "immediately" to center staff.

5. Revised the standard so a copy of the child's health record must be (i) at the center site or (ii) at the child's school if the center is located on the school's premises and the school's records are accessible during the center's hours of operation.

6. Restored the requirement to keep a report of any suspected incidence of child abuse.

7. Deleted the requirement that the reasons for terminating enrollment of a child be put in writing.

8. Deleted the requirement that a special needs child day program (i) complete or obtain an individual assessment on each enrolled child and (ii) meet with the child's parent to evaluate program placement and accommodations.

9. Revised to allow a center 21 days (instead of five working days) after employment of a staff member to obtain a statement that the staff member is free of tuberculosis.

10. Revised the standard so a physician or clinical psychologist (instead of a licensed mental health professional) must conduct the examination of a staff member when there is evidence that the safety of children may be jeopardized. Also, a physician or clinical psychologist must confirm that the risk has been eliminated or substantially reduced such that reasonable accommodations may be made.

11. Revised so administrators of therapeutic child development programs and special needs child day programs only need to meet qualifications when they perform program director responsibilities.

12. Added a phase-in period to meet program director qualifications at therapeutic child development and special needs child day programs. Directors of these programs who were hired before the effective date of the regulation have until June 1, 1998, to meet qualifications.

13. Revised the qualification option for a program leader at a therapeutic child development program or special needs child day program so six semester hours of college credit do not need to be specific to the group care of children with disabilities. Also, the experience requirement was revised to accept experience with adults with disabilities. In the school age regulation, the six months of experience was decreased to three months of experience.

14. Revised the qualification option for a program leader at a therapeutic child development program or special needs child day program so the experience does not need to be age appropriate. In the school age

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regulation, the one year of experience in the group care of children was decreased to six months of experience and the six months of experience with children with disabilities was decreased to three months of experience.

15. Revised so family members 14 years of age or older (instead of only parents) who serve as volunteer personnel must meet only health requirements and any Code of Virginia requirements if sight supervised and not counted in the staff-to-children ratios.

16. Added a requirement that volunteers who work with school age children shall be at least 14 years of age.

17. Revised so staff must receive orientation training by the end of the first day assuming responsibility (instead of before assuming responsibilities).

18. Revised to specify that the training listed in the standard for staff at therapeutic child development programs and special needs child day programs shall be completed before assuming job responsibilities.

19. Allows posting a notice about the presence and location of asbestos containing materials and the availability of the asbestos inspection report and management plan (instead of sending written notification). Exception - Specifies that the administrator of a center located in a public school building or state owned building must be familiar with the location of asbestos.

20. Revised to allow heating to be provided by stoves.

21. Revised to revert to current language so cosmetics are not accessible to children nine years or older.

22. Revised to require all swing seats to be made of flexible material including special swing equipment for a child with a disability.

23. Revised so a 1:15 staff-to-children ratio must be maintained if four-year-old children, who will be five by September 30 of that year, are included with a group of school age children during the summer months.

24. Added a new standard which states "With a parent's written permission and a written assessment by the program director and child care supervisor/program leader, a center may choose to assign a child to a different age group if such age group is more appropriate for the child's developmental level. If such developmental placement is made for a child with a disability, a written assessment by a recognized agency or professional shall be required at least annually."

25. Reduced the staff-to-children ratios for therapeutic child development programs.

26. Added an exception so before school programs do not need an outdoor activity period.

27. Deleted the requirement to allow children to learn from self-directed problem-solving and experimentation.

28. Added a new requirement for the center to maintain written, signed permission from the parent of each child who participates in swimming or wading.

29. Deleted the requirement that a child be excluded if he has a communicable disease since there are other criteria for exclusion.

30. Deleted the requirement that camps have at least one staff member with first aid training for every 30 children present.

31. Deleted the requirement to have cardiopulmonary resuscitation training.

32. Deleted the requirement for camps to have at least one staff member with cardiopulmonary resuscitation training for every 30 children present.

33. Extended the requirement for center-provided meals and snacks to meet USDA requirements to include children who attend four or fewer hours a day.

34. Deleted the requirement that centers allowing food from home must give parents the USDA requirements and a list of suggested nonperishable foods.

35. Revised the requirement so unused food from home must be discarded by the end of the day or returned to the parent.

36. Deleted the requirement for at least one staff member on a field trip to be instructed on procedures to follow if there is a vehicle break down.

37. Revised to allow either an aide or an adult to be the second individual on a vehicle when 16 or more children are being transported (this standard is only applicable to therapeutic child development programs and special needs child day programs).

38. Revised to allow either an aide or an adult to be the additional person besides the driver of the vehicle when a therapeutic child development or special needs child day program transports a child with a known seizure disorder or neurological, genetic or physiological disability causing increased medical risk.

39. Revised so a Montessori preschool program wanting to use the Montessori Module must operate at least five hours (instead of six) for children five through six years of age.

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 regulations may be obtained from Arlene Kasper, Department of Social Services, 730 East Broad Street, 7th Floor, Richmond, VA 23219, telephone (804) 692-1791.

VR 175-09-01. Minimum Standards for Licensed Child Day Centers Serving School Age Children.

PART I.  
INTRODUCTION.

[ Article 4.  
Definitions. ]

§ 1.1. Definitions.

Position titles used in these standards are descriptive only and do not preclude the use of other titles by centers.

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

"Admission" means a written or oral agreement for a child's provisional inclusion in the program.

"Adult" means any individual 18 years of age or older.

[ "Age and stage appropriate" means a philosophy which (i) applies a knowledge of child development to the curriculum, the environment, adult-child interactions, and staff-parent interactions, and (ii) recognizes the age span of the children within the group as well as the needs of the individual child. ]

"Camp" means a child day camp.

"Center" means a child day center.

[ "~~Character and reputation~~" means ~~findings have established, and knowledgeable and objective people agree, that the individual (i) maintains business, professional, family, and community relationships which are characterized by honesty, fairness, and truthfulness, and (ii) demonstrates a concern for the well-being of others to the extent that the individual is considered suitable to be entrusted with the care, guidance, and protection of children. Relatives by blood or marriage, and people who are not knowledgeable of the individual, such as recent acquaintances, shall not be considered objective references. ]~~

"Child" means any individual under 18 years of age.

"Child day camp" means a child day center for school age children [ which that ] operates during the summer [ for less than four months in a 12-month period and which emphasizes outdoor activities vacation months only. Four-year-old children who will be five by September 30 may be included in a group of school age children if a staff-to-children ratio of 1:15 is maintained ].

"Child day center" means a child day program offered to (i) two or more children under the age of 13 in a facility that is not the residence of the provider or of any of the children in care or (ii) 13 or more children at any location.

Exemptions (§ 63.1-196.001 of the Code of Virginia):

1. A child day center that has obtained an exemption pursuant to § 63.1-196.3 [ of the Code of Virginia ];
2. A program where, by written policy given to and signed by a parent or guardian, children are free to enter and leave the premises without permission or supervision. A program that would qualify for this exemption except that it assumes responsibility for the supervision, protection and well-being of several children

with disabilities who are mainstreamed shall not be subject to licensure;

3. A program of instructional experience in a single focus, such as, but not limited to, computer science, archaeology, sport clinics, or music, if children under the age of six do not attend at all and if no child is allowed to attend for more than 25 days in any three-month period commencing with enrollment. This exemption does not apply if children merely change their enrollment to a difference focus area at a site offering a variety of activities and such children's attendance exceeds 25 days in a three-month period;

4. Programs of instructional or recreational activities wherein no child under age six attends for more than six hours weekly with no class or activity period to exceed 1 ½ hours, and no child six years of age or above attends for more than six hours weekly when school is in session or 12 hours weekly when school is not in session. Competition, performances and exhibitions related to the instructional or recreational activity shall be excluded when determining the hours of program operation;

5. A program that operates no more than a total of 20 program days in the course of a calendar year provided that programs serving children under age six operate no more than two consecutive weeks without a break of at least a week;

6. Instructional programs offered by public and private schools that satisfy compulsory attendance laws or the Individuals with Disabilities Education Act and programs of school-sponsored extracurricular activities that are focused on single interests such as, but not limited to, music, sports, drama, civic service, or foreign language;

7. Education and care programs provided by public schools which are not exempt pursuant to subdivision A 6 of this section shall be regulated by the State Board of Education using regulations that incorporate, but may exceed, the regulations for child day centers licensed by the commissioner;

8. Early intervention programs for children eligible under Part H of the Individuals with Disabilities Education Act wherein no child attends for more than a total of six hours per week;

9. Practice or competition in organized competitive sports leagues;

10. Programs of religious instruction, such as Sunday schools, vacation Bible schools, and Bar Mitzvah or Bat Mitzvah classes, and child-minding services provided to allow parents or guardians who are on site to attend religious worship or instructional services;

11. Child-minding services which are not available for more than three hours per day for any individual child offered on site in commercial or recreational establishments if the parent or guardian (i) is not an on-duty employee, (ii) can be contacted and can resume responsibility for the child's supervision within 30 minutes, and (iii) is receiving services or participating in activities offered by the establishment;

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12. A certified preschool or nursery school program operated by a private school which is accredited by a statewide ~~accreditation~~—~~accrediting~~ organization recognized by the State Board of Education or accreditation by the National Association for the Education of Young Children's National Academy of Early Childhood Programs [ and ] which [ ~~complies shall comply~~ ] with the provisions of § 63.1-196.3:1 [ of the Code of Virginia ]. ~~The provisions of this subdivision shall expire on July 1, 1994; or~~

13. ~~Prescribed therapeutic recreation programs provided for children with disabilities in programs that meet the child day center definition shall not be subject to licensure under this chapter until the appropriate regulations are promulgated; or~~

44. 13. By policy, a child day center that is required to be programmatically licensed by another state agency for that service.

"Child day program" means a regularly operating service arrangement for children where, during the absence of a parent or guardian, a person or organization has agreed to assume responsibility for the supervision, protection, and well-being of a child under the age of 13 for less than a 24-hour period.

Note: This does not include programs such as drop-in playgrounds or clubs for children when there is no service arrangement with the child's parent.

"Children with disabilities" means those children evaluated as having autism, deaf-blindness, a developmental delay, a hearing impairment which may include deafness, mental retardation, multiple disabilities, an orthopedic impairment, other health impairment, a serious emotional disturbance, a severe or profound disability, a specific learning disorder, a speech or language impairment, a traumatic brain injury, or a visual impairment which may include blindness.

"Commissioner" means the commissioner of Social Services, also known as the director of the Virginia Department of Social Services.

"Contract employee" ~~mean~~ means an individual who enters into an agreement to provide specialized services for a specified period of time.

"Department" means the Virginia Department of Social Services.

"Department's representative" means an employee or designee of the Virginia Department of Social Services, acting as the authorized agent of the commissioner.

[ "~~Developmentally appropriate~~" means a philosophy which applies a knowledge of child development to the curriculum, the environment, adult-child interactions, and staff-parent interactions, and which recognizes the age span of the children within the group, as well as the needs of the individual child. ]

"Enrollment" means the actual attendance of a child as a member of the center.

"Evening care" means care provided in a center between the hours of 7 p.m. and 1 a.m., inclusively.

"Fall zone" means the area underneath and surrounding equipment that requires a resilient surface. It shall encompass sufficient area to include the child's trajectory in the event of a fall while the equipment is in use.

[ "*Good character and reputation*" means knowledgeable and objective people agree that the individual (i) maintains business, professional, family, and community relationships which are characterized by honesty, fairness, and truthfulness, and (ii) demonstrates a concern for the well-being of others to the extent that the individual is considered suitable to be entrusted with the care, guidance, and protection of children. Relatives by blood or marriage and people who are not knowledgeable of the individual, such as recent acquaintances, shall not be considered objective references. ]

"Individual service, education or treatment plan" means a plan identifying the child's strengths, needs, general functioning and plan for providing services to the child. The service plan includes specific goals and objectives for services, accommodations and intervention strategies. [~~In addition,~~ ] The service, education or treatment plan clearly indicates documentation and reassessment/evaluation strategies.

"Intervention strategies" means a plan for staff action that outlines methods, techniques, cues, programs, or tasks that enable the child to successfully complete a specific goal.

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

"Montessori Module" means a group of alternative, specific standards in the regulations allowed for all programs meeting the eligibility criteria of a Montessori preschool, as specified in the module.

"~~Montessori preschools~~" ~~are~~ means educational programs wherein the teacher training and subsequent pedagogy are approved by either American Montessori Society, American Association Montessori Internationale, National [ Council Center ] of Montessori Education, or Saint Nicholas Montessori, thus verifying that the preschool meets the Montessori standards as outlined in the Montessori Module. Only Montessori schools which meet the Montessori criteria as outlined in the Montessori Module are eligible to comply with the modified licensing standards contained in that module.

"Overnight care" means care provided in a center between the hours of 1 a.m. and 5 a.m., inclusively.

"Parent" means the biological or adoptive parent or parents or legal guardian or guardians of a child enrolled in or in the process of being admitted to a center.

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

"Primitive camp" means a camp where places of abode, water supply system, permanent toilet and cooking facilities are not usually provided.

"Programmatic experience in the groupcare of children" means time spent working directly with children in a group, in a child care situation which is located away from the child's home ( e.g., Sunday school, vacation Bible school, scouts, etc.).

"School age" means children from the age of eligibility to attend public school and older, age five or older by September 30. [ ~~Several~~ ] Four- or five-year-old children included in a group of school age children may be considered school age during the summer months if the children will be entering kindergarten that year [ ~~and a staff-to-children ratio of 1:15 is maintained in that group~~ ].

"Special needs child day program" means a program exclusively serving children with disabilities [ ~~and which meets the child day center definition~~ ].

~~"Speciality camps"~~ "Specialty camps" means those centers which have an educational or recreational focus on one subject which may include, but is not limited to, dance, drama, music, sports.

"Sponsor" means an individual, partnership, association, public agency, corporation or other legal entity in whom the ultimate authority and legal responsibility is vested for the administration and operation of a center subject to licensure.

"Staff" means administrative, activity, service, and volunteer personnel including the licensee when the licensee is an individual who works in the facility.

"Staff positions" are defined as follows:

"Aide" means the individual designated to be responsible for helping the program leader or child care supervisor in supervising children and in implementing the activities and services for children.

"Program leader" or "child care supervisor" means the individual designated to be responsible for the direct supervision of children and for implementation of the activities and services for a group of children.

"Program director" means the primary, on-site director or coordinator designated to be responsible for developing and implementing the activities and services offered to children, including the supervision, orientation, training, and scheduling of staff who work directly with children, whether or not the program director personally performs these functions.

Exception: The administrator may perform staff orientation, training or program development functions if the administrator meets the qualifications in ~~§ 3.6~~ [ ~~§ 3.8 of these regulations~~ § 3.3 ] and a written delegation of responsibility specifies the duties of the program director.

"Administrator" means a manager or coordinator designated to be in charge of the total operation and management of one or more centers. The administrator may be responsible for supervising the program director or, if appropriately qualified, may concurrently serve as the program director.

"Therapeutic child development program" means a specialized program including but not limited to therapeutic

recreation programs, exclusively serving children with disabilities [ ~~and meeting the child day center definition, when~~ ] an individual service, education or treatment plan is developed and implemented with the goal of improving the functional abilities of the children in care.

[ "Universal precautions" means an approach to infection control. According to the concept of universal precautions, all human blood and certain human body fluids are treated as if known to be infectious for human immunodeficiency virus (HIV), hepatitis B virus (HBV), and other bloodborne pathogens. ]

"Volunteers" means persons who come to the center less than once a week and are not counted toward the required number of staff.

"Volunteer personnel" means persons who work at the center once a week or more often or who are counted in the required ratio of staff to children. Parent volunteers, such as parents helping in the classroom of a parent cooperative preschool, are considered volunteer personnel if they are counted in the staff-to-children ratio or if they volunteer once a week or more often.

## [ Article 2. Legal Base. ]

### § 1.2. [ Legal base.

A. ] Chapter 10 (§ 63.1-195 et seq.) of Title 63.1 of the Code of Virginia describes the responsibility of the Department of Social Services for the regulation of residential and day programs for children, including child day centers.

[ ~~§ 1.3. B.~~ ] Section 63.1-202 of the Code of Virginia requires the Child Day-Care Council to prescribe standards for certain activities, services, and facilities for child day centers.

## [ Article 3. Purpose.

~~§ 1.4.~~ § 1.3. Purpose. ] The purpose of these minimum standards is to protect school age children who are separated from their parents during a part of the day by:

1. Ensuring that the activities, services, and facilities of centers are conducive to the well-being of children, and
2. Reducing risks in the environment.

## [ Article 4. Applicability.

### ~~§ 1.5.~~ § 1.4. Applicability. ]

The minimum standards in Part I through VIII and the Montessori Module in Part IX of these regulations for Montessori preschools wanting to meet alternative standards, apply to child day centers serving school age children as defined in § 1.1 [ ~~of these standards~~ ].

## PART II. ADMINISTRATION.

## [ Article 1. Sponsorship. ]

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## § 2.1. [ Sponsorship; operational responsibilities.

A. ] Each center shall have a ~~clearly identified~~ sponsor which shall be identified by its legal name in accordance with state requirements.

[ ~~§-2.2. B. ]~~ The names and addresses of individuals who hold primary financial control and officers of the sponsor or governing body shall be disclosed fully to the Department of Social Services.

[ ~~§-2.3. C. ]~~ The sponsor, [ *who may be* ] represented by the individual proprietor, partners, officers, and managers [ *who has* ] delegated authority to act for [ *a the* ] sponsor, shall be of good character and reputation and shall not have been convicted of a felony or a misdemeanor related to abuse, neglect, or exploitation of children or adults.

### [ Article 2. Operational Responsibilities.

[ ~~§-2.4. D. ]~~ As required by § 63.1-198 of the Code of Virginia, the sponsor shall afford the commissioner or his agents the right at all reasonable times to inspect facilities, all of his financial books and records, and to interview his agents, employees, and any child or other person within his custody or control.

[ ~~§-2.5. E. ]~~ The license shall be posted in a place conspicuous to the public, near the main entrance of the building or the main office.

[ ~~§-2.6. F. ]~~ The operational responsibilities of the licensee shall include, but not be limited to, the following:

1. To develop a written statement of the purpose, scope, and philosophy of the services to be provided by the center and written policies under which the center will operate;
2. To ensure that the center's activities, services, and facilities are maintained in compliance with: these minimum standards; the terms of the current license issued by the department; other relevant federal, state, and local laws and regulations including the Americans with Disabilities Act and state law regarding disabilities; and the center's own policies and procedures; *and . These minimum standards are not intended to prevent reasonable accommodations for children with disabilities. If a variance is necessary to attain reasonable accommodation, contact your licensing specialist.*
3. To identify in writing the individuals responsible for the day-to-day operations and implementation of both these regulations and the facility's policies.

[ ~~§-2.7. G. ]~~ No center "shall make, publish, disseminate, circulate, or place before the public, or cause, directly or indirectly, to be made... an advertisement of any sort regarding services or anything so offered to the public, which... contains any promise, assertion, representation, or statement of fact which is untrue, deceptive, or misleading" (§ 63.1-196 of the Code of Virginia).

[ ~~§-2.8. H. ]~~ The center sponsor shall maintain public liability insurance for bodily injury for each center site with a minimum limit of at least \$500,000 each occurrence and with

a minimum limit of \$500,000 aggregate or. *A public sponsor may have equivalent self-insurance which is in compliance with local codes [ state code the Code of Virginia ]. Evidence of insurance coverage shall be made available to the department's representative upon request unless the center is self-insured.*

[ ~~§-2.9. I. ]~~ A plan of accident or school insurance shall be available to the parent. The center may designate whether the parent's participation in the plan is optional or mandatory.

[ ~~§-2.10. J. ]~~ The center shall develop [ ~~an annual plan written procedures~~ ] for injury prevention. [ ~~This plan These procedures~~ ] shall be based on documentation of injuries and a review of the activities and services.

[ ~~§-2.11. K. ]~~ The center shall develop [ *a written* ] playground safety [ ~~plan procedures~~ ] which shall include:

1. Provision for active supervision by staff;
2. Positioning of staff on the playground to help meet the safety needs of children; and
3. Method of maintaining resilient surface.

[ ~~§-2.12. L. ]~~ Hospital operated centers may temporarily exceed their licensed capacity during a natural disaster or other catastrophe if:

1. The center has developed a plan with defined limits for its emergency operation, and
2. The center has received prior approval of the plan by the department. [ ~~The department may monitor the center during this time and impose additional requirements for the safety of children or withdraw the approval to exceed the capacity. ]~~

[ ~~§-2.13. M. ]~~ If children 13 years or older *are enrolled in the program and* receive supervision in the licensed program, they shall be counted in the number of children receiving care *and the center shall comply with the standards for these children.*

### [ Article 3. Policies and Procedures.

## §-2.14. § 2.2. Policies and procedures.

A. ] Before a child's enrollment, parents shall be provided in writing the following:

1. Operating information:
  - a. The center's purpose, scope, philosophy, and any religious affiliations;
  - b. The hours and days of operation and holidays or other times closed;
  - c. The [ ~~procedures forms or other written instruments~~ ] for admission and registration of children;
  - d. Fees and tuition including whether participation in the accident or school insurance is mandatory;
  - e. The phone number of the center *where a message can [ immediately ] be given to center staff;*

- f. The program and services provided and the ages of children accepted;
- g. Organizational chart or other description of established lines of authority for persons responsible for center management within the organization;
- h. Reasons and procedures for removal of children from rolls including the amount of notice required for the parent and center before removal from the program; and
- i. Licensing information found in Appendix I.

2. Arrival and departure for children:

- a. Policy governing a parent picking up a child after closing hours and procedures if the child is not picked up;
- b. Policy for release of children from the center only to responsible persons for whom the center has written authorization; and
- c. Procedures for protecting children from traffic and other hazards during arrival and departure and when crossing streets.

3. Program and activities:

- ~~a. Procedures and policies about accepting and storing children's personal belongings;~~
- b. a. Discipline policies including acceptable and unacceptable discipline measures;
- e. b. Food policies; and
- d. c. Transportation safety policies and procedures when provided.

4. Health and emergencies:

- a. Procedures for storing and giving children's medications [ ; and which shall include:
  - (1) Any general restrictions of the center;
  - (2) Duration of the parent's authorization for medication, provided that it shall expire or be renewed after 10 working days. Long-term prescription drug use may be excepted if a form such as the one in Appendix II is completed and on file; and
  - (3) Methods to prevent use of outdated medication.
- b. Policy for ~~reporting~~ center staff to report suspected child abuse (Note: Section 63.1-258.3 of the Code of Virginia requires any person providing full or part-time child care for pay on a regularly planned basis to report suspected child abuse or neglect).

[ § 2-45. B. ] Before staff are allowed to supervise children, staff shall be provided *in writing* with the information listed in [ § 2-14 subsection A of this section ] and the following:

- 1. Procedures for ~~caring for~~ *supervising* a child who may arrive after any ~~scheduled start time or the center~~

*scheduled classes or activities, including field trips, have begun;*

- 2. Procedures to confirm absence of a child from the center when the child attends more than one care or educational arrangement a day;
- 3. Procedures for identifying where attending children are at all times including ~~field-trips~~ *procedures to assure that all children are accounted for before leaving a field trip site and upon return to center, and*
- 4. Procedures for action in case of lost or missing children, ill or injured children, and medical emergencies ; and
- 5. *Procedures for natural disasters, including but not limited to fire, flood, or other severe weather.*

[ Article 4.  
Records, Logs, and Reports.

§ 2-16. § 2.3. ] General record keeping [ ; reports ].

A. All children's records and personnel records shall be treated confidentially.

Exception: Children's records shall be made available to the custodial parent upon request.

~~B. Records, logs, and reports shall be kept. Records may be kept at a central location except as indicated otherwise in these standards.~~

~~C. B.~~ All records, logs, and reports on children and staff required by these standards shall be maintained and made accessible for two years after termination of enrollment or employment unless specified otherwise. *Records may be kept at a central location except as indicated otherwise in these standards.*

[ § 2-17. § 2.4. ] Children's records.

Each center shall maintain and keep at the center a separate record for each child enrolled which shall contain the following information:

- 1. Name, nickname (if any), sex, and birth date of the child;
- 2. Name, home address, and home phone number of each parent who has custody;
- 3. When applicable, work phone number and place of employment of each parent who has custody;
- 4. Name and phone number of child's physician;
- 5. Name, address, and phone number of two designated people to call in an emergency if a parent cannot be reached;
- 6. Names of persons authorized to pick up the child. Appropriate legal paperwork shall be on file when the custodial parent requests the center not to release the child to the other parent;
- 7. Allergies and intolerance to food, medication, or any other substances, and actions to take in an emergency situation;

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8. Chronic physical problems and pertinent developmental information and any special accommodations needed ;

9. Health information as required by §§ 2.26 [ ~~§§ 2.32 §§ 2.11~~ ] through 2.28 [ ~~2.34 of these regulations~~ 2.13 ];

Exception: ~~When a center is located in the same building where a child attends school and the child's record has a statement verifying the school's possession of the health record, [ When a center is located on the same premises where a child attends school and the child's record has a statement verifying the school's possession of the health record, ]~~ the center is not required to maintain duplicates of the school's health record for that child provided ~~the school's records are accessible during the center's hours of operation [ the child's record has a parental statement verifying the school's possession of the health record the school's records are accessible during the center's hours of operation ]~~.

10. Written agreements between the parent and the center as required by §§ 2.24 [ ~~§§ 2.22 §§ 2.7 A~~ ] through 2.23 [ 2.24 C ];

11. Name of any additional programs or schools that the child is concurrently attending and the grade or class level; and

12. Enrollment and termination date.

[ ~~§ 2.18. Records for therapeutic child development programs and special needs child day programs.~~

~~A. For therapeutic child development programs, in addition to the requirements in § 2.17, each child's record shall also contain copies of required individual assessment plans and individual service, education or treatment plans.~~

~~B. For special needs child day programs, in addition to the requirements in § 2.17, each child's record shall also contain a copy of his initial individual assessment plan. ]~~

§ 2.18. [ ~~§ 2.19. § 2.5.~~ ] Staff records.

Staff records shall be kept for paid staff and volunteer personnel which shall include the following:

1. Name, address, verification of age requirement, job title, and date of employment or volunteering;

2. Documentation that two or more references as to character and reputation as well as competency were checked before employment or volunteering. If a reference check is taken over the phone, documentation shall include dates of contact, names of persons contacted, the firms contacted, results, and signature of person making call.

Exceptions: Reference checks are not required for:

a. Staff hired before April 1, 1986, in centers initially licensed before July 1, 1993; and

b. Staff who began work before July 1, 1993, in previously excepted centers that were initially required to be licensed after July 1, 1993.

3. A criminal record check as required by the Regulation for Criminal Record Checks for Child Welfare Agencies [ (22 VAC 15-55-10 et seq.) ];

4. Name, address, and telephone number of a person to be notified in an emergency which shall be kept at the center;

5. Written information to demonstrate that the individual possesses the education, orientation training, staff development, certification, and experience required by the job position;

6. First aid and other certification as required by the responsibilities held by the staff member;

7. Health information as required by §§ 2.29 [ ~~§§ 2.35 through §§ 2.14 and~~ ] 2.31 [ ~~2.37 of these regulations~~ 2.15 ];

8. Information, to be kept at the center, about any health problems which may interfere with fulfilling the job responsibilities; and

9. Date of termination when applicable.

§ 2.19. [ ~~§ 2.20. § 2.6.~~ Attendance records; reports.

A. ] The center shall keep a written log record of the following: 1. children in attendance each day ; .

~~2. Medication given to children as required in subdivisions 1 through 4 of § 7.17;~~

~~3. Children's accidents or injuries as required in subdivisions 1 through 7 of § 7.35;~~

~~4. Asbestos inspections as required in subdivision C-2 of § 4.2; and~~

~~5. Emergency evacuation practice drills as required in § 7.29.~~

§ 2.20. [ ~~§ 2.24. B.~~ ] [ Reports shall be filed and maintained as follows: ]

[ 1. ] The center shall inform the commissioner's representative ~~within two working days [ immediately as soon as practicable but not to exceed one working day ]~~ of the circumstances surrounding the following incidences:

a. [ ~~4. a.~~ ] Death of a child *while under the center's supervision*, and

b. [ ~~2. b.~~ ] Missing child when local authorities have been contacted for help.

[ 2. Any suspected incidence of child abuse shall be reported in accordance with § 63.1-248.3 of the Code of Virginia. ]

[ Article 5.

Enrollment and Termination Procedures. ]

§ 2.21. [ ~~§ 2.22. § 2.7.~~ Enrollment and termination procedures.

A. ] A written agreement between the parent and the center shall be in each child's record at the time of the child's

enrollment. The agreement shall be signed by the parent and include:

1. An authorization for emergency medical care should an emergency occur when the parent cannot be located immediately, and
2. A statement that the center will notify the parent when the child becomes ill and that the parent will arrange to have the child picked up as soon as possible.

~~§ 2.22.~~ [ ~~§ 2.23. B.~~ ] When applicable, written permission from the parent authorizing the child's participation in the center's transportation and field trips shall be in the child's record.

~~§ 2.23.~~ [ ~~§ 2.24. C.~~ ] If a parent wishes a child to leave the center unaccompanied, written permission from the parent authorizing the child to leave the center shall be secured and the center shall maintain a record of the child leaving unaccompanied.

~~§ 2.24.~~ [ ~~§ 2.25. D.~~ ] When a center decides to terminate the enrollment of a child, the center shall provide the parent [ in writing ] the reasons for termination.

~~§ 2.25.~~ [ ~~§ 2.26. E.~~ ] Reserved.

~~[ § 2.27. For therapeutic child development programs and special needs child day programs, § 2.8. Enrollment procedures of therapeutic child development programs and special needs child day programs.~~

A. ] Before admission of a child, there shall be [ personal ] communication between the director, or his designee, and the parent to determine the child's:

1. Level of general functioning as related to physical, affective/emotional, cognitive and social skills required for participation;
2. Activities for daily living; and
3. Any special medical procedures needed.

[ B. The information required in subsection A of this section shall be documented and retained in the child's record. ]

~~[ § 2.28. C. ] Based upon the results of the [ personal ] communication required in [ subsection A of this section ], the director, or his designee, shall determine the initial placement of the child [ pending completion of an individual assessment plan ].~~

[ ~~§ 2.29. § 2.9.~~ ] Individual assessment [ for therapeutic child development programs. ]

A. [ ~~For therapeutic child development programs and special needs child day programs,~~ ] An individual assessment for each newly enrolled child shall be [ obtained or ] completed within six months before enrollment or 30 days after enrollment.

B. The assessment shall include:

1. Documentation of disability;

2. Current functional levels and skills capabilities in the areas of activities of daily living, affective/communicative, perceptual motor, physical and social development;

3. Recommendations for program placement;

4. Recommendations for accommodations for program participation [ - ; ]

[ 5. Recommendations for program adjustments and special services; and ]

[ ~~5. 6.~~ ] A description of physical adaptations and equipment needed.

C. An individual assessment shall be [ completed reviewed and updated ] for each child no less than once every 12 months.

[ D. Each child's record shall contain copies of the required individual assessment plans. ]

~~[ § 2.30. E. ] For therapeutic child development programs [ and special needs child day programs ], upon [ completion of obtaining or completing ] the individual assessment [ for a newly enrolled child ], the director or his designee, in a meeting with the child's parent and other professionals as deemed necessary, shall evaluate program placement and program accommodations for the child.~~

[ ~~§ 2.34. § 2.10.~~ ] Individual service, education or [ training treatment ] plan [ for therapeutic child development programs ].

A. [ ~~For therapeutic child development programs,~~ ] An individual service, education or [ training treatment ] plan for each newly enrolled child shall be developed [ and implementation shall begin ] within 60 days after enrollment.

B. The individual service, education or treatment plan shall be based on an analysis of the child's individual assessment and developed by the director or his designee, and staff persons who supervise the child. The plan shall include the following:

1. An assessment of the child's general functioning;
2. Specific program accommodations and intervention strategies necessary for participation;
3. Monthly documentation of the child's progress; and
4. Evaluation criteria goals and goal attainment measures.

C. The initial and subsequent service, education or treatment plans and any changes made to the plans shall be reviewed and approved in writing by the staff person who supervises the child and the administrator or director of the facility prior to implementation.

D. The individual service, education or treatment plan shall be reviewed and revised every three months and rewritten annually.

~~[ E. A copy of the initial plan and subsequent or amended service, education or treatment plans shall be given to the child's parent.~~

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F. E. ] *The child's individual service, education or treatment plan shall be developed and reviewed in partnership with the parent.*

[ F. A copy of the initial plan and subsequent or amended service, education or treatment plans shall be given to the child's parent.

G. *Each child's record shall contain copies of the required individual service, education or treatment plans. ]*

[ Article 6.  
Health for Children and Staff. ]

§ 2-26. [ ~~§ 2-32. § 2.11.~~ ] Immunizations for children.

A. [ ~~Regulations by the State Board of Health for the immunization of school children require documentation of all age appropriate immunizations prescribed in the regulations before each child's enrollment to a center licensed by this Commonwealth. The center shall obtain documentation before each child's enrollment in the center that the child has received all immunizations required by the State Board of Health.~~ ]

Exemptions (subsection C of § 22.1-271.2 of the Code of Virginia and [ ~~§ 3.03 12 VAC 5-110-110~~ ] of the Regulations for the Immunizations of School Children): Documentation of immunizations is not required for any child whose (i) parent submits an affidavit to the center, on the form entitled "Certification of Religious Exemption," stating that the administration of immunizing agents conflicts with the parent's or child's religious tenets or practices, or (ii) physician or a local health department states on a MCH 213B or MCH 213C Form that one or more of the required immunizations may be detrimental to the child's health.

B. Updated information on immunizations received shall be obtained once between each child's fourth and sixth birthdays.

§ 2-27. [ ~~§ 2-33. § 2.12.~~ ] Physical examinations for children.

Each child shall have a physical examination by or under the direction of a physician before enrollment or within one month after enrollment. For children two years of age through five years of age, the examination shall be completed within 12 months prior to enrollment.

Exceptions:

1. Children transferring from a facility licensed by the Virginia Department of Social Services, certified by a local department of public welfare or social services, registered as a small family day home by the Virginia Department of Social Services or by a contract agency of the Virginia Department of Social Services, or approved by a licensed family day system:

a. If the initial report or a copy of the initial report of immunizations is available to the admitting facility, no additional examination is required.

b. If the initial report or a copy of the initial report is not available, a report of physical examination and immunization is required in accordance with §§ 2-26 [

~~§§ 2-32 § 2.11~~ ] and 2-27 [ ~~2-33 of these regulations this section~~ ].

2. Subsection D of § 22.1-270 of the Code of Virginia: Physical examinations are not required for any child whose parent objects on religious grounds. The parent must submit a signed statement noting that the parent objects on religious grounds and certifying that to the best of the parent's knowledge the child is in good health and free from communicable or contagious disease.

§ 2-28. [ ~~§ 2-34. § 2.13.~~ ] Form and content of immunizations and physical examination reports for children.

A. The current form required by the Virginia Department of Health shall be used to report immunizations received and the results of the required physical examination. See Appendix [ ~~H III~~ ] for a copy of this form.

Exception: When the current Health Department form has not been used such as, but not limited to, when a child transfers from another state, other documentary proof of the child having received the required examination and immunization shall be accepted. Documentary proof may include, but not be limited to, an International Certificate of Immunization, another state's immunization form, or a physician's letterhead.

B. Each report shall include the date of the physical examination and dates immunizations were received.

C. Each report shall be signed by a physician, his designee, or an official of a local health department.

§ 2-29. [ ~~§ 2-35. § 2.14.~~ ] Tuberculosis examination for staff.

A. Each staff member, including the licensee, administrator, and volunteer personnel, shall obtain and submit a statement that he is free of tuberculosis in a communicable form. The statement shall be submitted no later than [ ~~five working 21~~ ] days after employment or volunteering and shall:

1. Be dated within ~~30 days~~ two years before or [ ~~five working 21~~ ] days after employment of the individual;

Exception: *Staff hired before November 1, 1993, in centers newly subject to licensure effective July 1, 1993, shall submit a tuberculosis statement by [ ~~June 4, 1995~~ March 1, 1996 ], that is dated no more than two years before [ ~~the effective date of these regulations~~ March 1, 1996 ].*

2. Include the types of tests used and the results; and

3. Include the signature of the physician, the physician's designee, or an official of a local health department.

Exceptions: ~~When a staff member terminates work at one licensed facility or public or private school and begins work at a licensed center with a gap in service of six months or less, the previous statement of tuberculosis screening may be transferred to the licensed center. Centers newly subject to licensure do not need to require staff hired before November 1, 1993, to submit a statement of tuberculosis screening.~~

B. The tuberculosis examination shall be repeated *before the date on the statement is two years old* and as required by a licensed physician or the local health department.

C. Any staff member who comes in contact with a known case of tuberculosis or who develops chronic respiratory symptoms shall within one month after exposure or development receive an evaluation in accordance with subsections A and B of this section.

~~§ 2-30. [ § 2-36. § 2.15. Physical and mental health of staff.~~

A. ] When there is evidence that the safety of children may be jeopardized by the physical health or mental health of a staff member or volunteer, a report of examination of this person by a physician or, if appropriate, a clinical psychologist [ ~~licensed mental health professional clinical psychologist~~ ] skilled in the diagnosis and treatment of mental illness shall be obtained. The request for obtaining an examination may come from the licensee, administrator, or department.

~~§ 2-31. [ § 2-37. B. ]~~ If a staff member's or volunteer's examination or test results indicate that his physical or mental condition may jeopardize the safety of children or prevent his performance of duties *and no reasonable accommodation can be made to eliminate the risk*, the staff member shall not be allowed contact with children or food served to children. The staff member may return when ~~his condition is cleared to the satisfaction of the physician or clinical psychologist as evidenced by [ licensed mental health professional clinical psychologist ]~~ confirms that the risk has been eliminated or substantially reduced such that reasonable accommodations may be made. Such confirmation shall include a signed, dated statement from the physician or ~~clinical psychologist [ licensed mental health professional clinical psychologist ]~~.

## PART III. PERSONNEL.

### [Article 1. General Qualifications.]

#### § 3.1. [ General qualifications.

A. ] No staff shall have been convicted of a felony or a misdemeanor related to abuse, neglect, or exploitation of children or adults.

[ ~~§ 3-2. B. ]~~ All staff shall understand and be sensitive to the varying capabilities, interests, needs, and problems of children in care.

[ ~~§ 3-3. C. ]~~ All staff shall be:

1. Of good character and reputation;
2. Capable of carrying out assigned responsibilities;
3. Willing and able to accept training and supervision;
4. Able to communicate effectively both orally and in writing as applicable to the job responsibility; and
5. Able to understand and apply the minimum standards in this booklet which relate to their respective responsibilities.

[ ~~§ 3-4. D. ]~~ All staff who work directly with children shall have the ability to:

1. Communicate with emergency personnel and understand instructions on a prescription bottle;
2. Communicate effectively and appropriately with the age group to which the staff person is assigned;
3. Communicate effectively with parents;
4. Provide a stimulating and safe environment for the age group to which the staff person is assigned; and
5. Use materials, activities, and experiences to encourage children's growth and development.

[ ~~§ 3-5. E. ]~~ For therapeutic child development programs and special needs child day programs, staff [ who work with children ] shall have knowledge of [ ~~diagnostic the~~ ] groups being served and [ ~~disability issues skills specific to the disabilities of the children in care~~ ] including, but not limited to, functional abilities, accommodations, assessment techniques, behavior management, and medical and health concerns.

[ ~~§ 3-6. F. ]~~ For therapeutic child development programs and special needs child day programs:

1. Staff who work with children shall adapt or modify activities based on the assessment of the children's needs and functional abilities [ - , ] and
2. Each child shall always be supervised by staff appropriately trained in the form of communication needed.

### [Article 2.

#### Qualifications by Job Responsibility.]

#### § 3-5. [ ~~§ 3-7. § 3.2. Qualifications by job responsibility. ]~~

All staff who work in multiple positions within the center shall meet the qualifications for each position.

Note: Personnel titles used in the standards are descriptive only. Centers are not required to use the same titles. The program director may have responsibilities for several centers at one site.

#### ~~§ 3-6. [ § 3-8. Administrators. § 3.3. Administrator qualifications.~~

A. ] There shall be an administrator designated to be in charge of the total operation of the center. Administrators ~~hired who assume the administrator responsibilities [ on or ] after the effective date of these regulations November 1, 1993, who also perform responsibilities of the program director shall be at least 21 years of age and shall possess an endorsement, bachelor's degree or associate degree in a child-related field from an accredited college or university and one year of programmatic experience in the group care of children meet one of the program director qualification options listed in [ § 3-11 § 3.4 C 1 through 3 or § 3.4 C 5 ]~~.

Exception: Montessori preschools may meet the alternative requirements in the Montessori Module.

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~~[ § 3-9. B. ] In addition to the requirements under [ § 3-8 subsection A of this section ] , the administrator of a therapeutic child development program [ and or ] a special needs child day program [ , who also performs responsibilities of the program director, ] shall have completed at least 15 semester hours [ or 21 quarter hours ] from an accredited college or university [ in areas related to special needs children ] , [ ~~21 quarter hours from an accredited college or university, ] or 60 hours of training and education in areas related to special needs children [ , such as special education, early childhood special education, therapeutic recreation, human development, human services or allied health services ] .~~~~

~~§ 3-7. [ § 3-10. § 3.4. Program director qualifications for centers with school age children.~~

A. ] There shall be a program director designated to be responsible for developing and implementing the activities and services offered to children. There may be one program director for a center offering care to both school age and preschool children at one site or there may be two directors, according to the age of the children, for a center serving school age and preschool children. If a program director is responsible for a center with school age children and a center with children of preschool age or younger, the qualifications applicable to both school age and preschool age and younger shall apply.

~~§ 3-8. [ § 3-11. Program directors.~~

A. B. ] Program directors hired or promoted before November 1, 1993, shall have until July 1, 1996, to meet one of the qualifications of subsection [ B C ] of this section. Program directors hired or promoted [ on or ] after November 1, 1993, shall meet [ one of ] the qualifications of subsection [ B C ] of this section immediately.

[ B. C. ] Program directors [ ~~for centers with school age children ] shall be at least 21 years of age unless directly supervised by an administrator meeting the qualifications of § 3-6, in which case, the program director shall be at least 19 years of age. Program directors and shall possess one of the following:~~

1. An endorsement, bachelors, or associate degree in a child related field from an accredited college or university and six months of age appropriate programmatic experience in the group care of children; or
2. Forty-eight semester hours or 72 quarter hours of college credit from an accredited college or university of which 12 semester hours or 18 quarter hours are in subjects relating to group care of children and one year of age appropriate, programmatic experience in the group care of children; or
3. Forty-eight semester hours or 72 quarter hours of college credit from an accredited college or university and two years of age appropriate, programmatic experience in the group care of children, of which one year of this experience is in a staff supervisory capacity; or
4. Three years of age appropriate, programmatic experience in the group care of children which has been

obtained after the age of 16 [ , ] and a high school diploma or G.E.D. if supervised by an administrator ~~meeting the qualifications of § 3-6 who [ is at least 21 years of age and ] possesses an endorsement, bachelor's degree or associate degree in a child related field from an accredited college or university and one year of programmatic experience in the group care of children; or~~

5. Certification by a nationally recognized accrediting body whose staff qualification standards to meet minimum state regulations for the program director position as determined by the department based on documentation supplied by those claiming equivalency.

Note: For the programmatic experience to be considered age appropriate, at least some of the experience shall be with school age children.

*Exception: Exceptions: A person between 19 and 21 years of age may serve as a program director if supervised by an administrator who visits the center daily and who is at least 21 years of age and possesses an endorsement, bachelor's degree or associate degree in a child related field from an accredited college or university and one year of programmatic experience in the group care of children. Montessori preschools may meet the alternative requirements in the Montessori Module.*

~~[ § 3-12. § 3.5. ] Program directors [ of a for ] therapeutic child development [ program or a programs and ] special needs child day [ program shall be at least 21 years of age and possess one of the following: programs.~~

A. Program directors hired or promoted before March 1, 1996, shall have until June 1, 1998, to meet the qualifications of subsection B of this section. Program directors hired or promoted on or after March 1, 1996, shall meet the qualifications of subsection B of this section immediately.

B. Program directors shall be at least 21 years of age and possess one of the following: ]

1. An endorsement, bachelor's or associate's degree in a special needs related field from an accredited college or university and six months of programmatic experience in the group care of children with disabilities; or
2. Forty-eight semester hours or 72 quarter hours of college credit from an accredited college or university of which six semester hours or nine quarter hours are in subjects relating to group care of children and six semester hours or nine quarter hours are in subjects relating to group care of children with disabilities; and one year of programmatic experience in the group care of children with disabilities; or
3. Forty-eight semester hours or 72 quarter hours of college credit from an accredited college or university of which six semester hours or nine quarter hours are in subjects relating to group care of children with disabilities [ ; , ] and two years of programmatic experience in the group care of children with disabilities of which one year of this experience shall be in a staff supervisory capacity; or

4. Three years of programmatic experience in the group care of children of which at least two years shall be with children with disabilities and which shall have been obtained after the age of 16, and a high school diploma or G.E.D., if supervised by an administrator who is at least 21 years of age and possesses an endorsement bachelor's degree or associate degree in a child related field from an accredited college or university and one year of programmatic experience in the group care of children; or

5. Certifications by a nationally recognized accrediting body whose staff qualification standards meet [ the ] minimum licensing standards for the program director of a therapeutic child development program or a special needs child day program [ position ] based on documentation supplied by those claiming equivalency. Certification must be recognized as proficient in working with children with disabilities.

[ The requirements in this standard are in lieu of the requirements specified in § 3.4 B and C. ]

§ 3.9. [ ~~§ 3.13.~~ § 3.6. ] Back-up for program directors.

A. For centers operating eight hours or more per day, if the program director is regularly present in the facility fewer than four hours per day, there shall be an officially designated person who shall assume the responsibility in the absence of the program director and meet [ ~~one of the qualifications of subdivisions 1 through 5 of~~ ] § 3.8 [ ~~§ 3.11-B~~ § 3.4 or for therapeutic child development programs or special needs child day programs, § 3.5 ]. In addition, if the program operates multiple shifts for working parents, a program director shall be regularly present for at least four hours of each shift or have a back-up program director who shall assume responsibility in the absence of the director and meet [ ~~one of the qualifications of subdivisions 1 through 5 of~~ ] § 3.8 [ ~~§ 3.11-B~~ § 3.4 or for therapeutic child development programs or special needs child day programs, § 3.5 ].

B. For centers operating eight hours or less per day, if the program director is regularly present in the facility less than 50% of the hours of operation, there shall be an officially designated person who shall assume responsibility in the absence of the program director and meet [ ~~one of the qualifications of subdivisions 1 through 5 of~~ ] § 3.8 [ ~~§ 3.11-B~~ § 3.4 or for therapeutic child development programs or special needs child day programs, § 3.5 ].

Exception: Montessori preschools may meet the alternative requirements in the Montessori Module.

§ 3.10. [ ~~§ 3.14.~~ § 3.7. ] Program [ ~~leaders leader~~ ] and child care [ ~~supervisors supervisor qualifications~~ ].

Program leaders and child care supervisors shall be at least 18 years of age and have a high school diploma or G.E.D. In addition, program leaders and child care supervisors [ ~~who work with school age children~~ ] shall meet one of the program director qualifications in § 3.8 [ ~~§ 3.11-B~~ § 3.4 C ] or possess one of the following:

1. An endorsement or bachelor's degree in a child related field from an accredited college or university; or

2. Forty-eight semester hours or 72 quarter hours of college credit from an accredited college or university of which 12 semester hours or 18 quarter hours are in subjects relating to the group care of children and three months of age appropriate, programmatic experience in the group care of children; or

3. Six months of age appropriate, programmatic experience in the group care of children.

Note: For the programmatic experience to be considered age appropriate, at least some of the experience shall be with school age children.

Exception: Montessori preschools may meet the alternative requirements in the Montessori Module.

[ ~~§ 3.15.~~ § 3.8. ] Program leaders and child care supervisors of therapeutic child development programs [ ~~or and~~ ] special needs child day programs.

~~Program leaders and child care supervisors [ of therapeutic child development programs or special needs child day programs ] shall be at least 18 years of age and have a high school diploma or G.E.D. In addition, program leaders and child care supervisors who are hired or promoted [ on or ] after [ November 1, 1993, March 1, 1996, ] shall meet one of the program director qualifications in [ ~~§ 3.12~~ § 3.5 B ] or possess one of the following:~~

1. An endorsement or bachelor's degree in a special needs related field from an accredited college or university; or

2. Forty-eight semester hours or 72 quarter hours of college credit from an accredited college or university of which [ ~~six~~ 12 ] semester hours or [ ~~nine~~ 18 ] quarter hours are in subjects relating to group care of children [ ~~and six semester hours or nine quarter hours are in subjects relating to group care of children with disabilities; ,~~ ] and [ ~~six three~~ ] months of programmatic experience in the group care of [ ~~children individuals~~ ] with disabilities; or

3. [ ~~One year~~ Six months ] of [ ~~age appropriate,~~ ] programmatic experience in the group care of children, of which at least [ ~~six three~~ ] months shall be with children with disabilities.

[ The requirements in this standard are in lieu of the requirements specified in § 3.7. ]

§ 3.11. [ ~~§ 3.16.~~ § 3.9. ] Aides.

[ A. ] Aides shall be at least 16 years of age and shall meet the general qualifications, health, orientation training, and staff development requirements for the applicable position.

[ ~~B. For therapeutic child development programs and special needs child day programs, all aides shall possess competency based knowledge and skills specific to the disabilities of the children in care, prior to working with these children.~~ ]

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## [ § 3.10. Contract staff.

Contract staff working with children shall meet the personnel, health, and orientation training requirements for the applicable position. ]

## § 3.12. [ ~~§ 3.17.~~ § 3.11. ] Volunteer personnel [ ~~--;~~ volunteers ] .

[ A. ] Volunteer personnel shall meet the qualifications for the applicable position [ ~~except that volunteer personnel who are parents and are sight supervised when with children and not counted in the staff-to-children ratios only need to meet the health requirements of §§ 2.29 through 2.34 .~~ ]

[ Exception: Volunteer personnel only need to meet the health requirements of §§ 2.14 and 2.15 and any applicable Code of Virginia requirements if they (i) are family members 14 years of age or older; (ii) are sight supervised when with children; and (iii) are not counted in the staff-to-children ratios. ]

## § 3.13. [ ~~§ 3.18.~~ Volunteers. ]

[ B. ] The duties of volunteers shall be clearly defined.

[ C. Volunteers who work with children shall be at least 14 years of age. ]

### [ Article 3.

#### Staff Orientation Training and Development. ]

## § 3.14. [ ~~§ 3.19.~~ § 3.12. Staff ] orientation training [ and development ] .

[ Before assuming job responsibilities, A. ] All staff shall receive the following training [ by the end of their first day assuming job responsibilities ]:

1. Job responsibilities and to whom they report;
2. The policies and procedures listed in [ ~~§§ 2.14 and 2.15~~ § 2.2 ] that relate to the staff member's responsibilities;
3. The center's playground safety [ ~~plan procedures~~ ] unless the staff member will have no responsibility for playground activities or equipment;
4. Confidential treatment of personal information about children in care and their families; and
5. The minimum standards in this booklet which relate to the staff member's responsibilities.

## § 3.15. [ ~~§ 3.20.~~ Staff development.

A. B. ] The center shall have a written plan for staff development.

[ ~~B. Staff development activities to meet the requirements of subsection C of this section shall:~~

C. In addition to first aid and orientation training required elsewhere in these regulations, employed staff who work directly with children shall annually attend eight hours of staff development activities that shall: ]

1. Be related to children and the function of the center;

2. Consist of some sources outside the center which may include but not be limited to audio and visual tapes, conferences, and workshops;

3. Be from someone with verifiable expertise or experience when conducted as in-service training; and

4. Include annually the topics of safety for children, child development and discipline, and playground [ and outdoor ] supervision for staff.

[ ~~C. In addition to first aid, CPR, and orientation training required elsewhere in these regulations, employed staff who work directly with children shall annually attend eight hours of staff development activities.~~ ]

Exception: Montessori preschools may meet the alternative requirements in the Montessori Module [ as long as the criteria in subdivisions C 1 through 4 of this section are met ] .

§ 3.16. [ ~~§ 3.21.~~ D. ] Whenever one or more children under the age of eight are present in a center, there shall be at least one staff member on duty at all times who has obtained instruction in performing the daily health observation of children. This instruction shall be obtained from a physician, registered nurse, or health department medical personnel at a three-year interval. [ Staff with this training shall observe daily each child under eight years of age for signs and symptoms of illness. ]

[ ~~§ 3.22.~~ E. ] In addition to the topics required elsewhere in these standards, [before assuming job responsibilities, ] therapeutic child development and special needs child day staff [ working directly with children ] shall also receive training in:

1. Universal precautions procedures;
2. Activity adaptations;
3. Medication administration and medical procedures;
4. Disabilities precautions and health issues; and
5. Intervention strategies.

[ ~~§ 3.23.~~ F. For ] therapeutic child development [ staff programs ] and special needs child day [ programs, employed ] staff who work directly with children shall annually attend 16 hours of staff development activities. In addition to the requirements of [ ~~§ 3.20-B,~~ § 3.12 C, ] staff shall attend at least eight hours of training on topics related to the disabilities of the children in care.

## PART IV. PHYSICAL PLANT.

### [ Article 4.

#### Approval from Other Agencies. ]

§ 4.1. [ Approval from other agencies; ] requirements prior to initial licensure.

A. Before issuance of initial license and before use of newly constructed, renovated, remodeled, or altered buildings or sections of buildings, written documentation of the following shall be provided by the applicant or licensee to the licensing representative:

1. Inspection and approval from the appropriate authority that the buildings meet building codes or that the center has an approved plan of correction; and

2. Inspection and approval from the local health department, or approval of a plan of correction, for meeting requirements for:

- a. Water supply;
- b. Sewage disposal system; and
- c. Food service, if applicable.

Exception: Any building which is currently approved for school occupancy and which houses a public or private school during the school year shall be considered to have met the requirements of subdivision A 1 of this section when housing a center only serving children 2 1/2 years of age or older.

B. If a building was under construction before 1978, a written statement from a Virginia licensed asbestos inspector and management planner shall be submitted before initial licensure in order to comply with § 63.1-198.01 of the Code of Virginia. The statement shall include:

1. Verification that the building in which the child day center is located was inspected for asbestos according to the requirements of the Asbestos Hazard Emergency Response Act - 40 CFR Part 763 - Asbestos Containing Materials in Schools;
2. The dates of the inspection;
3. Whether asbestos was found *or assumed* in the building;
4. Signature of the licensed asbestos inspector and management planner, including the Virginia license numbers *and a copy of the asbestos inspector license and management planner license valid at the time of the inspection*; and
5. If asbestos is found or assumed, the statement shall include:
  - a. The location of any [ ~~significant friable~~ ] asbestos [ hazard areas ];
  - b. Verification of completion of the management plan; *and*
  - c. Response actions recommended by the inspector; *and*
  - d. ~~Verification that response actions have been completed.~~

Exception: Private, nonprofit schools providing educational instruction to children five years of age or older are also subject to the federal requirements of the Asbestos Hazard Emergency Response Act (AHERA). Private, nonprofit schools which are also subject to licensure and have had an asbestos inspection completed prior to [ ~~the implementation of these regulations July 1, 1993,~~ ] may submit the letter of completion they have received from the Department of Education, in lieu of the requirements of this subsection.

Private, nonprofit schools subject to the federal AHERA requirements, but which have not already received an asbestos inspection must comply with [ ~~subsections B and C of this section~~ *this subsection* ].

C. If asbestos was found *or assumed* in the building, before a license will be issued the prospective licensee shall:

1. Submit to the department a signed, written statement that:
  - a. Response actions to remove all asbestos containing materials have been completed; or
  - b. The recommendations of the [ ~~operations and maintenance management~~ ] plan will be followed, appropriate staff will receive the necessary training and documentation of required inspections will be completed.
2. Maintain documentation *provided by a Virginia licensed asbestos [ abatement ] contractor of removal*:
  - a. *Removal, where applicable, at the center for review by the department's representative. ; and*
  - b. *Response actions to encapsulate, enclose or repair the asbestos material have been completed, where applicable.*
3. [ ~~Send written notification to the parents, department, and other adult occupants of the building~~ *The center shall post a notice* ] about the presence and location of the asbestos containing material as well as the advisement that the asbestos inspection report and ~~operation and maintenance management~~ plan are available for review. A copy of this [ ~~notification notice~~ ] shall be submitted to the department.

Note: The department may request that the complete asbestos inspection report and [ ~~operations and maintenance management~~ ] plan be submitted for review.

Exception: The asbestos requirements of subsections B and C of this section do not apply to child day centers located in a currently operating public school building or a state owned building since the asbestos requirements of these buildings are regulated by other agencies. [ *However, the center administrator shall become familiar with the location of any asbestos containing material in the building in which the center is located and any applicable management plan.* ]

D. Prior to initial licensure, camps shall make the following documentation available to the licensing representative:

1. Notification to closest fire department of camp location;
2. Approval or permit from local building official for installation and operation of any incinerator; and
3. Approval from appropriate fire official for any open fire, if applicable.

§ 4.2. [ *Approval from other agencies;* ] requirements subsequent to initial licensure.

A. Every 12 months, written documentation shall be obtained and provided to the licensing representative of

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inspection and approval from the appropriate fire prevention official that the center's facility complies with the Statewide Fire Prevention Code [ 13 VAC 5-50-10 et seq. ].

Exception: If a center is located in a building currently housing a public or private school during the school year, the school's fire inspection report may be accepted in lieu of the requirements of subsection A of this section if the inspection was completed within the past 12 months.

B. Subsequent to initial licensure, and as required by the local health department, written documentation shall be provided of any additional inspections and approvals, or approvals of a plan of correction, for meeting:

1. Water supply;
2. Sewage disposal system; and
3. Food service, if applicable.

C. For those buildings where asbestos containing materials are found or assumed and not removed:

1. The administrator or a designated staff member shall take the required asbestos training as specified in the [ ~~operations and maintenance management~~ ] plan for the facility;

2. The administrator or a designated staff member who has received the required asbestos training shall conduct visual inspections of all asbestos containing materials according to the schedule recommended in the management plan and document the date and the findings of these inspections; and

3. [ ~~New parents and new adult occupants of the building shall be provided written notification of the presence and location of asbestos in the building and be advised that the asbestos inspection report and operations and maintenance plan are available for their review. The center shall post a notice about the presence and location of the asbestos containing material as well as the advisement that the asbestos inspection report and management plan are available for review.~~ ] A [ ~~copy of this written notification posted notice~~ ] shall be maintained at the center [ ~~for review by the department's representative.~~ ]; and

4. *The administrator shall submit to the department a signed, written statement that the [ ~~recommendations of the management plan will be followed~~ center is following the recommendations of the management plan ]*.

D. For those buildings where asbestos containing materials have been found or assumed and asbestos has been removed, the center shall maintain at the center documentation of that removal for review by the department's representative provided by a Virginia licensed asbestos contractor, where applicable, indicating specific locations where asbestos containing material was removed or stating that all asbestos material was removed. Unless all asbestos containing materials have been removed, the [ ~~operations and maintenance management~~ ] plan shall be followed for any remaining asbestos material.

Exception: Subsections C and D of this section do not apply to child day centers located in a currently operating public school building or a state owned building since the asbestos requirements of these buildings are regulated by other agencies. [ *However, the center administrator shall become familiar with the location of any asbestos containing material in the building in which the center is located and any applicable management plan.* ]

[ ~~Article 2.~~  
~~General Requirements.~~ ]

§ 4.3. [ *General requirements; heating and cooling equipment.*

A. ] The facility's areas and equipment, inside and outside, shall be:

1. Maintained in clean and sanitary condition;
2. Maintained in conditions that are safe and free of hazards such as, but not limited to, sharp points or corners, splinters, protruding nails, loose rusty parts, and objects small enough to be swallowed; and

Exception: Montessori preschools may meet the alternative requirements in the Montessori Module.

3. Maintained in operable condition.

[ ~~§ 4.4. Heating provisions.~~

A. B. ] A ~~heating system shall be provided~~ Heat shall be supplied from an [ *officially* ] approved, [ *central* ] heating system except for camps [ ~~for school age children that only operate from May 15 to October 1~~ ]. The heating system shall [ ~~meet the following specifications~~ ]:

1. It shall be approved by the appropriate building official;

[ ~~2.1. Heating shall not be provided by stoves except in camps for school age children;~~ ]

3. [ ~~2-It shall 1.~~ ] Be installed to prevent accessibility of children to the system; and

4. [ ~~3-It shall 2.~~ ] Have appropriate barriers to prevent children from being burned, shocked, or injured from heating equipment. In addition, proper supervision shall be available to prevent injury.

Exception: In case of emergency, portable electric or kerosene heaters may be used if they have been previously inspected and approved by the appropriate building official in accordance with the manufacturer's instructions.

[ B. C. ] In areas used by children, the temperature shall be maintained no lower than 68°F.

[ ~~§ 4.5. D.~~ ] Fans or other cooling systems shall be used when the temperature of areas used by children exceeds 80°F.

[ ~~§ 4.6. Provisions for water shall be as follows:~~

4. E. ] Drinking water fountains or individual disposable cups, or both, shall be provided. Drinking water shall be available and accessible at all times.

[ ~~2. F.~~ ] Where portable water coolers are used, they shall be of easily cleanable construction, maintained in a sanitary condition, kept securely closed, and so designed that water may be withdrawn from the container only by water tap or faucet. Individual disposable cups shall be provided.

[ ~~3. G.~~ ] Water which is transported to camp sites for drinking purposes shall be in enclosed containers.

[ ~~4. H.~~ ] Safe water shall be provided each day.

[ ~~§ 4.7. I.~~ ] ~~Building~~ Equipment shall include, but not be limited to, the following:

1. Outside lighting provided at entrances and exits used by children before sunrise or after sundown; , and
2. A working, nonpay telephone ; .
3. First-aid kit or kits; and
4. ~~Provision for locking medication as described in § 7.16 of these regulations.~~

[ ~~§ 4.8. § 4.4.~~ ] Hazardous substances and other harmful agents.

A. No center shall be located where conditions exist that would be hazardous to the health and safety of children.

B. Hazardous substances such as cleaning materials, insecticides, and pesticides shall be kept ~~away from food preparation and storage areas~~ and in a locked place using a safe locking method that prevents access by children. If a key is used, the key shall not be accessible to the children.

C. ~~Pesticides [ and or ] insecticides shall not be stored in areas used by children [ and or ] in areas used for food preparation or storage.~~

D. ~~Cleaning materials shall not be located above food, food equipment, utensils or single-service articles and shall be stored in areas physically separate from food.~~

E. ~~Cleaning materials (e.g., detergents, sanitizers and polishes) and insecticides/pesticides shall be stored in areas physically separate from each other.~~

~~G. F.~~ Hazardous substances shall be stored in the original container unless this container is of such a large size that its use would be impractical.

~~D. G.~~ If hazardous substances are not kept in original containers, the substitute containers shall clearly indicate their contents and shall not resemble food or beverage containers.

~~E. H.~~ Cosmetics, medications, or other harmful agents of ~~staff members~~ shall not be stored in areas, purses or pockets that are accessible to children. [ ~~Cosmetics may be accessible to children nine years and older.~~ ]

~~F. I.~~ Hazardous art and craft material, such as those listed in Appendix [ III IV ], shall not be used with children.

[ ~~§ 4.9. § 4.5.~~ ] Reserved.

[ ~~§ 4.10. § 4.6.~~ ] *General physical plant requirements for centers serving school age children.*

A. ] Any building which is currently approved for school occupancy and which houses a public school during the school year shall be considered to have met the building requirements in this regulation when housing a center only serving school age children.

[ ~~§ 4.11. B.~~ ] Camps shall be located on ground which has good surface drainage and which is free of natural and man-made hazards such as mine pits, shafts, and quarries. Adequate, approved safeguards or preventive measurements shall be taken when the camp is located on ground which is in or adjacent to swamps, marshes, landfills, abandoned landfills, or breeding places for insects or rodents of public health importance.

[ ~~§ 4.12. C.~~ ] Portable camping equipment for heating or cooking that is not required to be approved by the building official shall bear the label of a recognized inspection agency except for charcoal and wood burning cooking equipment.

[ ~~§ 4.13. D.~~ ] No cooking or heating shall occur in tents.

## [ Article 3. Indoor Areas.

~~§ 4.14. § 4.7.~~ *Indoor areas.*

A. ] There shall be 25 square feet of indoor space available to each child where activities are conducted.

Exceptions:

1. ~~Centers in operation before November 1, 1993, and newly subject to licensure Centers newly subject to licensure effective July 1, 1993, which were in operation before November 1, 1993, may have until July 1, 1996, to meet this requirement; and~~

2. Primitive camps for school age children are not required to meet this requirement if weather prevents outdoor activities by children:

a. Twenty-five square feet of indoor space per child is provided either at the program site or at a predesignated, approved location off site; or

b. The program is canceled during this type of weather.

[ ~~§ 4.15. B.~~ ] Areas not routinely used for children's activities shall not be calculated as available activity space. Space not calculated shall include, but not be limited to, offices, hallways, restrooms, kitchens, storage rooms or closets, and space occupied by equipment which is not used in or does not contribute to the children's activities.

[ ~~§ 4.16. C.~~ ] A place away from the children's activity area shall be designated for children who are ill, injured, tired, or emotionally upset.

[ ~~§ 4.17. D.~~ ] Smoking shall be prohibited inside the center and outside the center in the presence of the children.

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Exception: Smoking may be allowed inside the building if it occurs in a room with a separate air circulation system from the one used for children's areas and the circulation system is vented directly to the outdoors.

[ ~~§ 4.18. E.~~ ] Reserved.

[ ~~§ 4.19. F.~~ ] Reserved.

[ ~~§ 4.20. For G.~~ ] *Therapeutic child development programs and special needs child day programs [ , serving children who use wheelchairs shall have ] an area equipped with vinyl-covered floormats [ shall be ] available to [ children who ] use [ wheelchairs ] when activities call for children to be out of their wheelchairs.*

## [ Article 4- Restroom Areas and Furnishings. ]

~~§ 4.20. [ § 4.21. § 4.8. Restroom areas and furnishings.~~

A. ] Centers shall have at least two toilets and two sinks.

~~§ 4.21. [ § 4.22. B. ]~~ Each restroom provided for children shall:

1. Be within a confined area;
2. Be accessible and within the building used by the children; Exception: Restrooms used by school age children at camps do not have to be located within the building.
3. Have toilets that are all flushable;
4. Have sinks that are all equipped with running water which does not exceed 120°F; and
5. Be equipped with soap, toilet paper, and disposable towels.

~~4.22. [ § 4.23. C. ]~~ For restrooms available to boys, urinals may be substituted for not more than one-half the required number of toilets, provided the center has at least two toilets one toilet is available to boys.

~~§ 4.23. [ § 4.24. D. ]~~ An adult size toilet with privacy shall be provide for staff use. Staff toilets may be counted in the number of required toilets for children only if children are allowed unrestricted access to them on a routine basis.

Exception: Primitive camps are not required to have a toilet facility with privacy for staff.

~~§ 4.24. [ § 4.25. Restrooms E. Restroom areas ]~~ shall have at least one standard size toilet and one sink for every 30 school age children. When sharing restrooms with other programs the children in the other programs shall be included in the toilet and sink ratio calculations.

Exception: Montessori preschools may meet the alternative requirements in the Montessori Module.

~~§ 4.25. [ § 4.26. F. ]~~ Reserved.

~~§ 4.26. [ § 4.27. G. ]~~ School age children of the opposite sex shall not use the same restroom at the same time.

~~§ 4.27. [ § 4.28. H. ]~~ In any restroom used for school age children which contains more than one toilet, at least one toilet shall be enclosed for privacy.

~~§ 4.28. [ § 4.29. I. ]~~ Restrooms used by school age children at primitive camps are not required to have:

1. Sinks, if adequate water, supplies, and equipment for hand washing are available, and
2. Flushable toilets if the number of sanitary privies or portable toilets, constructed and operated in accordance with the applicable law and regulations of the Virginia Department of Health, meets the toilet ratio stated in § 4.24 [ ~~§ 4.25 of these regulations subsection E of this section~~ ]. No privy or outdoor toilet shall be located within 75 feet of other buildings or camp activities.

~~§ 4.29. [ § 4.30. § 4.9. ]~~ Requirements for centers with children who are not toilet trained.

Centers that serve children who are not toilet trained shall provide a diapering area which allows for sight and sound supervision of children in the classroom or is accessible and within the building used by children if the staff-to-children ratios required by [ ~~§ 5.17 § 5.3 E~~ ] are maintained in the classroom while other children are being escorted to toileting locations. The diapering area shall have at least the following:

1. A sink with running water not to exceed 120°F;
2. A nonabsorbent surface for changing diapers;
3. A leakproof storage system for diapers that is not hand generated;
4. A covered receptacle for soiled bed linens;
5. Soap and disposable towels; and
6. Privacy for changing diapers of school age children.

## [ Article 5- Outdoor Areas. ]

~~§ 4.30. [ § 4.31. § 4.10. Outdoor areas.~~

A. ] ~~Centers in operation before November 1, 1993, and newly subject to licensure Centers newly subject to licensure effective July 1, 1993, which were in operation before November 1, 1993, may have until July 1, 1996, to meet the requirements of §§ 4.31 [ §§ 4.31 through ] 4.37 [ 4.38 subsections B through H of this section ].~~

~~§ 4.31. [ § 4.32. B. ]~~ The outdoor play area shall provide a minimum of 7 square feet of space per child in the area at any one time.

~~§ 4.32. [ § 4.32. C. ]~~ Playgrounds shall be located and designed in a way to protect children from [ hazardous situations hazards ].

~~§ 4.33. [ § 4.34. D. ]~~ While [ ~~§ 6.35 § 6.6 B~~ ] addresses the variety and amount of materials and equipment available for children, the specific playground equipment the center shall have is not designated. If playground equipment is provided, resilient surfacing that helps absorb the shock if a child falls off the equipment shall be placed under all fixed playground

equipment with moving parts or climbing apparatus to create a fall zone free of hazardous obstacles. Fall zones are defined as the area underneath and surrounding equipment that requires a resilient surface. [ ~~# A fall zone~~ ] shall encompass sufficient area to include the child's trajectory in the event of a fall while the equipment is in use. For recommendations concerning resilient surfacing, see Appendix [ ~~IV~~ V ].

Exception: Montessori preschools may meet the alternative requirements in the Montessori Module.

~~§ 4.34. [ § 4.35. E. ]~~ Ground supports shall be covered with materials which would protect children from injury.

~~§ 4.35. [ § 4.36. F. ]~~ Equipment used by children shall meet the following requirements:

1. ~~Have no accessible openings between 3 1/2 inches and nine inches; All bounded openings which allow a 3 1/2 inch by 6 1/4 inch rectangle to fit through shall also allow a nine inch circle to fit through to avoid head entrapment. See Appendix [ V VI ] for additional information.~~
2. Have closed S-hooks when provided; and
3. Have no protrusions, sharp points, shearing points, or pinch points.

~~§ 4.36. [ § 4.37. G. ]~~ All swing seats shall be made of flexible material [ ~~except for special swing equipment for a child with a disability. If special swings are made of nonflexible material, precautions shall be taken to keep all other children out of the swing area.~~ ]

~~§ 4.37. [ § 4.38. H. ]~~ Sandboxes with bottoms which prevent drainage shall be covered when not in use.

~~§ 4.38. [ § 4.39. Reserved. ]~~

~~§ 4.39. [ § 4.40. Reserved. ]~~

## PART V. STAFFING AND SUPERVISION.

### [ Article 4. Supervision of Staff and Volunteers. ]

§ 5.1. [ *Supervision of staff and volunteers.* ]

A. ] All aides, volunteer personnel, and volunteers shall be under the individual supervision of a staff member on site who meets the qualifications of a program leader, child care supervisor, or program director.

[ ~~§ 5.2. B. ]~~ Each person serving in the [ ~~positions position~~ ] of a program director, back-up program director, program leader or child care supervisor shall not be responsible for the individual supervision of more than two aides at any one time.

Exception: In a training environment, aides used beyond the required staff-to-children ratio of [ ~~§ 5.17 § 5.3 E~~ ] shall not be included in the above requirement.

[ ~~§ 5.3. ]~~ ~~When with children, contract employees shall be sight supervised by a staff member unless the contract employee meets [ Contract employees working with children~~

~~shall meet the personnel, health, and orientation training requirements for the applicable position. ]~~

### [ Article 2. Supervision of Children.

~~§ 5.4. § 5.2. Supervision of children.~~

A. ] All staff assigned responsibility for supervision of children shall ensure their care, protection, and guidance at all times.

[ ~~§ 5.5. B. ]~~ During the center's hours of operation, one adult on the premises shall be in charge of the administration of the center. This person shall be either the administrator or an adult appointed by the licensee or designated by the administrator.

[ ~~§ 5.6. C. ]~~ There shall be in each building of the center and on field trips at all times when one or more children are present:

1. At least two staff, one of whom meets the qualifications of a program leader, child care supervisor, or program director; or
2. One staff member who meets the qualifications of a program leader, child care supervisor, or program director and a readily available designated support person with direct means for communication between the two of them.

[ ~~§ 5.7. D. ]~~ In each grouping of children at least one staff member who meets the qualifications of a program leader, child care supervisor, or program director shall be regularly present.

[ ~~§ 5.8. E. ]~~ Children under 10 years of age shall be within actual sight and sound supervision of staff at all times, except that staff need only be able to hear a child who is using the restroom provided that:

1. There is a system to assure that individuals who are not staff members or persons allowed to pick up a child in care do not enter the restroom area while in use by children, and
2. Staff check on a child who has not returned from the restroom after five minutes.

[ ~~§ 5.9. F. ]~~ Children 10 years of age and older shall be within actual sight and sound supervision of staff except when all of the following are met:

1. Staff can hear or see the children (Note: video equipment, intercom systems, or other technological devices shall not substitute for staff being able to directly see or hear children);
2. Staff are nearby so they can provide immediate intervention if needed;
3. There is a system to assure that staff know where the children are and what they are doing;
4. There is a system to assure that individuals who are not staff members or persons allowed to pick up a child in care do not enter areas where children are not under sight supervision; and

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5. Staff provide sight and sound supervision of the children at variable and unpredictable intervals not to exceed 15 minutes.

[ ~~§ 5.10. G.~~ ] When the outdoor activity area is not adjacent to the center, there shall be at least two staff on the outdoor activity area whenever one or more children are present.

[ ~~§ 5.11. H.~~ ] Staff shall greet each child upon arrival at the center and oversee each child's departure from the center.

[ ~~§ 5.12. Reserved.~~ ]

## [ Article 3.

### Staff-to-Children Ratio Requirements.

~~§ 5.13.~~ § 5.3. Staff-to-children ratio requirements.

A. ] Staff shall be counted in the required staff-to-children ratios only when they are directly supervising children.

[ ~~§ 5.14. B.~~ ] A child volunteer [ 14 years of age or older ] not enrolled in the program shall not be counted as a child in the staff-to-children ratio requirements.

[ ~~§ 5.15. C.~~ ] When children are regularly in ongoing mixed age groups, the staff-to-children ratio applicable to the youngest child in the group shall apply to the entire group.

Exception: Montessori preschools may meet the alternative requirements in the Montessori Module.

[ ~~§ 5.16. D.~~ ] Reserved.

[ ~~§ 5.17. E.~~ ] The staff-to-children ratio shall be one staff member for every 20 school age children.

[ ~~F.~~ During the summer months only, four-year-old children who will be five by September 30 of that year may be included in a group of school age children if a staff-to-children ratio of 1:15 is maintained. ]

Exception: Montessori preschools may meet the alternative requirements in the Montessori Module.

[ ~~G.~~ With a parent's written permission and a written assessment by the program director and child care supervisor or program leader, a center may choose to assign a child to a different age group if such age group is more appropriate for the child's developmental level. If such developmental placement is made for a child with a disability, a written assessment by a recognized agency or professional shall be required at least annually. ]

[ ~~§ 5.18. H.~~ ] For therapeutic child development programs, in each grouping of children, the following ratios of staff to children are required according to the disabilities of the children in care:

1. For children with severe and profound disabilities, [ autism, ] multiple disabilities, or serious emotional disturbance: one staff member to [ ~~three~~ four ] children.

2. For children diagnosed as trainable mentally retarded (TMR), or with physical and sensory disabilities, [ attention deficit/hyperactivity disorder (AD/HD), ] or [ with autism other health impairments ] : one staff member to [ ~~four~~ five ] children.

3. For children diagnosed as educable mentally retarded (EMR), or developmentally delayed: one staff member to [ ~~five~~ six ] children.

[ ~~4.~~ For children diagnosed with attention deficit disorder/hyperactivity disorder (ADD/HD): one staff member to five children. ]

[ ~~5.~~ Children 4. For children ] diagnosed with specific learning disabilities [ , or speech or language impairments ] : one staff member to [ ~~six~~ eight ] children.

[ ~~6.~~ 5. ] When children with varied disabilities are regularly in ongoing groups, the ratios indicated in subdivisions 1 through [ 5 4 ] of this [ section subsection ] shall be maintained for each level [ of disability of the children in the group ].

## PART VI. PROGRAMS.

### [ Article 4. Daily Schedule. ]

§ 6.1: [ Daily schedule.

A. ] There shall be a predictable sequence to the day but the schedule shall be flexible, based on the children's needs.

[ ~~§ 6.2. B.~~ ] For centers operating more than two hours per day or more than two hours per session per day, outdoor activity shall be provided daily, weather allowing, according to the following:

1. If the center operates between two and five and one half hours per day or per session, there shall be at least 30 minutes of outdoor activity per day or per session.

2. If the center operates more than five and one half hours per day or per session, there shall be at least one hour of outdoor activity per day or per session.

Exceptions: Outdoor activity is not required on days when an all day field trip occurs and Montessori preschools may meet the alternative requirements in the Montessori Module for subdivision 2 of this [ section subsection ]. [ Before school programs that operate more than two hours a day may also be excepted from this requirement. ]

[ ~~§ 6.3. C.~~ ] Staff shall provide opportunities for children to engage in self-chosen tasks and activities [ and allow children to learn from self-directed problem-solving and experimentation ].

Exception: [ The requirements of this section do Subsection C of this section does ] not apply to speciality specialty camps.

[ ~~§ 6.4. Reserved.~~ ]

[ ~~§ 6.5. Reserved.~~ ]

[ ~~§ 6.6. Reserved.~~ ]

[ ~~§ 6.7. Reserved.~~ ]

[ Article 2.  
Activities.

~~§ 6.8.~~ § 6.2. *Activities.*

A. ] The daily activities shall be [ ~~developmentally age and stage~~ ] appropriate and promote the individual child's physical, intellectual, emotional, and social well-being and growth as well as promoting curiosity and exploration.

Exception: [ ~~Section 6.8 of these regulations Subsection A of this section~~ ] is not applicable to ~~speciality specialty~~ camps.

[ ~~§ 6.9. B.~~ ] To promote emotional development, the center shall provide for:

1. Opportunities for individual self-expression;
2. Recognition that each child is an individual;
3. Respect for personal privacy; and
4. Respect for each child's cultural, ethnic, and family background, as well as the child's primary language or dialect.

[ ~~§ 6.10. C.~~ ] To promote social development, the center shall provide:

1. Guidance to children in developing and working out ways of getting along with one another;
2. Staff interaction with children in ways which emphasize and foster attitudes of mutual respect between adults and children; and
3. Staff behavior which demonstrates respect for all other persons as individuals and appreciation of cultural and ethnic diversity.

[ ~~§ 6.14. D.~~ ] The center shall provide for the self direction of the children by:

[ ~~1. Allowing children opportunities to choose activities according to personal desires and interests and to move freely from one activity to another;~~ ]

[ ~~2. 1.~~ ] Encouraging children to do things independently and to help with daily routines as appropriate to the child's developmental level but to be available to comfort and help when needed [ ~~;~~ , and ]

[ ~~3. 2.~~ ] Supporting children's friendships and providing children opportunities to be involved in decision making about group and individual activities.

Exception: Subdivisions 1 [ ~~through 3 and 2~~ ] of this [ ~~section subsection~~ ] are not applicable to ~~speciality specialty~~ camps.

[ ~~§ 6.12. E.~~ ] A variety of children's activities shall be provided that allow for group and individual involvement and child and staff initiation.

[ ~~§ 6.13. F.~~ ] For children who cannot move without help, staff shall offer to change the places and position of the child and the selection of toys or objects available to the child at least every 30 minutes or more frequently depending on the individual needs of the child.

[ ~~§ 6.14. G.~~ ] The center shall provide a balance of active and quiet activities except for ~~speciality specialty~~ camps.

[ ~~§ 6.15. H.~~ ] Children of all ages shall be allowed to rest or sleep as needed on cots, mats, or beds, as appropriate.

[ ~~§ 6.16. I.~~ ] Daily activities and experiences for school age children shall include, but not be limited to, the following:

1. Large motor activities for at least 25% of the program time;
2. Arts and craft activities;
3. Rhythm, music, and drama;
4. Small motor activities;
5. Special projects and hobbies; and
6. Opportunity to do homework in a suitable area.

Exceptions: [ ~~This section Subsection I of this section~~ ] is not applicable to ~~speciality specialty~~ camps and Montessori preschools may meet the alternative requirements in the Montessori Module.

[ ~~§ 6.17. § 6.3.~~ ] Reserved.

[ ~~§ 6.18. § 6.4.~~ ] Reserved.

[ ~~§ 6.19. Reserved.~~ ]

[ ~~§ 6.20. Reserved.~~ ]

[ ~~§ 6.21. Reserved.~~ ]

[ ~~§ 6.22. Reserved.~~ ]

[ ~~§ 6.23. Reserved.~~ ]

[ ~~§ 6.24. Reserved.~~ ]

[ ~~§ 6.25. Reserved.~~ ]

[ ~~§ 6.26. Reserved.~~ ]

[ ~~§ 6.27. Reserved.~~ ]

[ ~~§ 6.28. Reserved.~~ ]

[ ~~§ 6.29. Reserved.~~ ]

[ ~~§ 6.30. Reserved.~~ ]

[ Article 3.  
Parental Involvement.

§ 6.34. § 6.5. *Parental involvement.*

A. ] The center shall be open for parents to visit and observe their children at any time as stated in § 63.1-210.1 of the Code of Virginia.

[ ~~§ 6.32. B.~~ ] The center shall encourage parental involvement on a volunteer basis in appropriate center activities.

[ ~~§ 6.33. C.~~ ] Staff shall share information with parents about their child's health, development, behavior, adjustment, and needs.

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## [ Article 4. Equipment and Materials.

### ~~§ 6.34.~~ § 6.6. *Equipment and materials.*

A. ] All furnishings, equipment, and materials shall be of [ a ~~developmentally an~~ ] appropriate size for the child using it.

[ ~~§ 6.35.~~ B. ] The amount and variety of materials and equipment available and the arrangement and use of the materials and equipment shall be [ ~~developmentally age and stage~~ ] appropriate for the children and shall include equipment and materials which:

1. Are in sufficient supply to avoid excessive competition among the children and to avoid long waits for use of the materials and equipment;

2. Provide for a variety of experiences and appeal to the individual interests and abilities of children;

Exception: Subdivision 2 of this [ ~~section subsection~~ ] is not applicable to ~~specialty specialty~~ camps.

3. Are accessible to children for the activities required by these standards; [ ~~and~~ ]

4. Allow children to use small and large muscles for imaginative play and creative activities [ ~~and~~ .

~~5. Include multicultural materials. ]~~

[ ~~§ 6.36.~~ C. ] Indoor slides and climbing equipment shall not be over bare ~~concrete, hardwood floors, masonry, vinyl, tile surface or similar surface flooring constructed of wood, masonry or vinyl.~~

[ ~~§ 6.37.~~ D. ] Storage space for play materials and equipment used by the children shall be accessible to children either independently or with help.

[ ~~§ 6.38.~~ E. ] If combs, toothbrushes, or other personal articles are used, they shall be individually assigned.

[ ~~§ 6.39.~~ F. ] All disposable products shall be used once and discarded.

[ ~~§ 6.40.~~ G. ] Disposable dishes and utensils shall be sturdy enough to contain food without leakage and to prevent harm and injury to children.

[ ~~§ 6.41.~~ H. ] Provision shall be made for a place for each child's personal belongings.

[ ~~§ 6.42.~~ Reserved. ]

[ ~~§ 6.43.~~ Reserved. ]

[ ~~§ 6.44.~~ Reserved. ]

### ~~§ 6.45.~~ § 6.7. *Cots, rest mats, and beds.*

A. ] No more than one child at a time shall occupy a cot, rest mat, or bed.

[ ~~§ 6.46.~~ B. ] Cots, rest mats, and beds shall be marked or identified in some way for use by a specific child.

[ ~~§ 6.47.~~ C. ] Double decker cots or beds, or other sleeping equipment which is *when* stacked shall not be used.

[ ~~§ 6.48.~~ D. ] Occupied cots, rest mats, and beds shall be at least 2 1/2 feet from any heat source in use.

[ ~~§ 6.49.~~ E. ] There shall be at least 15 inches of space between sides and ends of occupied cots, beds, and rest mats.

Exception: Fifteen inches of space are not required where cots, beds, or rest mats touch the wall or where screens are placed between cots or beds as long as one side is open at all times to allow for passage.

[ ~~§ 6.50.~~ F. ] If rest mats are used, they shall have comfortable cushioning and be sanitized between each use.

[ § 6.51. Reserved. ]

[ ~~§ 6.52.~~ Reserved. ]

[ ~~§ 6.53.~~ Reserved. ]

[ ~~§ 6.54.~~ Reserved. ]

[ ~~§ 6.55.~~ Reserved. ]

[ ~~§ 6.56.~~ Reserved. ]

[ ~~§ 6.57.~~ Reserved. ]

[ ~~§ 6.58.~~ § 6.8. ] Linens.

A. Linens for cots, rest mats, or beds shall consist of a top cover and a bottom cover or a one-piece covering which is open on three edges.

B. Linens shall be assigned for individual use.

C. Linens shall be maintained in clean and sanitary condition and shall be washed at least weekly.

D. When pillows are used, they shall be assigned for individual use and covered with pillow cases.

E. Mattresses when used shall be covered with a waterproof material which can be easily sanitized.

## [ Article 5. Behavior Guidance.

### ~~§ 6.59.~~ § 6.9. *Behavior guidance.*

A. ] Discipline shall be constructive in nature and include techniques such as:

1. Using limits that are fair, consistently applied, and appropriate and understandable for the child's level;

2. Providing children with reasons for limits;

3. Giving positively worded directions;

4. Modeling and redirecting children to acceptable behavior;

5. Helping children to constructively express their feelings and frustrations to resolve conflict; and

6. Arranging equipment, materials, activities, and schedules in a way that promotes desirable behavior.

[ ~~§ 6.60.~~ B. ] There shall be no physical punishment or disciplinary action administered to the body such as, but not limited to, spanking; roughly handling a child; forcing a child

to assume an uncomfortable position (e.g., standing on one foot, keeping arms raised above or horizontal to the body); restraining to restrict movement through binding or tying; enclosing in a confined space, box, or similar cubicle; or using exercise as punishment.

[ § 6.64. C. ] A child shall not be shaken at any time.

[ § 6.62. D. ] Staff shall not be verbally abusive which would include, but not be limited to, threats, belittling remarks about any child, his family, his race, his religion, or his cultural background, or other statements that are frightening or humiliating to the child.

[ § 6.63. E. ] When disciplining a child, staff shall not:

1. Force, withhold, or substitute food;
2. Force or withhold naps; or
3. Punish a child for toileting accidents.

[ § 6.64. F. ] When separation is used as a discipline technique, it shall be brief and appropriate to the child's developmental level and circumstances. The child who is separated from the group shall be in a safe, lighted, well-ventilated place and shall be within hearing and vision of a staff member.

[ § 6.65. G. ] No child, for punishment or any other reason, shall ever be confined in any space that the child cannot open, such as but not limited to closets, locked rooms, latched pantries, or containers.

[ § 6.66. H. ] Staff shall not give a child authority to punish another child nor shall staff consent to a child punishing another child.

[ § 6.67. I. ] Staff shall follow the center's policy on acceptable and unacceptable discipline methods.

[ § 6.68. Reserved. ]

[ Article 6:  
Swimming and Wading Activities.

~~§ 6.69. § 6.10. Swimming and wading activities; ] staff and supervision.~~

A. The staff-child ratios required by [ § 5.47 § 5.3. E ] shall be maintained while children are participating in swimming or wading activities. The designated water safety instructor or senior lifesaver shall not be counted in the staff-to-children ratios.

B. If a pool, lake, or other swimming area has a water depth of more than two feet, a water safety instructor or senior lifesaver holding a current certificate shall be on duty supervising the children participating in swimming or wading activities at all times when one or more children are in the water. The certification shall be obtained from an organization such as, but not limited to, the American Red Cross, the YMCA, or the Boy Scouts.

C. A minimum of two staff members of the center shall be on duty supervising the children during swimming or wading activities when one or more children are in the water.

[ ~~§ 6.70. § 6.11. ] Pools and equipment.~~

A. When permanent swimming or wading pools are located on the premises of the center, the following shall apply:

1. The manufacturer's specifications for operating the pool shall be followed as well as any local ordinances and any Department of Health requirements for swimming pools;
2. All pools constructed, renovated, or remodeled after April 1, 1986, shall have a statement in writing of their inspection and approval from the local building official when such approval is required;
3. Outdoor swimming pools shall be enclosed by safety fences and gates which shall be kept locked when the pool is not in use;
4. Entrances to swimming pools shall be locked when the pool is not in use; and
5. A whistle or other audible signaling device, a buoy or a lemon line, a reach pole, and a backboard shall be available at the swimming or wading site.

B. If children are allowed to swim in a lake or other place other than a pool, safe swimming areas shall be clearly marked.

C. All piers, floats, and platforms shall be in good repair and where used for diving, the minimum water depth shall be indicated on the deck or planking.

D. If children are allowed to swim at a lake or other body of water larger than a pool, there shall be a rescue boat available at all times which is equipped with a reach pole and a lemon line or buoy.

E. If portable wading pools are used, they shall be emptied of dirty water and filled with clean water for each day's use and more frequently as necessary.

[ ~~§ 6.74. § 6.12. Swimming and wading; ] general.~~

A. The center shall have emergency procedures and written safety rules for swimming or wading that are:

1. Posted in the swimming area when the pool is located on the premises of the center;
2. Given to staff involved in swimming or wading activities;
3. Given to parents of children participating in swimming or wading activities; and
4. Explained to children participating in swimming or wading activities.

[ B. The center shall maintain written, signed permission from the parent of each child who participates in swimming or wading. ]

[ B. C. ] Staff shall have a system for accounting for all children in the water.

[ C. D. ] Each child's swimming skills shall be determined before the child is allowed in water above the child's shoulder height.

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[ ~~D. E.~~ ] Outdoor swimming activities shall occur only during daylight hours unless underwater and deck lighting is provided.

[ ~~E. F.~~ ] Children who are not toilet trained shall not use portable wading pools.

## PART VII.

### SPECIAL CARE PROVISIONS AND EMERGENCIES.

#### [ ~~Article 1.~~ ~~Preventing the Spread of Disease.~~ ]

##### § 7.1. [ ~~Preventing the spread of disease.~~ ]

A. ] If a child arrives at the center with the signs or symptoms listed in ~~subdivisions 1 and 2 of [ § 7.3 of these regulations subsection B of this section ]~~, the child shall not be allowed to attend for that day.

[ ~~§ 7.2. Staff with training as required in [ § 3.16 [ § 3.21 of these regulations shall observe daily each child under eight years of age for signs and symptoms of illness. ]~~ ]

[ ~~§ 7.3. B.~~ ] Unless otherwise instructed by the child's health care provider, that child shall be excluded if [ *he has* ]:

1. [ ~~He has~~ ] A temperature over 100°F, or
2. *Recurrent vomiting or diarrhea [ ; or ]*.
2. [ ~~3. He has a communicable disease as delineated in the current Communicable Disease Chart recommendations for the exclusion of sick children. (Refer to Appendix V-VI.)~~ ]

[ ~~§ 7.4. C.~~ ] If a child needs to be excluded according to ~~subdivisions 1 and 2 of [ § 7.3 of these regulations subsection B of this section ]~~, the following shall apply:

1. Arrangements shall be made for the child to leave the center as soon as possible after the signs or symptoms are noticed, and
2. The child shall remain in the designated quiet area until leaving the center.

[ ~~§ 7.5. D.~~ ] When a child at the center has been exposed to a reportable communicable disease, the parent shall be informed.

[ ~~§ 7.6. E.~~ ] Children's hands shall be washed with soap and running water before eating meals or snacks, after toileting, and after any contact with body fluids.

[ ~~§ 7.7. F.~~ ] Staff shall wash their hands with soap or germicidal cleansing agent and water after helping a child with toileting, after the staff member uses the toilet, after any contact with body fluids, and before feeding or helping children with feeding.

[ ~~§ 7.8. G.~~ ] When a child's clothing or diaper becomes wet or soiled, it shall be changed immediately.

[ ~~§ 7.9. H.~~ ] Children not toilet trained.

[ ~~A. 1.~~ ] The child's soiled area shall be thoroughly cleaned with a disposable wipe during each diapering.

[ ~~B. 2.~~ ] Staff shall wash their hands with soap or germicidal cleansing agent and water after each diaper change.

[ ~~C. 3.~~ ] Disposable diapers shall be used for children in diapers unless the child's skin reacts adversely to disposable diapers. If cloth diapers are used, there shall be separate step-on diaper pails for the cloth and disposable diapers.

[ ~~4. Reserved.~~ ]

[ ~~D. 5.~~ ] Surfaces for changing diapers shall be used only for changing diapers or cleaning children.

[ ~~E. 6.~~ ] Diapers shall be changed on a nonabsorbent surface which shall be washed with soap and warm water or a germicidal cleansing agent after each use.

[ ~~F. 7.~~ ] Tables used for children's activities or meals shall not be used for changing diapers.

#### [ ~~Article 2.~~ ~~Medication.~~ ]

##### § 7.10. § 7.2. Medication.

A. ] Prescription and nonprescription medication shall be given to a child according to the center's written medication policies and only with written authorization from the parent.

[ ~~§ 7.11. The center's medication policies shall address methods for administering medication and shall include:~~ ]

1. ~~Any general restrictions of the center;~~
2. ~~Duration of the parent's authorization for medication provided that it shall expire or be renewed after 10 work days. Long term prescription drug use may be excepted if a form such as the one in Appendix VI-VII is completed and on file; and~~
3. ~~Methods to prevent use of outdated medication. ]~~

[ ~~§ 7.12. B.~~ ] The medication authorization shall be available to staff during the entire time it is effective.

[ ~~§ 7.13. C.~~ ] All medication shall be labeled with the child's name, the name of the medication, the dosage amount, and the time or times to be given.

[ ~~§ 7.14. D.~~ ] All medication shall be in the original container with the prescription label or direction label attached.

[ ~~§ 7.15. E.~~ ] When needed, medication shall be refrigerated. When medication is stored in a refrigerator used for food, the medications shall be stored together in a container or in a clearly defined area away from food.

[ ~~§ 7.16. F.~~ ] All medication, including refrigerated medication and staff's personal medication, shall be kept in a locked place using a safe locking method that prevents access by children. If a key is used, the key shall not be accessible to children.

[ ~~§ 7.17. G.~~ ] Centers shall keep a ~~log~~ record of medication given children which shall include the following:

1. Child to whom medication was administered;

2. Amount and type of medication administered to the child;
3. The day and time the medication was administered to the child; and
4. Staff member administering the medication.

[ § 7.18. H. ] Medication shall be returned to the parent as soon as the medication is no longer being administered.

~~[ Article 3.  
Specialized Staff Training.~~

~~§ 7.19. § 7.3. ] First aid training.~~

~~[ A. ] There shall be at least one staff member who is trained in first aid on the premises during the center's hours of operation and also one person on all field trips who is trained in first aid and wherever children are in care . This person shall be available to children and meet one of the following qualifications for first aid training:~~

1. Has a current first aid certificate by the American Red Cross;
2. Has a current first aid certificate by the National Safety Council;
3. Has successfully completed, within the past three years, a competency based first aid course equivalent to the curriculum which has been approved by the State Board of Health which meets the criteria described in Appendix [ ~~VIII~~ VII ] ; or
4. Be a R.N. or L.P.N. with a current license from the Board of Nursing.

~~[ § 7.20. Camps shall have at least one staff member with first aid training, as mentioned in subdivisions 1 through 4 of § 7.19 of these regulations, for every 30 children present.~~

~~§ 7.21. CPR training.~~

~~There shall be at least one staff member on the premises during the center's hours of operation and also one person on all field trips and wherever children are in care who has a current cardiopulmonary resuscitation (CPR) certificate. This training shall be appropriate to the age group the center serves and the instructor shall have a current certificate from the certifying agency which indicates that he meets one of the following qualifications:~~

1. Standard First Aid Instructor (American Red Cross);
2. CPR Instructor (American Red Cross); or
3. CPR Instructor (American Heart Association).

~~§ 7.21. [ § 7.22. ] Camps shall have at least one staff member on the premises during all hours of the program's operation and also one person on all field trips who is available to children and has a current cardiopulmonary resuscitation (CPR) certificate. When there are more than 30 children present, there shall be at least one staff person with current CPR training for every 30 children present. [ Camps shall have at least one staff member with cardiopulmonary resuscitation training, as mentioned in § 7.21, for every 30 children present. ]~~

~~§ 7.22. [ § 7.23. B. ] Primitive camps shall have a staff member on the premises during the hours of operation who has successfully completed at least first responder training within the past three years.~~

~~[ Article 4.  
First Aid and Emergency Supplies. ]~~

~~§ 7.23. [ § 7.24. § 7.4. First aid and emergency supplies.~~

~~A. ] A first aid kit shall be [ : ]~~

- ~~[ 1. ] On each floor of each building used by children and [ ; ]~~
- ~~2. Accessible to outdoor play areas;~~
- ~~3. ] On all field trips [ ; ] and~~
- ~~[ 4. ] Wherever children are in care.~~

~~§ 7.24. [ § 7.25. B. ] The required first aid kits shall include at a minimum:~~

1. Scissors;
2. Tweezers;
3. Gauze pads;
4. Adhesive tape;
5. Band-aids, assorted types;
6. An antiseptic cleansing solution;
7. An antibacterial ointment;
8. 7. Thermometer;
9. 8. Two or more triangular bandages;
10. 9. Disposable gloves; and
11. 10. The first aid instructional manual.

~~§ 7.25. [ § 7.26. C. ] Each first aid kit shall be stored so that it is not available to children but is easily available to staff.~~

~~[ § 7.26. [ § 7.27. D. ] The following emergency supplies shall be required [ and be available on field trips ]:~~

1. Syrup of ipecac or activated charcoal preparation (to be used only upon the advice of the physician or the Poison Control Center);
2. Chemical cooling agents, zip-lock bags, and sponges readily available for icing down contusions, sprains, and breaks;

~~[ E. The following emergency supplies shall be required: ]~~

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[ ~~3. 1.~~ ] Working, battery-operated flashlight on each floor of each building of the facility that is used by children; and

[ ~~4. 2.~~ ] One working, battery-operated radio in each building of the facility used by children and any camp location without a building.

[ ~~Article 5.~~  
~~Procedures for Emergencies.~~ ]

~~§ 7.27.~~ [ ~~§ 7.28.~~ § 7.5. *Procedures for emergencies.*

A. ] The center shall have an emergency evacuation plan that addresses staff responsibility with respect to:

1. Sounding of fire alarms and notification of local authorities;
2. Evacuation procedures including assembly points, head counts, primary and secondary means of egress, and checking to ensure complete evacuation of the buildings;
3. Fire containment procedures, e.g., closing of fire doors or other barriers; and
4. Other special procedures developed with local authorities.

~~§ 7.28.~~ [ ~~§ 7.29. B.~~ ] Emergency evacuation procedures shall be posted in a location conspicuous to staff and children on each floor of each building of the center.

~~§ 7.29.~~ [ ~~§ 7.30. C.~~ ] The center shall implement these emergency evacuation procedures through monthly practice drills and shall maintain a log record of the dates of the monthly drills for one year. For centers offering multiple shifts, the evacuation procedures shall be divided evenly among the various shifts.

~~§ 7.30.~~ [ ~~§ 7.31. D.~~ ] A generic emergency number such as 911 shall be posted in a conspicuous place near each telephone. If a generic number is not available, the following numbers shall be posted near each phone:

1. A physician or hospital;
2. An ambulance or rescue squad service;
3. The local fire department; and
4. The local police department.

~~§ 7.31.~~ [ ~~§ 7.32. E.~~ ] The number of a regional poison control center shall be posted in a conspicuous place near each phone.

~~§ 7.32.~~ The center shall develop a plan for action in case of a missing or injured child which shall address:

- ~~1. Immediate notification of emergency services;~~
- ~~2. Stabilization of injured child; and~~
- ~~3. Transportation of injured child if necessary.~~

[ ~~§ 7.33. F.~~ ] If an ambulance service is not readily available within 10 to 15 minutes, other transportation shall be available at all times in case of emergency.

[ ~~§ 7.34. G.~~ ] The center or other appropriate official shall notify the parent immediately if a child is lost, experiences a serious accident, needs emergency medical care, or dies. The center shall notify the parent at the end of the day of any known minor accidents or injuries.

Note: Examples of a serious accident might include unconsciousness; broken bones; deep cut requiring stitches; concussion; foreign object lodged in eye, nose, ear, or other body orifice. Examples of a minor accident might include a small scratch, cut or scrape; minor bruise or discoloration of the skin.

[ ~~§ 7.35. H.~~ ] The center shall maintain a written log record of children's injuries in which entries are made the day of occurrence. The [ log record ] shall include the following:

1. Date and time of injury;
2. Name of injured child;
3. Type of injury;
4. Circumstances of the injury;
5. Names of staff present during the injury;
6. Treatment; and
7. Method of notifying parents.

[ ~~§ 7.36. I.~~ ] The camp shall have a warning system. Staff and campers shall be trained in this alarm system.

## PART VIII. SPECIAL SERVICES.

[ ~~Article 1.~~  
~~Nutrition and Food Services.~~ ]

§ 8.1. [ *Nutrition and food services.*

A. ] Centers shall [ ~~serve schedule~~ ] appropriate [ ~~times for~~ ] snacks or meals, or both, based on the hours of operation and time of the day [ ; e.g., a center open only for after school care shall serve an afternoon snack; a center open from 7 a.m. to 1 p.m. shall serve a morning snack and midday meal ].

[ ~~§ 8.2. B.~~ ] The center shall ensure that children arriving from a half-day, morning kindergarten program who have not yet eaten lunch receive a lunch.

[ ~~§ 8.3. C.~~ ] ~~There shall be at least 1 1/2 hours between each meal and snack but no more than three hours between meals and snacks. The center shall [ serve schedule ] snacks or meals [ at time intervals of at least one and one-half hours but no more than three hours so there is a period of at least 1 1/2 hours but no more than three hours between each meal or snack ] unless there is a scheduled rest or sleep period for children between the meals and snacks.~~

[ ~~§ 8.4. D.~~ ] Drinking water or other beverage not containing caffeine shall be offered at regular intervals to nonverbal children.

[ ~~§ 8.5. E.~~ ] In environments of 80°F or above, constant attention shall be given to the fluid needs of all children.

Children in such environments shall be encouraged to drink fluids.

[ ~~§ 8.6. F.~~ ] ~~When food is provided by the center~~ *When centers choose to provide meals or snacks*, the following shall apply:

1. Centers [ ~~providing care to the same children more than four hours a day~~ ] shall comply with the nutritional requirements of a recognized authority such as the Child and Adult Care Food Program of the United States Department of Agriculture (USDA) or the meal patterns in Appendix ~~VII~~ [ ~~IX VIII~~ ].
2. Centers offering both meals and snacks shall serve a variety of nutritious foods and shall serve at least three sources of vitamin A and at least three sources of vitamin C on various days each week. Appendix ~~VII~~ [ ~~IX~~ ] lists sources of vitamin A and vitamin C.
3. A menu listing all foods to be served for all meals and snacks during the current one-week period shall be:
  - a. Dated;
  - b. Posted in a location conspicuous to parents or given to parents;
  - c. Indicate any substituted food; and
  - d. Kept on file for six weeks at the center.
4. Powdered milk shall [ be ] not be used except for cooking.

[ ~~§ 8.7. G.~~ ] When food is brought from home, the following shall apply:

1. ~~The food shall not be subject to rapid deterioration or spoilage;~~
2. [ ~~1. The center shall give parents the USDA requirements and a list of suggested nonperishable food. Appendix VII [ IX has the requirements of USDA.~~ ]
3. [ ~~2. 1.~~ ] The food shall be clearly labeled in a way that identifies the owner;
4. [ ~~3. 2.~~ ] The center shall have extra food or shall have a plan available to obtain food to serve to children so they can have an appropriate snack or meal if they forget to bring food from home, bring an inadequate meal or snack, or bring perishable food; and
5. [ ~~4. 3.~~ ] All unused portions of food shall be discarded [ ~~and not served again by the end of the day or returned to the parent~~ ].

[ ~~§ 8.8. H.~~ ] If a catering service is used, it shall be approved by the local health department.

[ ~~§ 8.9. Food during cookouts.~~ ]

[ ~~A. I.~~ ] All food [ *during cookouts* ] shall be prepared in a clean and sanitary manner.

[ ~~B. J.~~ ] Unused, perishable food [ *during cookouts* ] shall be discarded and not served again.

[ ~~§ 8.10. Reserved.~~ ]

[ ~~§ 8.11. Reserved.~~ ]

[ ~~§ 8.12. Reserved.~~ ]

[ ~~§ 8.13. § 8.2. Special feeding needs.~~

A. ] Reserved.

[ ~~§ 8.14. B.~~ ] Reserved.

[ ~~§ 8.15. C.~~ ] Reserved.

[ ~~§ 8.16. D.~~ ] Reserved.

[ ~~§ 8.17. E.~~ ] Reserved.

[ ~~§ 8.18. F.~~ ] Reserved.

[ ~~§ 8.19. G.~~ ] Reserved.

[ ~~§ 8.20. H.~~ ] Reserved.

[ ~~§ 8.21. I.~~ ] Reserved.

[ ~~§ 8.22. J.~~ ] Reserved.

[ ~~§ 8.23. K.~~ ] Reserved.

[ ~~§ 8.24. L.~~ ] *For therapeutic child development programs and special needs child day programs, the consistency of food shall be appropriate to a child's special feeding needs. Necessary and adaptive feeding equipment and feeding techniques shall be used for children with special feeding needs.*

[ Article 2.

Transportation and Field Trips. ]

[ ~~§ 8.24.~~ [ ~~§ 8.25. § 8.3. Transportation and field trips.~~

A. ] If the center transports children to the site of the center, the center shall assume responsibility for the child between the place where the child boards the vehicle and the center site, while at the center and on any center field trips, and from the time the child leaves the center site until the child is delivered to a designated location or to a responsible person designated by his parent.

[ ~~§ 8.25.~~ [ ~~§ 8.26. B.~~ ] Any vehicle used by the center for the transportation of children shall meet the following requirements:

1. The vehicle shall be ~~enclosed and provided with door locks manufactured for the purpose of transporting human beings seated in an enclosed area;~~
2. The vehicle's seats shall be attached to the floor;
3. The vehicle shall be insured with at least the minimum limits ~~set established by the Virginia state statutes;~~ and
4. The vehicle shall meet the safety standards set by the Department of Motor Vehicles and shall be kept in satisfactory condition to assure the safety of children; ~~and~~
5. *If volunteers supply personal vehicles, the center is responsible for ascertaining that subdivisions 1 through 4 of this [ section subsection ] are met.*

[ ~~§ 8.26.~~ [ ~~§ 8.27. C.~~ ] The center shall ensure that during transportation of children:

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1. Virginia state statutes about safety belts and child restraints are followed;
2. The children remain seated and each child's arms, legs, and head remain inside the vehicle;
3. Doors are closed properly and locked *unless locks were not installed by the manufacturer of the vehicle*;
4. At least one staff member or the driver always remain in the vehicle when children are present;
5. The telephone numbers for obtaining emergency help as stated in ~~§§ 7.30 [ §§ 7.31 and ] 7.34 [ 7.32 of these regulations § 7.5 D and E ]~~ are in the vehicle and available to staff;
6. The name, address, and phone number of the center and an additional emergency contact number is in the vehicle and available to staff; and
7. A list of the names of the children being transported is kept in the vehicle.

~~§ 8.27. [ § 8.28. D. ]~~ When entering and leaving vehicles, children shall enter and leave the vehicle from the curb side of the vehicle or in a protected parking area or driveway.

~~§ 8.28 [ § 8.29. E. ]~~ When necessary to cross streets, children shall cross streets at corners or crosswalks or other designated safe crossing point if no corner or crosswalk is available.

~~§ 8.29. [ § 8.30. F. ]~~ The staff-to-children ratio of [ ~~§ 5.17 of these regulations § 5.3 E~~ ] shall be followed on all field trips but not necessarily in each vehicle. The staff-to-children ratio may not be followed during transportation of children to and from the center.

Exception: Montessori preschools may meet the alternative requirements in the Montessori Module.

~~§ 8.30. [ § 8.31. ]~~ At least one staff member on field trips shall be trained in first aid according to subdivisions 1 through 4 of § 7.19 of these regulations and shall be instructed on procedures to follow if there is a vehicle break down. ]

~~§ 8.31. [ § 8.32. ]~~ A first aid kit with the supplies mentioned in subdivisions 1 through 11 10 of § 7.24 § 7.25 of these regulations, syrup of ipecac or activated charcoal preparation, and chemical cooling agents for icing down contusions, sprains, and breaks shall be available to staff on field trips. ]

~~§ 8.32. [ § 8.33. G. ]~~ The center shall make provisions for providing children on field trips with adequate food and water.

~~§ 8.33. [ § 8.34. H. ]~~ If perishable food is taken on field trips, the food shall be stored in insulated containers with ice packs to keep the food cold.

~~§ 8.34. [ § 8.35. I. ]~~ Before leaving on a field trip, a schedule of the trip's events and locations shall be posted and visible at the center site.

~~§ 8.35. [ § 8.36. J. ]~~ There shall be an established plan of communication between staff at the center site and staff who are away from the center site transporting children or on field trip.

~~§ 8.36. The center shall develop and implement procedures to assure that all children return to the facility after a field trip.~~

[ ~~§ 8.37. Staff shall follow the center's transportation safety policy. ]~~

[ ~~§ 8.38. K. ]~~ Parental permission for transportation and field trips shall be secured at least 24 hours before the scheduled activity. If a blanket permission is used instead of a separate written permission, the following shall apply:

1. Parents shall be notified of the field trip; and
2. Parents shall be given the opportunity to withdraw their children from the field trip.

[ ~~§ 8.39. § 8.4. Transportation for nonambulatory children.~~

~~A. ] For therapeutic [ recreation child development ] programs and special needs child day programs providing transportation, nonambulatory children shall be transported in a vehicle which is equipped with a ramp or hydraulic lift to allow entry and exit.~~

[ ~~B. ] Wheelchairs shall be equipped with seat belts and shall be securely fastened to the floor when used to seat children in a vehicle.~~

[ ~~C. ] Arrangements of wheelchairs in a vehicle shall not impede access to exits.~~

[ ~~§ 8.40. D. ] For therapeutic child development programs and special needs child day programs, when the center is responsible for providing transportation, the center shall develop a plan based on the needs of the children in care to assure their safe supervision during on-loading, off-loading and transporting and when 16 or more children are being transported, there shall be at least one [ center aide or ] adult besides the driver, for each group of 16.~~

[ ~~§ 8.41. E. ] For therapeutic child development programs and special needs child day programs, if a child has a known seizure disorder or neurological, genetic or physiological disability causing increased medical risk and that child is being transported, one [ center aide or ] adult who is not the driver and who is trained in CPR shall be present in the vehicle.~~

## [ Article 3. Animals and Pets. ]

~~§ 8.39. [ § 8.42. § 8.5. Animals and pets.~~

~~A. ] Animals that are kept on the premises of the center shall be vaccinated, if applicable, against diseases which present a hazard to the health of children.~~

~~§ 8.40. [ § 8.43. B. ]~~ Animals which are, or are suspected of being, ill or infested with external lice, fleas and ticks or internal worms shall be removed from contact with children.

~~§ 8.41. [ § 8.44. C. ]~~ If a child is bitten by an animal, an attempt shall be made to confine the animal for observation or laboratory analysis for evidence of rabies. The site of the bite shall be washed with soap and water immediately, and the child's physician or local health department shall be contacted as soon as possible for medical advice. The center

shall report the animal bite incident to the local health department.

§ 8.42. [ ~~§ 8.45. D.~~ ] Manure shall be removed from barns, stables and corrals at least once a day and stored and disposed of in a manner to prevent the breeding of flies.

[ Article 4.  
Evening and Overnight Care. ]

§ 8.43. [ ~~§ 8.46. Resting.~~ § 8.6. *Evening and overnight care.* ]

A. For evening care, beds with mattresses or cots with at least one inch of dense padding shall be used by children who sleep longer than two hours.

Exception: Camps, providing evening or overnight care to school age children on an occasional basis, are not required to meet the requirements of subsection A of this section if sleeping bags or cots are used.

B. For overnight care, beds with mattresses or cots with at least two inches of dense padding shall be used by children.

Exception: Camps, providing evening or overnight care to school age children on an occasional basis, are not required to meet the requirements of subsection B of this section if sleeping bags or cots are used.

C. For overnight care which occurs for a child on a weekly or more frequent basis, beds with mattresses shall be used.

D. In addition to [ ~~subsections A through E of § 6.58 of these regulations § 6.8~~ ] about linens, bedding appropriate to the temperature and other conditions of the rest area shall be provided.

E. For evening and overnight care, separate sleeping areas shall be provided for children of the opposite sex eight years of age or older.

F. If sleeping bags are used, [ ~~§§ 6.45 through 6.49 of these regulations § 6.7 A through E~~ ] about rest furnishings shall also apply to the use of sleeping bags.

G. Camps may use bunk beds if children are at least eight years of age.

§ 8.44. [ ~~§ 8.47. H.~~ ] In centers providing overnight care, an operational tub or shower with heated and cold water shall be provided.

Exception: Primitive camps are not required to have a tub or shower.

§ 8.45. [ ~~§ 8.49. I.~~ ] When bath towels are used, they shall be assigned for individual use.

§ 8.46. [ ~~§ 8.49. Activities.~~ ]

[ A. J. ] Activities for children in evening or overnight care shall include, as time allows, age-appropriate activities as described in subdivisions 1 through 6 of [ ~~§ 6.16 of these regulations § 6.2 I.~~ ]

[ B. K. ] Quiet activities and experiences shall be available immediately before bedtime.

§ 8.47 [ ~~§ 8.50. L.~~ ] For children receiving evening and overnight care, the provider shall offer a regularly scheduled evening meal and snack.

PART IX.  
MONTESSORI MODULE.

[ Article 1.  
~~Qualifications of a Montessori Preschool.~~ ]

§ 9.1. [ *Qualifications of a Montessori preschool.* ]

A. ] Montessori preschools are educational programs wherein the teacher training and subsequent pedagogy are approved by either American Montessori Society, American Association Montessori Internationale, National [ Council Center ] of Montessori Education, or Saint Nicholas Montessori, thus verifying that the school meets the Montessori standards as outlined in the Montessori Module.

[ ~~§ 9.2. B.~~ ] Meeting these Montessori standards shall afford the Montessori preschool a waiver from specific minimum standards that conflict with the Montessori educational philosophy as referenced in the regulations. Only preschools which meet the Montessori criteria as outlined in the module are eligible to comply with the modified licensing standards contained in the Montessori Module.

[ ~~§ 9.3. C.~~ ] Programs operated by a Montessori preschool which go outside the scope of the regular Montessori preschool classes shall comply with the minimum standards for licensed child day centers without the benefit of the Montessori Module for the extended care portion of the day. Programs going beyond four hours per day for children ages 2 ½ through four and beyond 6 ½ hours per day for children five through six years of age, exclusive of the allowable two hour additional enrichment program once a week, shall comply with the minimum standards for licensed child day centers without the benefit of the Montessori Module for the extended care portion of the day. Regular Montessori preschool classes within an all day program shall meet the minimum standards for licensed child day centers with the option of meeting the Montessori Module to obtain waivers from specified standards that conflict with the Montessori philosophy for the regular day portion of their program only.

[ Article 2.  
~~Specific Alternatives for Qualifying Montessori Preschools.~~

§ 9.4. ~~Administrators.~~ § 9.2. *Specific alternatives for qualifying Montessori preschools.*

A. ] The administrator of a Montessori preschool shall be at least 21 years of age and shall have or meet one of the following:

1. An endorsement or bachelor's degree in a child related field from an accredited college or university and one year of programmatic experience in the group care of children;
2. An associate degree in a child related field from an accredited college or university and one year of programmatic experience in the group care of children;
3. The teacher qualification standards of American Montessori Society, American Association Montessori

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Internationale, National [ *Council Center* ] of Montessori Education, or Saint Nicholas Montessori; or

4. Five years of Montessori programmatic experience if the program director meets one of the qualifications of subdivisions 1 through 3 of this [ *section subsection* ].

[ ~~§ 9.5. Program directors and back-up program directors.~~

B. ] The program director and back-up program director at a Montessori preschool shall be at least 21 years of age and shall have or meet one of the following:

1. An endorsement or bachelor's degree in a child related field from an accredited college or university and one year of programmatic experience in the group care of children;
2. An associate degree in a child related field from an accredited college or university and one year of programmatic experience in the group care of children;
3. The Montessori teacher qualification standards of American Montessori Society, *American Association* Montessori Internationale, National [ *Council Center* ] of Montessori Education, or Saint Nicholas Montessori; or
4. Five years of Montessori programmatic experience.

[ ~~§ 9.6. Teachers.~~

C. ] Montessori teachers at a Montessori preschool shall:

1. Be at least 21 years of age, and
2. Hold a teaching diploma recognized by American Montessori Society, *American Association* Montessori Internationale, National [ *Council Center* ] of Montessori Education, or Saint Nicholas Montessori for the level the teacher is teaching.

[ ~~§ 9.7. Staff development.~~

A- D. ] In addition to first aid and orientation training required elsewhere in these regulations, employed staff who work directly with a single group of children for more than three hours daily at a Montessori preschool shall:

1. Take advantage of formal and informal opportunities for personal and professional growth, including methodology and specific subject matter, as recognized by Montessori standards for a minimum of eight hours annually; or
2. In the event of a staff member's participation in a credit course or a seminar longer than eight hours, these hours may be prorated over a period of no more than five years at the rate of 12 hours annually.

[ B- E. ] Specialty staff at a Montessori preschool providing enrichment activities to a single group of children less than three hours a week shall take advantage of opportunities for professional growth to remain current in their field of expertise.

[ ~~§ 9.8. F. ] The facilities of a Montessori preschool, inside and outside, shall be maintained in conditions that are safe and free of hazards, protruding points or sharp corners, splinters, protruding nails, and loose rusty parts.~~

[ ~~§ 9.9. G. ] The Montessori materials at a Montessori preschool shall be maintained in an attractive, accessible, and safe manner, so as to afford the children complete and appropriate opportunity to develop individual and group skills according to the Montessori curriculum standard.~~

[ ~~§ 9.10. H. ] A Montessori preschool shall have restrooms that are easily accessible with a ratio of one toilet and one sink for every 20 children.~~

[ ~~§ 9.11. I. ] A Montessori preschool shall have a safe outdoor play area which allows for exploration of nature and provides a resilient surface in fall zones.~~

[ ~~§ 9.12. J. ] A Montessori preschool shall maintain a balanced multi-age grouping, with a ratio of one staff member for every 15 children.~~

[ ~~§ 9.13. K. ] Teachers at a Montessori preschool shall be, at all times during the Montessori program, responsible for the development and activities of the children in his Montessori class. In the event of the teacher's extended absence, there shall be sufficient substitute staff to comply with a ratio of one staff member for every 12 children.~~

[ ~~§ 9.14. L. ] A Montessori preschool shall have readily accessible, and in close classroom proximity, auxiliary persons sufficient to maintain a 1:10 adult-to-child ratio for 2 ½ to four year olds or 1:15 for balanced mixed age groupings of 2 ½ to six year olds, to be available in the event of emergency evacuation.~~

[ ~~§ 9.15. M. ] A Montessori preschool shall offer outdoor and indoor space affording the children complete opportunity to develop individual and group skills, including large and small motor development.~~

[ ~~§ 9.16. N. ] In a Montessori preschool program operating between five and 6 ½ hours per day there shall be at least 1/2 hour of outdoor activity per day.~~

[ ~~§ 9.17. O. ] A Montessori preschool shall abide by the pedagogy and curriculum guidelines in the Montessori Module.~~

[ ~~§ 9.18. P. ] During transportation of children and on all field trips, the staff-to-children ratio for a multi-age grouping of students in a Montessori preschool shall be no more than one to 20.~~

## [ ~~Article 3.~~ ~~Montessori Preschool Standards.~~

~~§ 9.19. § 9.3. ] Hours and scope of operation.~~

A. A Montessori preschool shall operate, at a minimum, nine months a year, five days a week, allowing for holidays, teacher in-service days, and parent-teacher conferences, as deemed necessary by the preschool in accordance with Montessori standards.

B. The hours of operation for a Montessori preschool program for children, ages 2 ½ through four years, shall be at least three hours a day, but not more than four hours a day.

C. The hours of operation for a Montessori preschool program for children five through six years of age shall be at

least [ six five ] hours a day but no more than 6 ½ hours a day.

D. Enrichment programs, compatible with Montessori standards shall be acceptable when operated, in keeping with the Montessori curriculum; physical, emotional, and developmental welfare of the child; and available to the individual child not more than an additional two hours once a week.

E. Any program operated beyond these specified school hours and ages of children shall comply with the minimum standards for licensed child day centers without the benefit of the Montessori Module for the extended care portion of the day. Regular Montessori preschool classes within an all day program shall meet the minimum standards for licensed child day centers with the option of meeting the Montessori Module to obtain waivers from specified standards that conflict with the Montessori philosophy for the regular day portion of their program only.

[ ~~§ 9-20.~~ § 9.4. ] Montessori class structure and supervision.

A. A class shall be deemed a group of children under the direct and continuous supervision of a fully qualified Montessori teacher.

B. Teachers at a Montessori preschool shall maintain a safe Montessori environment for the class.

C. Teachers at a Montessori preschool shall give the appropriate, individual or group lessons and supervise the ongoing work of the children in accordance with all Montessori pedagogical standards, included herein.

D. Teachers at a Montessori preschool shall be observant of the needs of the children in the class at all times and, accordingly, shall provide [ *developmentally age and stage* ] appropriate materials and class designation regardless of age.

E. Teachers at a Montessori preschool shall be aware of the family backgrounds and individual needs and development of the children within the Montessori program.

F. Teachers at a Montessori preschool shall maintain appropriate and confidential communication and records with other school personnel and parents as necessary for the development of the child.

G. Children enrolled in a Montessori class at a Montessori preschool shall demonstrate to the teacher an adequate level of development indicating a readiness for formal Montessori education.

H. Children enrolled in the Montessori class at a Montessori preschool shall be toilet trained and demonstrate a level of large and small motor development acceptable to working in a positive manner within the Montessori classroom environment.

I. Children enrolled in the Montessori class at a Montessori preschool shall demonstrate adequate communication skills and the ability to function with appropriate independence outside the home or away from a day-care provider.

J. Children are initially accepted into a Montessori program at a Montessori preschool on an observational basis, and

shall be given adequate, but limited, time to demonstrate individual readiness for the Montessori program.

K. A newly established Montessori class at a Montessori preschool shall be comprised of no more than 12 to 15 children between the ages of 2 ½ and six years and shall not increase enrollment to more than 25 children during its first year.

L. As the children and the class develop at a Montessori preschool, the class structure may gradually build to the recommended Montessori size of 25 to 30 children between the ages of 2 ½ and six years of age.

M. The class and the children at a Montessori preschool shall function at all times during the Montessori program according to the Montessori standards as outlined herein.

[ ~~§ 9-21.~~ § 9.5. ] Classroom materials.

A. Classrooms at a Montessori preschool shall contain the necessary and appropriately approved Montessori materials for each age level in the class. These Montessori materials may be complemented by appropriate, teacher-approved materials, but shall not displace or detract from the implementation of the Montessori materials.

B. The children at a Montessori preschool shall have continuous access to these materials as deemed appropriate by the Montessori teacher.

C. These materials at a Montessori preschool shall be organized in the classroom and used by the children in work areas that afford safe and ample working space under the direction of the Montessori teacher.

D. Use of Montessori materials in a Montessori preschool shall be presented by the Montessori teacher in accordance with the Montessori curriculum standards as included herein.

[ ~~§ 9-22.~~ § 9.6. *Curriculum.* ]

Curriculum guidelines, including appropriate materials for children from two years to six years, as stated below, shall be followed in a Montessori preschool.

These requirements are based on guidelines used by American Montessori Society, American Association Montessori Internationale, National [ *Council Center* ] of Montessori Education, and Saint Nicholas Montessori teacher training.

## PRACTICAL LIFE

Preliminary Exercises	Purpose
Spoonng; Pouring rice; Pouring water	To teach the child muscular control, care, exactness, how to pour. Indirect preparation for writing.
Age: 2 1/2 - 3 1/2	
Napkin folding	Purpose
	To teach muscular control, exactness. Indirect preparation for geometry.



	To acquire mastery of the hand in wielding a writing instrument.	Musical instruments; etc.	
Age: Progressive 2 1/2 - 4		Age: 4 1/2 and up	
Reading	Purpose	MATHEMATICS	
Phonetic object game; Phonograms; Puzzle/Secret words	To give facility to phonetic reading. To give the keys to further reading and exploration of language.	Numbers (1 to 10)	Purpose
		Number rods; Sandpaper numbers; Number rods and cards; Spindle boxes; Cards and counters; Memory game	To give the keys to the world of written numbers. To understand that each number is an entity unto itself. To teach the quantity, the symbol of sequence of numbers. To teach the concept of zero. Preparation for addition math.
Age: 4 1/2 - 5			
Reading Classification	Purpose	Age: 4	
Social cards, cultural cards; Definition booklets; Labels for environment, etc.	To further the child's reading and knowledge by introducing him to the written symbols for words he knows. To enable him to classify his knowledge.	Decimal system (Golden Bead Exercises)	Purpose
		Introduction of beads Introduction of cards Cards and beads together Processes of Addition, Subtraction, Multiplication, division	To teach the concepts of the decimal system through 1000s. To give the child the overall picture of the workings of the decimal system and all its processes.
Age: 4 1/2 on			
Function of Words	Purpose	Age: 4 1/2 to 5 1/2 +	
Article; Adjective, Logical Adjective game; Conjunction, Preposition, Verb, Adverb, Commands	To make the child aware of the individual function of words in his reading and writing. To give him further keys to the perfection of reading, writing, and self expression.	Further Exercises in Math	Purpose
		Linear and skip counting Teen board, Tens board, Stamp game, Dot game, Snake game, Addition strip board, Negative snake game, Negative strip board, Bead bar layouts, Multiplication bead board, Division unit board, Charts, Small bead frame, Hierarchical materials, Large bead frame, Racks and tubes, Fractions	To give the child opportunity for further exploration with numbers, the opportunity for repetition and perfection in executing the processes in math. The opportunity to commit to memory the math facts. Steps to total abstraction.
Age: 4 1/2 - 5			
Reading Analysis	Purpose	Age: 5 - 6 1/2 and up	
Simple sentence (first stage, second stage and extensions, attributes, and appositives)	To give the child the keys to total reading, full awareness of the intent feeling and style of the writer. Help the child in his own reading and writing.	GEOGRAPHY	Purpose
		Sandpaper globe; Land and water forms; Painted globe; Puzzle maps; Pictures; Definition cards; Stories; Simple reference books	To introduce the child to the concepts of physical political, economic geography, interdependence of man and related language.
Age: 5 1/2 and up			
[ <i>Work Word</i> ] Study	[ <i>Purpose</i> ]		
	To allow the child to explore words on a more advanced level.		
Punctuation	[ <i>Purpose</i> ]		
	To help the child communicate more effectively in his written work.		
Reading & Writing of Music	Purpose		
Green boards with notes; Green manuscript board; White music charts; Summary exercises; Learning songs;	To recognize and create the language of musical composition through notation and lyrics.		

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Age: 2 1/2 +

## HISTORY

### Purpose

Artifacts, Pictures, Definition cards, Simple reference books, Stories

To introduce the child to world cultures, physical and spiritual needs of man throughout history, famous persons, holidays, etc.

Age: 2 1/2 +

## MUSIC

### Purpose

Songs, records, tapes, Rhythm and movement, Tone bells, Tone charts Composers/famous music

To give the child a variety of musical experiences, including pitch, tone, rhythm, movement, auditory comparisons, related symbols and language.

Age: 2 1/2 +

## CREATIVITY

### Purpose

Appropriate media, Pictures, Stories, Reference books, Practical life, Sensorial lessons

To introduce the child to concepts of color, tone, light, form, history and art appreciation; and, afford the child appropriate opportunities for self expression.

Age: 3 +

## BOTANY/BIOLOGY

### Purpose

Botany leaf cabinet, Plants, Pictures/plants and animals, Definition cards, Classifications materials, Stories, Simple reference books, Opportunities to explore nature

To introduce the child to nature, the vast variety of plants and animals, the characteristics and functions; simple classification of the plant and animal kingdom; interdependence and ecology.

Age: 2 1/2 +

\* All work in the areas of science, history, culture, music, and creativity are interrelated and presented to give the child an age appropriate understanding of these areas, factual information, the tools and ability to work with the materials, and the opportunity to share this knowledge.

\*\* Important prerequisites are practical life lessons and skills, sensorial and related language lessons and skills, and an understanding of reality and factual concepts.

**NOTICE:** The appendices and forms used in administering the Minimum Standards for Licensed Child Day Centers Serving School Age Children regulations are not being published due to the large number; however, the name of each appendix and form is listed below and are available for public inspection at the Department of Social Services, 730 E. Broad Street, Richmond, Virginia 23219, or at the Office of the Registrar of Regulations, General Assembly Building, 2nd Floor, 910 Capitol Street, Richmond, Virginia 23219.

Licensing Information for Parents About Child Day Programs, Appendix I (10/95)

Medication Authorization, Appendix II

School Entrance Physical Examination and Immunization Certification, Appendix III

Art Materials: Recommendations for Children Under 12, Appendix IV

Information from Handbook for Public Playground Safety, U.S. Consumer Product Safety Commission, Appendix V

Head Entrapment, Information from Handbook for Public Playground Safety, U.S. Consumer Product Safety Commission, Appendix VI

First Aid Training, Appendix VII

Child Care Food Program Meal Patterns, Appendix VIII

Some Foods with Vitamin A and Vitamin C, Appendix IX

Initial Application for a License to Operate a Child Day Center (032-05-512/10, 6/94)

Renewal Application for a License to Operate a Child Day Center (032-05-225/9, 6/94)

VA.R. Doc. No. R96-73; Filed October 25, 1995, 10:50 a.m.

## DEPARTMENT OF CORRECTIONS (STATE BOARD OF)

**Title of Regulation:** [ ~~VR-230-01-006~~. 6 VAC 15-45-10 et seq. ] Regulations for Private Management and Operation of Prison Facilities.

**Statutory Authority:** § 53.1-266 of the Code of Virginia.

**Effective Date:** December 13, 1995.

### Summary:

*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.*

*The key provisions of the regulation comply with statutory requirements to govern certain aspects of private prisons. The substance of these regulations is derived largely from the Board of Corrections Standards for State Correctional Facilities (6 VAC 15-30-10 et seq.) so that basic services, programs, and conditions in private facilities may be comparable to those available in state facilities.*

*Administrative matters addressed in the regulation include contingency plans for termination of contract, access to the facility, organizational requirements, submission of reports, financial management and personnel, training, and records management.*

Operational requirements are outlined for physical plant, to include program and service areas and maintenance; safety and emergency procedures; security management; procedures for special housing assignments and the disciplinary process; food service; and sanitation and hygiene.

Programmatic issues addressed in the regulation include health care services; legal and programmatic rights of inmates; inmate rules and discipline; mail, telephone, visiting, and personal property; classification; work programs; educational services; recreation; religious programs and services; counseling and program services; release preparation; and citizen involvement.

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 Russ Boraas, Private Prison Administrator, Department of Corrections, 6900 Atmore Drive, Richmond, VA 23225, telephone (804) 674-3102.

6 VAC 15-45-10 et seq. Regulations for Private Management and Operation of Prison Facilities.

[ CHAPTER 45.  
REGULATIONS FOR PRIVATE MANAGEMENT AND  
OPERATION OF PRISON FACILITIES. ]

PART I.  
GENERAL PROVISIONS.

[ § 1.1 6 VAC 15-45-10. ] Definitions.

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

"Appropriate heating" means temperatures appropriate to the summer and winter comfort zones.

"Appropriate lighting" means at least 20 foot-candles at desk level and in personal grooming area.

"Automatic smoke detection system" means a hard wired smoke alarm.

"Classification" means the process for determining inmate housing, custody, and program assignments.

"Communication system" means a mechanical audio transmission such as telephone, intercom, walkie talkie or TV monitor.

"Contraband" means any unauthorized item determined to be in the possession of an inmate or within a correctional facility and accessible to an inmate which is not acquired through approved channels or in prescribed amounts.

"Contractor" means any entity entering into or proposing to enter into a legal agreement to provide any correctional services to the Department of Corrections with respect to inmates under the custody of the Commonwealth.

"Control center" means a manned secure post which has responsibility for monitoring various security systems within the facility.

"Core programs" means services to fit the inmate's needs. Such services may include life skills, substance abuse programs, counseling services, sex offender counseling, and mental health programs.

"Daily log" means a written record for the recording of daily activities or unusual incidents.

"Deadly force" means the use of methods or means which are reasonably calculated to cause death or serious bodily injury.

"Department of Corrections" means the Virginia Department of Corrections.

"Facility" means any institution operated by or under the authority of the Department of Corrections.

"Facility perimeter" means the physical barrier separating the facility from the public and may include detection systems, guard towers, and lights.

"Foot-candle" means a unit for measuring the intensity of illumination defined as the amount of light thrown on a surface one foot away from the light source.

"Furnishings in inmate living areas" means items such as furniture, curtains, and trash receptacles.

"Grievance procedure" means the method by which inmates may formally address complaints to the facility administration.

"Hazardous material" means a chemical substance that will cause death, severe illness, or injury if used in an unsafe manner.

"Indigent inmate" means an inmate who has no financial means to purchase personal hygiene items or postage for mailing letters.

"Inmate living area" means cells, rooms, dormitories and day rooms.

"Inmate records" means written information concerning the individual's personal, criminal and medical history, behavior, and activities while in custody.

"Isolation" means a type of special housing assignment which, under the proper administrative process, is utilized for the disciplinary management of inmates.

"Medical screening" means an observation and interview process within the intake procedure designed to obtain pertinent information regarding an individual's health condition.

"Noncustodial staff" means individuals employed in non-security positions.

"Nondeadly force" means the use of methods or means which are reasonably calculated to cause neither death nor serious bodily injury.

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"Organized system of information storage" means a method for the storage and retrieval of information.

"Permanent log" means a written record of a facility's activities which cannot be altered or destroyed subject to state law.

"Pharmaceuticals" means prescription and non-prescription drugs.

"Post order" means a list of specific job functions and responsibilities for security positions.

"Recreational activities" means any [ ~~out-of-cell~~ out-of-sleeping area ] activity ranging from scheduled outside or inside recreation to informal table top games.

"Qualified mental health professional" means a psychiatrist, psychologist, social worker, or nurse who is qualified, by virtue of appropriate training and experience, to render mental health services within their discipline.

"Serious incident" means a significant, unusual occurrence which demands the attention of facility staff. Such occurrence may be, but is not limited to, death/suicide, riot, escape, hostage taking, demonstration, discharge of firearm, sabotage, felonies committed by inmates, assault, sexual assault, self-mutilation, use of force, attempted suicide, and fires resulting in injury or property damage.

"Special housing" means bed assignments which are utilized for the purposes of disciplinary, protective or custodial management and secure confinement of inmates when a general population assignment is inappropriate or inadequate.

"Volunteer" means an individual who provides services to the facility without compensation.

[ § 1-2. 6 VAC 15-45-20. ] Applicability.

These standards shall apply to any entity entering into or proposing to enter into a contractual agreement to provide correctional services which consist in whole or in part of secure confinement of inmates under the custody of the Commonwealth.

[ § 1-3. 6 VAC 15-45-30. ] Legal standard.

Nothing contained in [ ~~these regulations this chapter~~ ] shall be construed as setting a legal standard for the management or operation of any facility for purposes of litigation [ by inmates ].

[ § 1-4. 6 VAC 15-45-40. ] Responsibility.

The contractor shall be responsible for ensuring that the requirements described in these standards are implemented.

[ § 1-5. 6 VAC 15-45-50. ] Enforcement.

[ ~~These regulations~~ This chapter ] shall be enforced through the Board of Corrections regulation, [ ~~VR-230-04-003-1~~ 6 VAC 15-20-10 et seq., ] Rules and Regulations Governing the Certification Process.

## PART II. ADMINISTRATION.

[ § 2-1. 6 VAC 15-45-60. ] Contingency plans for termination of contract.

Contingency plans for state operation, or other continued operation, of a contractor-operated facility in the event of a termination of contract shall be outlined in the contract itself.

[ § 2-2. 6 VAC 15-45-70. ] Access to facility.

The Department of Corrections and the Board of Corrections shall have 24-hour access to the facility for the purposes of contract monitoring and standards monitoring.

[ § 2-3. 6 VAC 15-45-80. ] Mission of facility.

The mission of the facility shall be established in writing. The facility administrator shall develop facility goals and long term objectives that are reviewed annually.

[ § 2-4. 6 VAC 15-45-90. ] Facility administrator.

The facility shall be headed by a facility administrator who is responsible for and has the authority to manage and direct all activities of the facility [ ~~established by law and these standards~~ ]. [ The facility administrator shall administer the facility in accordance with the law, the contract with the department, and with these regulations. ]

[ § 2-5. 6 VAC 15-45-100. ] Written agreement with other entities.

There shall be a written agreement which defines the roles and functions of other public and private agencies operating programs within the facility, including their relationship to the facility administrator and the rules and regulations of the facility.

[ § 2-6. 6 VAC 15-45-110. ] Organizational chart.

The facility shall have an organizational chart showing the formal, as well as the functional, organizational structure of the facility.

[ § 2-7. 6 VAC 15-45-120. ] Meetings and communication.

Meetings shall be held at least monthly between the facility administrator and all department heads, and between department heads and their key staff members. There shall be a system of two-way communication between all levels of staff and inmates.

[ § 2-8. 6 VAC 15-45-130. ] Policies and procedures manual.

The policies and procedures for operating and maintaining the facility shall be maintained in a manual, shall be reviewed at least annually, and shall be available to all employees.

[ § 2-9. 6 VAC 15-45-140. ] Relationship with public, media, and other agencies.

Written policy and procedure shall define the facility's relationship with the public, media, and other agencies.

[ § 2-10. 6 VAC 15-45-150. ] *Submission of reports.*

Reports required by the Department of Corrections shall be submitted within time limits set by the contract or other Department of Corrections requirements.

[ § 2-11. 6 VAC 15-45-160. ] *Reporting criminal activity.*

Allegations of criminal activity by inmates or contract staff shall be reported to the Department of Corrections and subject to review and investigation by the Department of Corrections.

### PART III. FINANCIAL MANAGEMENT.

[ § 3-1. 6 VAC 15-45-170. ] *Program functions and costs.*

The contractor shall have a budget which links program functions and activities to the cost necessary for their support.

[ § 3-2. 6 VAC 15-45-180. ] *Fiscal procedures.*

~~[ Written fiscal procedures shall provide for accounting for all income and expenditures and shall be in accordance with generally accepted accounting principles and fiscal management standards. Such written procedures shall include at a minimum:~~

- ~~1. Internal controls.~~
- ~~2. Petty cash.~~
- ~~3. Bonding.~~
- ~~4. Signature control on checks.~~
- ~~5. Inmate funds.~~
- ~~6. Employee expense reimbursement.~~
- ~~7. Vendor selection.~~

Written procedures shall provide for the accounting and reporting of all fiscal related functions/activities and shall be in accordance with generally accepted accounting principles and fiscal management standards. Such written procedures shall include, at a minimum:

1. Appropriate levels of internal control.
2. Bonding.
3. Budgeting.
4. General accounting functions.
5. Procurement of goods and services.
6. Payroll.
7. Grant accounting, if applicable.
8. Inmate funds. ]

[ § 3-3. 6 VAC 15-45-190. ] *Inmate funds.*

Written procedure shall govern the handling and use of any inmate funds. Inmates may deposit personal funds in interest-bearing accounts, and that interest shall accrue to the inmates. Revenue-producing activities utilizing inmate

labor or other inmate-generated revenue shall be reported to the Department of Corrections. [ Interest earned on funds held for inmates shall be used for the benefit of the inmates in accordance with Code of Virginia and Department of Corrections guidelines. ]

[ § 3-4. 6 VAC 15-45-200. ] *Inmate compensation.*

Compensation for inmate jobs/labor shall be in accordance with the Department of Corrections inmate pay schedule.

[ § 3-5. 6 VAC 15-45-210. ] *Financial audit.*

An annual independent financial audit shall be performed by a certified public accounting firm or a governmental agency. Such audit shall be at cost to the contractor.

[ § 3-6. 6 VAC 15-45-220. ] *Financial documents.*

The contractor shall prepare and distribute the following documents to the Department of Corrections upon request. (The level of detail shall be established by the Department of Corrections.)

1. Annual budget.
2. Income and expenditure statements.
3. Funding source financial reports.
4. Independent audit report.
5. Profit statements.

[ § 3-7. 6 VAC 15-45-230. ] *Insurance coverage.*

The contractor shall have insurance coverage of an amount and type as stipulated in the contract.

### PART IV. PERSONNEL.

[ § 4-1. 6 VAC 15-45-240. ] *Equal opportunity.*

The contractor shall prohibit discrimination on the basis of race, sex, color, national origin, religion, age, or political affiliation, or against otherwise qualified persons with disabilities.

[ § 4-2. 6 VAC 15-45-250. ] *Availability of personnel policies and procedures.*

The contractor shall make available to all facility employees a copy of all personnel policies and procedures. The contractor shall make available a copy of all personnel policies and procedures to the Department of Corrections if requested.

[ § 4-3. 6 VAC 15-45-260. ] *Job descriptions.*

The contractor shall maintain written job descriptions and job qualifications for all positions in the facility.

[ § 4-4. 6 VAC 15-45-270. ] *Employment and personnel practices.*

The contractor shall comply with all legal requirements related to employment and personnel practices.

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[ § 4.5. 6 VAC 15-45-280. ] *Criminal records checks.*

*Criminal records checks shall be performed on all facility employees prior to hiring, and shall be considered in employment decisions.*

PART V.  
TRAINING.

[ § 5.1. 6 VAC 15-45-290. ] *Training program.*

*Written policy, procedure, and practice shall ensure that the facility's training programs are overseen by a qualified supervisory employee. All training programs shall meet standards set by the Department of Criminal Justice Services (DCJS), and the qualified supervisory employee shall be a certified DCJS instructor.*

[ § 5.2. 6 VAC 15-45-300. ] *Trainer.*

*The employee who oversees the training programs shall have specialized training. If the facility has full-time training personnel, these personnel shall have completed at least a 40-hour train-the-trainer course approved by DCJS.*

[ § 5.3. 6 VAC 15-45-310. ] *Evaluation of training programs.*

*The facility shall provide for ongoing evaluation of all orientation, in-service, and specialized training programs and shall provide for documentation of such assessments.*

[ § 5.4. 6 VAC 15-45-320. ] *Reference services.*

*Library and other reference services shall be available to complement the training program.*

[ § 5.5. 6 VAC 15-45-330. ] *Outside resources.*

*The training program shall utilize outside resources, such as public and private agencies, private industry, universities, and libraries to the extent that the contractor's own training resources are not self-sufficient.*

[ § 5.6. 6 VAC 15-45-340. ] *Space and equipment.*

*There shall be space and equipment necessary for training and staff development.*

[ § 5.7. 6 VAC 15-45-350. ] *Orientation requirements.*

*Written policy, procedure and practice shall provide that all new full-time employees receive necessary orientation before assuming responsibility for their positions. Orientation shall include at a minimum:*

- 1. An overview of the mission, objectives, policies and procedures of the facility.*
- 2. Working conditions and regulations.*
- 3. Employee rights and responsibilities.*
- 4. An overview of the correctional field.*
- 5. If necessary, preparatory instruction.*

[ § 5.8. 6 VAC 15-45-360. ] *Administrative staff.*

*Written policy, procedure, and practice shall ensure that all administrative and managerial staff receive necessary training according to Department of Corrections procedures.*

[ § 5.9. 6 VAC 15-45-370. ] *Correctional officer training.*

*Written policy, procedure, and practice shall provide that all new corrections officers receive training in accordance with Department of Corrections procedures.*

[ § 5.10. 6 VAC 15-45-380. ] *Training for firearms, chemical agents, and deadly force.*

*Written policy, procedure, and practice shall ensure that all personnel authorized to use firearms, chemical agents, and deadly force receive appropriate training before being assigned to a post involving the possible use of such weapons.*

[ § 5.11. 6 VAC 15-45-390. ] *Noncustodial firearm training.*

*All employees designated by the director to carry a firearm in an emergency situation shall satisfactorily complete noncustodial firearm training before carrying the weapon.*

[ § 5.12. 6 VAC 15-45-400. ] *Training for employees who have regular contact with inmates.*

*Written policy, procedure, and practice shall ensure that all support employees who have regular or daily contact with inmates receive necessary training in accordance with Department of Corrections requirements.*

[ § 5.13. 6 VAC 15-45-410. ] *Training for correctional officers assigned to an emergency team.*

*Written policy, procedure, and practice shall ensure that correctional officers assigned to an emergency team have necessary training according to Department of Corrections requirements.*

PART VI.  
RECORDS MANAGEMENT.

[ § 6.1. 6 VAC 15-45-420. ] *Records maintenance.*

*Records shall be maintained in accordance with Library of Virginia guidelines. Microfilm records shall be sent to the Department of Corrections.*

[ § 6.2. 6 VAC 15-45-430. ] *Correctional status information.*

*The contractor shall collect and maintain correctional status information as required by the Department of Corrections. [ Any automated systems interface shall be in accordance with Department of Corrections procedures. ]*

[ § 6.3. 6 VAC 15-45-440. ] *Information storage, retrieval, [ and ] review [ , security, and documentation ].*

*The facility shall utilize an organized system of information storage, retrieval, [ and ] review [ , security and documentation which shall be in accordance with Department of Corrections procedures ].*

[ § 6.4. 6 VAC 15-45-450. ] *Training for information management staff.*

*Staff having access to management information shall be trained in and responsive to the security and confidentiality requirements of this system.*

[ ~~§ 6.5.~~ 6 VAC 15-45-460. ] Research.

No research shall be conducted at the facility unless the research is reviewed and approved by Department of Corrections.

[ ~~§ 6.6.~~ 6 VAC 15-45-470. ] Facility records.

Facility operating procedures governing the establishment, utilization, content, privacy, security, retention, and accuracy of the facility criminal record folders, facility health folders, and facility treatment folders shall be in conformance with Department of Corrections procedures.

[ ~~§ 6.7.~~ 6 VAC 15-45-480. ] Transfer of records.

When an inmate is permanently transferred from one facility to another, the facility criminal records folder and facility health folder shall be simultaneously transferred to the receiving facility.

[ ~~§ 6.8.~~ 6 VAC 15-45-490. ] Master index; daily written report.

There shall be at least one master index identifying the housing, bed, program, and work assignments of all inmates. The facility shall maintain a daily written report [ or of ] inmate population movement as required by Department of Corrections procedures.

## PART VII. PHYSICAL PLANT.

### Article 1. Program and Service Areas.

[ ~~§ 7.1.~~ 6 VAC 15-45-500. ] General inmate housing areas.

Inmates assigned to general inmate housing areas shall have access to the following (special housing requirements may be altered to ensure inmate staff safety and security):

1. A toilet above floor level which is available for use without staff assistance twenty-four hours a day.
2. A wash basin with potable, hot and cold water.
3. A bed above floor level.
4. [ Closet Enclosable storage ] space or locker.
5. Natural lighting.
6. Special use housing requirements may be altered to ensure inmate staff safety and security.

[ ~~§ 7.2.~~ 6 VAC 15-45-510. ] Exercise and recreation space.

Space outside the cell or room shall be provided for inmate exercises and leisure time activities.

[ ~~§ 7.3.~~ 6 VAC 15-45-520. ] Visiting space.

Space shall be provided for a visiting room or area for contact visiting and, if required, non-contact visiting. There shall be a designated space to permit screening and searching of both inmates and visitors.

[ ~~§ 7.4.~~ 6 VAC 15-45-530. ] Accommodations for the disabled.

Disabled inmates shall be housed in a manner that provides for their safety and security. Rooms, cells, or housing units used by the disabled shall be designed for their use and provide for integration with the general population. Appropriate facility programs and activities shall be accessible to disabled inmates confined in the facility.

[ ~~§ 7.5.~~ 6 VAC 15-45-540. ] Storage space for bedding, clothing, supplies.

Space shall be provided at the facility to store and issue clothing, bedding, cleaning supplies, inmates' property, and other items required for daily operations.

[ ~~§ 7.6.~~ 6 VAC 15-45-550. ] Space for administrative use.

Adequate space shall be provided for administrative, security, professional, and clerical staff; this space shall include conference rooms, storage room for records, public lobby, and toilet facilities. Adequate space shall be provided for janitorial closets accessible to the living and activity areas.

[ ~~§ 7.7.~~ 6 VAC 15-45-560. ] Space for mechanical and electrical equipment.

Separate and adequate space shall be provided for mechanical and electrical equipment.

### Article 2. Maintenance.

[ ~~§ 7.8.~~ 6 VAC 15-45-570. ] Preventive maintenance program.

Written policy, procedure, and practice shall specify a preventive maintenance program for the physical plant. The program shall include documentation of work performed, provisions for emergency repairs or replacement in life-threatening situations, and provisions for capital repairs.

[ ~~§ 7.9.~~ 6 VAC 15-45-580. ] Lighting and circulation.

Lighting in inmate room/cells shall be at least 20 foot-candles at desk level in living areas and in personal grooming areas, as documented by qualified personnel. Circulation shall be at least seven cubic feet per minute of outside air or recirculated air containing no less than 25% outside air per minute per occupant. Air circulation/recirculation equipment [ inspections ] by qualified personnel shall be documented.

## PART VIII. SAFETY AND EMERGENCY PROCEDURES.

### Article 1. Emergency Plans.

[ ~~§ 8.1.~~ 6 VAC 15-45-590. ] Emergency plans.

There shall be written emergency plans which outline duties of staff, procedures, and evacuation routes. Emergency plans shall include responses in the event of fire, chemical release, power, water, heat loss, natural disaster, taking of hostages, riots and disturbances, escape, bomb threats, civil defense, and adverse job actions. There shall

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be a posted floor plan showing evacuation routes. The fire plan shall be reviewed annually by the State Fire Marshal.

[ ~~§ 8-2.~~ 6 VAC 15-45-600. ] Fire drills.

Fire drills shall be performed in accordance with the emergency plan and include evacuation of inmates (except where security would be jeopardized). Fire drills shall be held, documented, and evaluated for effectiveness, at least quarterly.

[ ~~§ 8-3.~~ 6 VAC 15-45-610. ] Fire department site visits.

There shall be documentation that, through annual site visits, the local fire department is familiar with the available equipment, physical layout, and emergency procedures of the facility. Additional site visits shall be required in case(s) of structural changes or additions to the facility.

[ ~~§ 8-4.~~ 6 VAC 15-45-620. ] Emergency equipment.

The facility shall have the equipment necessary to maintain [ ~~essential the necessary~~ ] lights, power, and communications [ for essential security ] in an emergency. Testing shall be performed weekly.

## Article 2. Safety.

[ ~~§ 8-5.~~ 6 VAC 15-45-630. ] State inspections.

The facility shall be inspected at least annually by the Office of the State Fire Marshal. Action plans shall be written and submitted to the Department of Corrections.

[ ~~§ 8-6.~~ 6 VAC 15-45-640. ] Monthly and weekly inspections.

Written policy, procedure, and practice shall provide for a comprehensive and thorough monthly inspection of the facility by the individual responsible for facility safety for compliance with safety and fire prevention standards. There shall be a weekly fire and safety inspection of the facility. This policy and procedure shall be reviewed every 12 months and updated as needed. The contractor shall ensure that corrective actions shall be taken.

[ ~~§ 8-7.~~ 6 VAC 15-45-650. ] Fire alarm.

The facility shall have a manual fire alarm or an automatic smoke detection system or an automatic fire suppression system in all industrial, sleeping and living areas, and action plans shall be written and submitted for all areas of deficiencies. Other areas of the facility shall also have fire detection and suppression equipment as required by the State Fire Marshal.

[ ~~§ 8-8.~~ 6 VAC 15-45-660. ] Fire protection equipment type and testing.

Written policy, procedure, and practice shall specify the facility's fire protection equipment type, use and testing to include:

1. Availability of equipment at appropriate locations throughout the facility.
2. Training on the use of the equipment.
3. Inspection of extinguishers annually.

4. Inspection [ ~~and steam-cleaning~~ ] of range hoods semiannually [ ~~and cleaned as necessary~~ ].

5. Inspection of detection and suppression systems quarterly.

6. Quarterly testing of fire alarms for function. Inspections shall be performed by trained and qualified personnel.

[ ~~§ 8-9.~~ 6 VAC 15-45-670. ] Safe furnishings.

Furnishings in inmate living areas, including cleanable, nontoxic and flame-retardant mattresses and pillows, shall be selected based on known fire safety performance characteristics [ ~~and in conformance with Department of Corrections procedures~~ ]. Furnishings which no longer meet fire safety performance specifications shall be repaired or removed from service.

[ ~~§ 8-10.~~ 6 VAC 15-45-680. ] Risk management.

Written policy, procedure, and practice shall provide for a safety awareness program and self inspection which is to be coordinated, designed, implemented and documented by the individual responsible for facility safety.

## PART IX. SECURITY MANAGEMENT.

### Article 1. Manuals and Procedures.

[ ~~§ 9-1.~~ 6 VAC 15-45-690. ] Security manual.

There shall be a manual containing all procedures for facility security and control, with detailed instructions for implementing these procedures. The manual shall be available to all staff and procedures are reviewed at least annually and updated if necessary.

[ ~~§ 9-2.~~ 6 VAC 15-45-700. ] Written post orders.

There shall be a written post order for each security post and a requirement for officers to read and be familiar with the order each time they assume a new post. The immediate supervisor shall document that the post order has been discussed with the officer. Post orders shall be reviewed annually.

[ ~~§ 9-3.~~ 6 VAC 15-45-710. ] Permanent log and shift reports.

Written policy, procedure, and practice require that correctional staff maintain a permanent log and supervisors prepare shift reports that record routine information, emergency situations, and unusual incidents. A post log is maintained at each permanent post and other areas deemed necessary by the contractor

[ ~~§ 9-4.~~ 6 VAC 15-45-720. ] Written record of security equipment.

Written policy, procedure, and practice shall provide that the facility maintains a written record of all security equipment issued. The security equipment shall be approved by the Department of Corrections.

Article 2.  
Security and Control.

[§ 9-5. 6 VAC 15-45-730.] Controlled perimeter.

The facility's perimeter shall be controlled by appropriate means to ensure that inmates remain within the perimeter and to prevent unauthorized access by the general public.

[§ 9-6. 6 VAC 15-45-740.] Control center.

Written policy, procedure, and practice shall ensure that the facility maintains a control center which is staffed 24 hours a day.

[§ 9-7. 6 VAC 15-45-750.] Communication system.

The facility shall have a communication system between the control center and inmate living areas.

[§ 9-8. 6 VAC 15-45-760.] Inmate count.

The facility shall have a system for physically counting inmates. The system shall include strict accountability for inmates assigned to work and educational release, furloughs, and other approved temporary absences.

[§ 9-9. 6 VAC 15-45-770.] Inmate movement.

Written policy, procedure, and practice shall provide that staff regulate inmate movement.

[§ 9-10. 6 VAC 15-45-780.] Searches.

Written policy, procedure, and practice shall provide for searches of facilities, staff, inmates and visitors to control contraband and provide for disposition of the contraband pursuant to applicable law.

[§ 9-11. 6 VAC 15-45-790.] Use of nondeadly force.

Written policy, procedure, and practice shall govern the use of force, firearms, chemical agents, and security equipment. The contractor shall be authorized to use nondeadly force only where it is reasonable to do so. Physical force shall be limited to the amount of force that the officer reasonably believes is necessary in the given situation:

1. Reasonably required to prevent an escape, the commission of a felony, or a misdemeanor;
2. To defend himself or others against physical assault;
3. To prevent serious damage to property;
4. To enforce facility regulations and order;
5. To prevent or quell a riot; and
6. To prevent serious self-injury to the inmate.

[§ 9-12. 6 VAC 15-45-800.] Use of deadly force.

Properly authorized employees may exercise their authority and use deadly force only as a last resort, and then only to prevent an act that could result in death or serious bodily injury to oneself or to another, or to prevent escape from confinement.

[§ 9-13. 6 VAC 15-45-810.] Inspections of security systems.

Written policy, procedure, and practice shall require that at least weekly inspections be conducted of all security systems. The results of inspections shall be reported in writing to the contractor, and documentation of corrective action shall be required.

[§ 9-14. 6 VAC 15-45-820.] Serious incident report.

Written policy, procedure, and practice shall require notification and reporting of serious incidents to the Department of Corrections in accordance with Department of Corrections procedures.

Article 3.

Keys and Equipment.

[§ 9-15. 6 VAC 15-45-830.] Key control.

The distribution, use, and control of keys within the facility shall be in accordance with Department of Corrections procedures. Any departure from these procedures shall be subject to Department of Corrections review and approval.

[§ 9-16. 6 VAC 15-45-840.] Security and equipment control.

The use and storage of all tools, culinary equipment and hazardous materials, including flammable, toxic, caustic materials, weapons, and security equipment shall be in accordance with Department of Corrections procedures. Any departure from these procedures shall be subject to Department of Corrections review and approval.

PART X.

SPECIAL HOUSING ASSIGNMENTS AND THE DISCIPLINARY PROCESS.

[§ 10-1. 6 VAC 15-45-850.] Placement in special housing assignments.

Written policy, procedure, and practice shall provide that Department of Corrections procedures be utilized for the disciplinary process and for assignments to special housing. The contractor shall facilitate the application of this process, but the Department of Corrections shall make all decisions in these areas.

[§ 10-2. 6 VAC 15-45-860.] Number of inmates per cell.

Except in emergencies, the number of inmates confined to each cell or room shall not exceed the number for which it is designed. Should an emergency create an excess in occupancy, the contractor shall immediately proceed to alleviate the situation as promptly as possible by making other arrangements for the inmates so confined. The contractor shall provide written approval for emergency situations where the number of occupants exceeds design capacity.

[§ 10-3. 6 VAC 15-45-870.] Cell conditions.

Special housing cells or units shall be well ventilated, adequately lighted, and appropriately heated and maintained in sanitary conditions at all times. A general log shall be kept and the temperature shall be recorded at least once each shift. Inmates shall be housed in an environment in which the temperature does not fall below 65°F, and when the

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temperature exceeds 85°F, mechanical air circulation shall be provided.

[ ~~§ 10.4.~~ 6 VAC 15-45-880. ] Clothing and bedding.

Inmates in special housing shall dress in appropriate clothing, and shall be furnished underwear, shower shoes, one mattress, one pillow, one pillow case, two sheets, blankets as needed, one towel, and washcloth. For removing items from cells and for using stripped cells, Department of Corrections procedures shall be utilized.

[ ~~§ 10.5.~~ 6 VAC 15-45-890. ] Meals.

Inmates assigned to special housing shall receive the same meals as those in the general population, except in those circumstances noted in Department of Corrections procedures.

[ ~~§ 10.6.~~ 6 VAC 15-45-900. ] Shower and shaving privileges.

Written policy, procedure, and practice shall provide that inmates in special housing assignments will be permitted to shower and shave not less than twice per week. Clothing and underwear shall be changed at shower time.

[ ~~§ 10.7.~~ 6 VAC 15-45-910. ] Mail.

Written policy, procedure, and practice shall provide that inmates in special housing assignments can write and receive letters on the same basis as inmates in the general population, except inmates in isolation may not receive the contents of packages until approved by the contractor.

[ ~~§ 10.8.~~ 6 VAC 15-45-920. ] Legal access.

Written policy, procedure, and practice shall provide that inmates in special housing assignments have access to legal materials and the courts.

[ ~~§ 10.9.~~ 6 VAC 15-45-930. ] Visitation.

Inmates in isolation shall forfeit the privileges of receiving visits from family, relatives, or friends; however, under exceptional circumstances, permission may be obtained from the contractor for such visits. Attorney visits to an inmate in isolation may not be restricted by the contractor, and attorneys shall be allowed access to the inmate during normal work hours.

[ ~~§ 10.10.~~ 6 VAC 15-45-940. ] Personal property.

Written policy, procedure, and practice shall provide that inmates in isolation will be allowed to keep only the following:

1. Legal materials.
2. Religious materials.
3. Personal hygiene items, defined exactly as:
  - a. Toothbrush;
  - b. Toothpaste;
  - c. Soap; and
  - d. Plastic comb.

If the inmate does not have the items above, and is indigent, the facility shall furnish them. All other items of

inmate personal property shall be stored upon assignment to isolation. Inmate personal property shall be inventoried by either an officer and the inmate, or by two correctional officers. The inmate shall be given a receipt for all personal property upon assignment to isolation. Inmates in isolation shall be limited to the purchase of postage stamps.

[ ~~§ 10.11.~~ 6 VAC 15-45-950. ] Inmates in isolation.

Inmates held in isolation for periods exceeding 30 days shall be provided the same privileges as inmates in special housing assignments.

[ ~~§ 10.12.~~ 6 VAC 15-45-960. ] Visitation for inmates in special housing assignments.

Written policy, procedure, and practice shall provide that the visitation schedule for special housing inmates (other than isolation) shall be established by the contractor.

[ ~~§ 10.13.~~ 6 VAC 15-45-970. ] Exercise for inmates in special housing assignments.

Written policy, procedure, and practice shall provide that inmates in special housing assignments (other than isolation) be allowed a minimum of one hour of exercise three separate days per week in an out-of-doors supervised area, weather permitting.

[ ~~§ 10.14.~~ 6 VAC 15-45-980. ] Access to commissary.

Written policy, procedure, and practice shall provide inmates (other than in isolation) access to the commissary. Commissary purchases may be restricted only for security reasons. No items of a hazardous nature shall be allowed.

[ ~~§ 10.15.~~ 6 VAC 15-45-990. ] Permanent log on each inmate.

A permanent individual log shall be maintained in the special housing unit for each inmate. This log shall contain:

1. Date of admission;
2. Weight of the inmate upon entering and leaving and the name, date and time of the correctional officer making the required hourly check;
3. Medical requests and visits;
4. Medications administered or refused;
5. Meals refused; and
6. Other pertinent information.

[ ~~§ 10.16.~~ 6 VAC 15-45-1000. ] Access to medical, dental, and mental health care.

Written policy, procedure, and practice shall provide for reasonable access to medical, dental, and mental health services while in special housing status.

[ ~~§ 10.17.~~ 6 VAC 15-45-1010. ] Supervision.

In addition to supervision provided by the unit officers, the special housing unit shall be visited daily by the shift supervisor or higher authority. Each inmate in special housing shall be checked no less than once per hour at staggered times by a correctional officer.

PART XI.  
FOOD SERVICE.

Article 1.  
Food Service Management.

[ ~~§ 11.1.~~ 6 VAC 15-45-1020. ] Food service program supervision.

Food service operations shall be supervised by a full-time staff member who is experienced in food service management.

[ ~~§ 11.2.~~ 6 VAC 15-45-1030. ] Dietary allowances.

All meals shall meet or exceed the dietary allowances stated in the Recommended Dietary Allowances, National Academy of Sciences.

[ ~~§ 11.3.~~ 6 VAC 15-45-1040. ] Records.

Written policy, procedure, and practice shall require that accurate records are maintained of all meals served and that meals are planned in advance to assure proper food flavor, temperature, and appearance.

[ ~~§ 11.4.~~ 6 VAC 15-45-1050. ] Special diets.

Written policy, procedure, and practice shall provide for special diets as prescribed by appropriate medical or dental personnel.

[ ~~§ 11.5.~~ 6 VAC 15-45-1060. ] Religious diets.

Written policy, procedure, and practice shall provide for reasonable accommodation for inmates whose religious beliefs require adherence to religious dietary laws.

[ ~~§ 11.6.~~ 6 VAC 15-45-1070. ] Meal supervision.

Written policy, procedure, and practice shall provide that meals are served under conditions that minimize regimentation, except when security or safety conditions dictate otherwise. All meals shall be served under direct supervision of staff members.

[ ~~§ 11.7.~~ 6 VAC 15-45-1080. ] Meal times.

Written policy, procedure, and practice shall require that at least three meals (including two hot meals) are provided at regular meal times during each 24-hour period, with no more than 14 hours between the beginning of the evening meal and the beginning of breakfast. Variations may be allowed based on weekend and holiday food service demands and security needs, provided basic nutritional goals are met.

Article 2.  
Health and Safety.

[ ~~§ 11.8.~~ 6 VAC 15-45-1090. ] Food service safety.

The contractor shall ensure that food service safety is in compliance with the Department of Corrections Food Service Manual. Any departure from this manual shall be subject to Department of Corrections review and approval.

PART XII.  
SANITATION AND HYGIENE.

Article 1.  
Sanitation.

[ ~~§ 12.1.~~ 6 VAC 15-45-1100. ] Sanitation.

The facility shall comply with the requirements of appropriate regulatory agencies with regard to the potable water supply, control of vermin and pests, emissions and waste disposal systems.

Article 2.  
Housekeeping.

[ ~~§ 12.2.~~ 6 VAC 15-45-1110. ] Housekeeping plan.

A written housekeeping plan for all areas of the facility's physical plant shall provide for daily housekeeping and regular maintenance by assigning specific duties and responsibilities to staff and inmates.

[ ~~§ 12.3.~~ 6 VAC 15-45-1120. ] Inspections.

Written policy, procedure, and practice shall provide weekly internal fire, safety and sanitation inspections of the facility by designated administrative staff members. The contractor shall ensure that appropriate corrective actions are taken.

[ ~~§ 12.4.~~ 6 VAC 15-45-1130. ] Toilet, shower, and bathing facilities.

Toilet, shower, and bathing facilities shall be operational and sufficient to ensure health and hygiene. The opportunity for at least three showers per week shall be made available to general population inmates.

Article 3.  
Clothing and Bedding Supplies.

[ ~~§ 12.5.~~ 6 VAC 15-45-1140. ] Clothing.

Written policy, procedure, and practice shall provide for the issue of clean clothing to inmates. Special clothing shall be provided to inmates assigned to food service, hospital, sanitation, and other special work details. Protective clothing and safety equipment shall be provided when appropriate.

[ ~~§ 12.6.~~ 6 VAC 15-45-1150. ] Bedding and blankets.

Written policy, procedure, and practice shall provide clean bedding, towels, washcloths, and blankets to all inmates.

[ ~~§ 12.7.~~ 6 VAC 15-45-1160. ] Laundering.

Written policy, procedure, and practice shall provide for the weekly laundering of all bedding and clothing.

Article 4.  
Personal Hygiene.

[ ~~§ 12.8.~~ 6 VAC 15-45-1170. ] Hair care.

Written policy, procedure, and practice shall provide that hair care services comply with applicable health laws and regulations and are available to all inmates.

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[ ~~§ 12.9.~~ 6 VAC 15-45-1180. ] Personal hygiene items.

Written policy, procedure, and practice shall require that articles necessary for maintaining proper personal hygiene are available to all inmates. Indigent inmates shall be issued necessary personal hygiene articles.

## PART XIII. HEALTH CARE SERVICES.

### Article 1. General Policies.

[ ~~§ 13.1.~~ 6 VAC 15-45-1190. ] Medical unit operated in accordance with applicable laws.

Written policy, procedure, and practice shall ensure inmates are provided with health care services and that the facility's medical unit is operated in accordance with applicable laws and the Department of Corrections Office of Health Services policies and procedures. Any departure from these policies and procedures shall be subject to Department of Corrections review and approval.

[ ~~§ 13.2.~~ 6 VAC 15-45-1200. ] Access to health care.

Written policy, procedure, and practice shall provide access to basic health care, and for a system for processing complaints about health care, and that these policies are communicated orally and in writing to inmates upon arrival at the facility in language which can be clearly understood by inmates.

[ ~~§ 13.3.~~ 6 VAC 15-45-1210. ] Continuity of health care.

Written policy, procedure, and practice shall provide for continuity of health care from admission to discharge or transfer.

[ ~~§ 13.4.~~ 6 VAC 15-45-1220. ] Health care evaluation.

Written policy, procedure, and practice shall require that, in order to ensure quality assurance, the facility shall have documentation that a health care evaluation by the Department of Corrections Office of Health Services has been performed at least once every other year, and that action plans are written and implemented for all areas of deficiency.

[ ~~§ 13.5.~~ 6 VAC 15-45-1230. ] Use of restraints.

Written policy, procedure, and practice shall govern the use of restraints for medical and psychiatric purposes; identifying the authorization needed; and when, where and how restraints may be used and for how long.

### Article 2. Responsible Health Authority.

[ ~~§ 13.6.~~ 6 VAC 15-45-1240. ] Responsibility of medical authority.

Written policy, procedure, and practice shall require that a designated medical authority, who may be a physician or a health administrator, is responsible for the health care of the inmates pursuant to a written agreement or contract or job description.

[ ~~§ 13.7.~~ 6 VAC 15-45-1250. ] Physician, dentist, and nurse responsibilities.

Written policy, procedure, and practice shall require that all medical, psychiatric, dental, and nursing matters involving medical judgment are the sole province of the responsible physician, psychiatrist, dentist, and nurse, respectively.

[ ~~§ 13.8.~~ 6 VAC 15-45-1260. ] Morbidity and mortality reports.

Written policy, procedure, and practice shall provide that the medical authority submits monthly morbidity and mortality reports and annual summaries to the Department of Corrections.

[ ~~§ 13.9.~~ 6 VAC 15-45-1270. ] Reporting of threatening conditions.

Written policy, procedure, and practice shall provide that the medical authority reports immediately to the contractor conditions that pose a serious health threat to staff and inmate health and safety. The contractor shall immediately report such conditions to the Department of Corrections.

[ ~~§ 13.10.~~ 6 VAC 15-45-1280. ] Review of health care program.

Written policy, procedure, and practice shall provide that the medical authority review each health care policy, procedure and program at least every 12 months, and revise them as needed. Each review and revision shall bear the date and signature of the reviewer.

### Article 3. Facilities and Equipment.

[ ~~§ 13.11.~~ 6 VAC 15-45-1290. ] Space for health care delivery.

Written policy, procedure, and practice shall ensure that the contractor provide adequate space, equipment, supplies, and materials for the delivery of health care as determined by the medical authority in accordance with the level of care provided by the facility.

[ ~~§ 13.12.~~ 6 VAC 15-45-1300. ] First aid kits and emergency medical supplies.

Written policy, procedure, and practice shall provide that first aid kits and emergency medical supplies are available in areas determined by the medical authority in conjunction with the contractor.

[ ~~§ 13.13.~~ 6 VAC 15-45-1310. ] Checking and testing of medical equipment.

Written policy, procedure, and practice shall require that medical staff are responsible for checking and testing all medical equipment according to manufacturer's recommendations and that the equipment is safeguarded from inmate access.

[ ~~§ 13.14.~~ 6 VAC 15-45-1320. ] Ambulances.

Written policy, procedure, and practice shall provide that ambulances utilized by the facility are certified by the Department of Emergency Medical Services, operated by certified drivers, and that a certified emergency medical

technician accompanies an inmate being transported for medical reasons.

## Article 4. Personnel.

[ ~~§ 13-15.~~ 6 VAC 15-45-1330. ] Licensure, certification, and registration requirements.

Written policy, procedure, and practice shall require that all medical personnel who provide health care services to inmates meet applicable licensure, certification, and registration requirements and that verification of current credentials are on file in the facility.

[ ~~§ 13-16.~~ 6 VAC 15-45-1340. ] Job descriptions.

Written policy, procedure, and practice shall require that the duties and responsibilities of medical personnel are governed by written job descriptions approved by the medical authority, kept on file at the facility, and a copy be given to the employee.

[ ~~§ 13-17.~~ 6 VAC 15-45-1350. ] Written protocols.

Written policy, procedure, and practice shall provide that all health care shall be performed pursuant to written protocols by personnel authorized by law to give such orders.

[ ~~§ 13-18.~~ 6 VAC 15-45-1360. ] Nursing practices.

Written policy, procedure, and practice shall provide that nurses, nurse practitioners, and physician's assistants practice within the limits of applicable laws and regulations.

[ ~~§ 13-19.~~ 6 VAC 15-45-1370. ] Distribution of medications.

Written policy, procedure, and practice shall provide that nonmedical personnel involved in the distribution, administration, or both, of non-over-the-counter medications or in providing other medical services are trained according to Department of Corrections, Office of Health Services' procedures.

[ ~~§ 13-20.~~ 6 VAC 15-45-1380. ] First aid and crisis intervention.

Written policy, procedure, and practice shall provide for on-site emergency first aid, CPR and crisis intervention. In addition, direct care and custodial staff shall be trained to recognize signs and symptoms of mental disorder, suicidality, and chemical dependency.

[ ~~§ 13-21.~~ 6 VAC 15-45-1390. ] Inmate jobs.

Written policy, procedure, and practice shall provide that inmates are not used for the following duties:

1. Performing direct patient care services.
2. Scheduling health care appointments.
3. Determining access of other inmates to health care services.
4. Handling or having access to surgical instruments, needles, medications, and medical records.
5. Operating diagnostic and therapeutic instruments.

[ ~~§ 13-22.~~ 6 VAC 15-45-1400. ] Training of health care personnel.

Written policy, procedure, and practice shall provide that health care personnel are provided opportunities for orientation and training.

## Article 5. Health Screenings and Examinations.

[ ~~§ 13-23.~~ 6 VAC 15-45-1410. ] Transfers.

Written policy, procedure, and practice shall provide that all inmates undergoing transfers undergo a health screening by [ ~~health-trained or~~ ] qualified [ medical ] personnel upon arrival at the facility and no later than one working day thereafter if the facility does not have 24-hour medical coverage.

[ ~~§ 13-24.~~ 6 VAC 15-45-1420. ] Communicable diseases.

Written policy, procedure, and practice shall provide for the identification and management of tuberculosis and other communicable diseases and that these policies and procedures are updated as new information becomes available.

## Article 6. Mental Health Services.

[ ~~§ 13-25.~~ 6 VAC 15-45-1430. ] Provision of mental health services.

Written policy, procedure, and practice shall specify the provision of mental health services for inmates. These services include, but are not limited to, those provided by qualified mental health professionals who meet the educational and licensure/certification criteria specified by their respective professional discipline (i.e. psychiatry, psychology, psychiatric nursing, and social work).

[ ~~§ 13-26.~~ 6 VAC 15-45-1440. ] Access to mental health services.

Written policy, procedure, and practice shall provide that all inmates have access to mental health services. These services shall include a system for mental health screening and mental health evaluation of inmates, a system of referral to the services of qualified mental health professionals, a system for transfer or commitment of inmates in need of mental health services beyond the facility resources, and a system for continuity of care and follow-up procedures.

[ ~~§ 13-27.~~ 6 VAC 15-45-1450. ] Mental health status information.

Written policy, procedure, and practice shall provide for the initial and ongoing assessment and determination of the mental health status and needs of inmates.

[ ~~§ 13-28.~~ 6 VAC 15-45-1460. ] Special needs inmates.

Written policy, procedure, and practice shall provide for identification of special needs inmates. Special needs inmates shall include, but are not limited to, inmates who are mentally ill, emotionally or behaviorally disturbed, or mentally retarded. Programs shall be instituted for these inmates' appropriate management and treatment.

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[ ~~§ 13-29.~~ 6 VAC 15-45-1470. ] *Inmates with acute mental health needs.*

*Inmates who are acutely mentally ill, severely emotionally or behaviorally disturbed, or severely mentally retarded shall be referred for placement in units appropriate for their treatment and management needs.*

[ ~~§ 13-30.~~ 6 VAC 15-45-1480. ] *Suicide and intervention plan.*

*There shall be a written suicide prevention and intervention plan that is reviewed and approved by a qualified mental health professional. Staff with responsibility for inmate supervision shall be familiar with the plan.*

[ ~~§ 13-31.~~ 6 VAC 15-45-1490. ] *Mental health training program.*

*There shall be a written mental health training program which is provided to employees whose duties require direct contact with special needs inmates. This training program shall be developed and reviewed by qualified mental health professionals.*

## Article 7. Levels of Care.

[ ~~§ 13-32.~~ 6 VAC 15-45-1500. ] *Treatment of health problems.*

*Written policy, procedure, and practice shall provide that treatment of an inmate's health problems are not limited by the resources available within the facility and that hospital care is available for acute illness or surgery at a facility outside the facility.*

[ ~~§ 13-33.~~ 6 VAC 15-45-1510. ] *Provision of all levels of health care.*

*Written policy, procedure, and practice shall provide that the contractor, in conjunction with the medical authority, makes available all levels of health care to include self-care, first aid, 24-hour emergency care, 24-hour infirmary care, hospital care, and chronic and convalescent care, as required by the contract.*

[ ~~§ 13-34.~~ 6 VAC 15-45-1520. ] *Sick call.*

*Written policy, procedure, and practice shall require that regularly scheduled sick call is conducted by qualified health care personnel and is available to all inmates.*

[ ~~§ 13-35.~~ 6 VAC 15-45-1530. ] *Contracted health services.*

*Written policy, procedure, and practice shall provide for the contractor to contract the services of medical, dental, or mental health specialists.*

[ ~~§ 13-36.~~ 6 VAC 15-45-1540. ] *Access to health care by nongeneral population inmates.*

*Written policy, procedure, and practice shall require that inmates in categories of custody other than general population have access to regularly scheduled sick call and emergency medical care. The care shall be provided on-site or in the medical area depending on security and medical considerations.*

[ ~~§ 13-37.~~ 6 VAC 15-45-1550. ] *Refusal to accept treatment.*

*Written policy, procedure, and practice shall prohibit inmates from choosing their own health care provider, and require procedures for documentation of refusal to accept treatment.*

## Article 8. Informed Consent and Medical Research.

[ ~~§ 13-38.~~ 6 VAC 15-45-1560. ] *Informed consent.*

*Written policy, procedure, and practice shall provide that written informed consent for inmate health care is obtained where required and documented. When health care is rendered against the patient's will, it shall be in accord with applicable laws and regulations.*

[ ~~§ 13-39.~~ 6 VAC 15-45-1570. ] *Medical research.*

*Written policy, procedure, and practice shall prohibit the use of inmates for medical, pharmaceutical, or cosmetic experiments. This policy does not preclude individual treatment of an inmate based on his need for a specific medical procedure that is not generally available.*

## Article 9. Specialized Programs.

[ ~~§ 13-40.~~ 6 VAC 15-45-1580. ] *Health education program.*

*Written policy, procedure, and practice shall provide that a program of health education is available to all inmates of a facility.*

[ ~~§ 13-41.~~ 6 VAC 15-45-1590. ] *Special treatment programs.*

*Written policy, procedure, and practice shall provide for special treatment programs for inmates requiring close medical supervision as determined by the responsible physician, dentist or qualified mental health professional, and as required by the contract.*

[ ~~§ 13-42.~~ 6 VAC 15-45-1600. ] *Chemically dependent inmates.*

*Written policy, procedure, and practice shall guide the management of chemically dependent inmates under the supervision of a qualified health care practitioner.*

[ ~~§ 13-43.~~ 6 VAC 15-45-1610. ] *Medical and dental prostheses.*

*Written policy, procedure, and practice shall provide that medical and dental prostheses are provided when the health of the inmate would otherwise be affected, as determined by the responsible physician or dentist.*

[ ~~§ 13-44.~~ 6 VAC 15-45-1620. ] *Pregnant inmates.*

*Written policy, procedure, and practice shall provide for a system whereby pregnant inmates may obtain obstetrical medical and social services, and as required by the contract.*

[ ~~§ 13-45.~~ 6 VAC 15-45-1630. ] *Special diets.*

*Written policy, procedure, and practice shall provide that special diets are prescribed as needed and monitored by the responsible physician or dentist.*

Article 10.  
Health Records.

[ § 13.46. 6 VAC 15-45-1640. ] Transfer of health records.

Written policy, procedure, and practice shall provide that copies of the medical records of all inmates transferred are transferred to the custody of medical personnel at the receiving facility and that the confidentiality of the records shall be preserved during the transfer.

[ § 13.47. 6 VAC 15-45-1650. ] Complete health record.

Written policy, procedure, and practice shall govern the creation, organization, maintenance, and storage of a complete health record for each inmate, which documents all the health services rendered during the entire period of incarceration, as required by applicable Department of Corrections procedures.

[ § 13.48. 6 VAC 15-45-1660. ] Confidentiality.

Written policy, procedure, and practice shall uphold the principle of confidentiality of the health record and support the following requirements:

1. The health record shall be maintained separately from the facility record.
2. Access to the health record shall be controlled by the medical authority and is granted only to those who require it under departmental policy.
3. The medical authority shall share with the contractor information regarding security and the inmates' medical management, transfer, and ability to participate in programs.

[ § 13.49. 6 VAC 15-45-1670. ] Health record for transfers and consultations.

Written policy, procedure, and practice shall provide that the health record accompanies the inmate to all Department of Corrections facilities whether for transfers or for medical consultations and that the confidentiality of the health record is strictly maintained during such transfer.

[ § 13.50. 6 VAC 15-45-1680. ] Inactive health record files.

Written policy, procedure, and practice shall require that inactive health record files are sent to the Department of Corrections. Records shall be maintained in accordance with Library of Virginia guidelines. Microfilm records shall be sent to the Department of Corrections.

Article 11.  
Pharmacy Services.

[ § 13.51. 6 VAC 15-45-1690. ] Pharmaceutical services.

Written policy, procedure, and practice shall require that pharmaceutical services at the facility are in strict compliance with state and federal laws and applicable pharmaceutical regulations.

Article 12.  
Serious Illness and Death.

[ § 13.52. 6 VAC 15-45-1700. ] Notification of inmate death, injury, or illness.

Written policy, procedure, and practice shall specify and govern the process by which those individuals designated by the inmate are notified in case of serious illness, injury, or death.

PART XIV.  
LEGAL AND PROGRAMMATIC RIGHTS OF INMATES.

Article 1.  
Access to Courts.

[ § 14.1. 6 VAC 15-45-1710. ] Access to courts.

Written policy, procedure, and practice shall ensure inmates access to federal and state courts [ ~~private attorneys or their representatives, a legal library or a court-appointed attorney, and provisions for photocopying of legal documents~~ means meeting the current requirements of federal and state court decisions and any other federal or state law ].

Article 2.  
Programs and Services.

[ § 14.2. 6 VAC 15-45-1720. ] Access to programs and services.

Written policy, procedure, and practice shall provide that program access, work assignments, and administrative decisions are made without regard to inmates' race, religion, national origin, sex, handicap, or political views. Written policy, procedure, and practice shall protect inmates from personal abuse, corporal punishment, personal injury, disease, property damage, and harassment. Written policy, procedure, and practice shall allow freedom in personal grooming except when a valid security interest justifies otherwise.

[ § 14.3. 6 VAC 15-45-1730. ] Access to media.

Written policy, procedure, and practice shall provide for reasonable access between inmates and the media, subject only to the limitations necessary to maintain order and security and protect inmates' privacy. Media requests for interviews and the inmate's consent shall be in writing. Prior to granting media interviews with inmates, the Department of Corrections shall be notified.

[ § 14.4. 6 VAC 15-45-1740. ] Inmate grievance procedure.

Written policy, procedure, and practice shall provide for an inmate grievance procedure that is available to all inmates and includes at least one level of appeal and specific time limits. This procedure shall be reviewed and approved by the Department of Corrections.

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## PART XV. INMATE RULES AND DISCIPLINE.

~~[ § 15.1. Rules. 6 VAC 15-45-1750. Inmate ]~~ disciplinary procedures [ 7 ] and penalties.

The contractor shall subscribe to and comply with Department of Corrections [ ~~rules,~~ inmate ] disciplinary procedures [ 7 ] and penalties and shall have them available to all inmates and employees. The Department of Corrections shall approve the administration of any disciplinary measure. Signed acknowledgment of receipt of the rulebook shall be maintained in the inmate's file.

## PART XVI. MAIL, TELEPHONE, VISITING, AND PERSONAL PROPERTY.

### Article 1. Inmate Mail.

[ § 16.1. 6 VAC 15-45-1760. ] Inmate correspondence.

Written policy and procedure shall govern inmate correspondence; the policies and procedures shall be reviewed annually and updated as necessary.

[ § 16.2. 6 VAC 15-45-1770. ] Indigent inmates.

Written policy, procedure, and practice shall provide that indigent inmates receive a specified postage allowance of at least one first class letter per week.

[ § 16.3. 6 VAC 15-45-1780. ] Publications.

Written policy and procedure shall govern inmate access to publications, in accordance with Department of Corrections procedures.

[ § 16.4. 6 VAC 15-45-1790. ] Reading of inmate mail.

Procedures shall ensure that inmate mail shall not be read except where there is a reasonable belief that there is a threat to facility order and security, and then only in accordance with written policy and procedure.

[ § 16.5. 6 VAC 15-45-1800. ] Sealed letters.

Inmates shall be permitted to send sealed letters to persons and organizations specified in Department of Corrections procedures.

[ § 16.6. 6 VAC 15-45-1810. ] Holding of letters and packages.

Written policy, procedure, and practice shall require that, excluding Saturdays, Sundays and holidays, incoming and outgoing letters are held for no more than 24 hours and packages are held for no more than 48 hours.

[ § 16.7. 6 VAC 15-45-1820. ] Contraband.

Written policy, procedure, and practice shall govern inspection for and disposition of contraband.

## Article 2. Telephone, Visiting, and Personal Property.

[ § 16.8. 6 VAC 15-45-1830. ] Telephone privileges.

Written policy, procedure, and practice shall provide and govern access to telephone privileges for inmates.

[ § 16.9. 6 VAC 15-45-1840. ] Visiting privileges.

The contractor shall comply with Department of Corrections procedures regarding visiting privileges for inmates concerning time, screening, frequency, and number of visitors, and making provisions for special visits.

[ § 16.10. 6 VAC 15-45-1850. ] Personal property.

Written policy, procedure, and practice shall govern access to inmate personal property.

## PART XVII. RECEPTION AND ORIENTATION.

### Article 1. Admission and Orientation.

[ § 17.1. 6 VAC 15-45-1860. ] Admission of new inmates and parole violators.

If the facility is to house newly incarcerated inmates, written policies and procedures shall govern the admission of new inmates and parole violators to the system.

[ § 17.2. 6 VAC 15-45-1870. ] Summary admission report.

If the facility is to [ ~~house newly incarcerated inmates,~~ ~~written policy, procedure, and practice shall require the preparation of a summary admission report for all new admissions~~ function as a reception center for inmates received directly from local jails, policy and procedure shall require the preparation of an admission report for all new inmates ]. The report shall include the following information:

1. Legal aspects of the case.
2. Summary of criminal history, if any.
3. Social history.
4. Medical, dental, and mental health history.
5. Occupational experience and interests.
6. Educational status and interests.
7. Vocational programming.
8. Recreational preference and needs assessment.
9. Psychological evaluation; staff recommendations.
10. [ ~~Pre-facility~~ Local jail ] assessment information.

[ § 17.3. 6 VAC 15-45-1880. ] Inmate orientation.

Written policy, procedure, and practice shall provide that new inmates receive written orientation materials. When a literacy or language problem exists, a staff member shall assist the inmate in understanding the material. Completion of orientation shall be documented by a statement signed and dated by the inmate. Inmates transferred from other facilities shall receive an orientation to the new facility.

[ ~~§ 17.4~~ 6 VAC 15-45-1890. ] Medical and mental health screening.

Written policy, procedure, and practice shall provide that all newly incarcerated inmates undergo medical, dental, and mental health screening by health-trained or qualified personnel, to include a complete medical history, physical examination, screening laboratory tests, and other tests as ordered by the responsible physician or dentist. All findings shall be recorded on forms approved by the medical authority and a medical classification code is assigned to each inmate.

PART XVIII.  
CLASSIFICATION.

[ ~~§ 18.1~~ 6 VAC 15-45-1900. ] Classification program.

Written policy, procedure, and practice shall provide that the Department of Corrections classification program be utilized. The contractor shall facilitate the application of the Department of Corrections classification process, but the Department of Corrections will make all classification decisions.

[ ~~§ 18.2~~ 6 VAC 15-45-1910. ] Housing assignments.

Written policy, procedure, and practice shall provide for screening of inmates double celled in a room or cell.

PART XIX.  
WORK PROGRAMS.

[ ~~§ 19.1~~ 6 VAC 15-45-1920. ] Inmate participation in work programs.

Written policy, procedure, and practice shall provide for full-time work or programmatic participation of general population inmates, as required by the contract, which take into account the inmate's level of risk to staff, the general public, and facility needs. Policy and procedure shall provide that work performance is evaluated, and that the results are considered in recommending appropriate sentence credits and other incentives to the Department of Corrections.

[ ~~§ 19.2~~ 6 VAC 15-45-1930. ] Training of employees.

Employees shall be trained in inmate work supervision and other areas specifically related to that inmate work assignment prior to independent functioning as work supervisors.

PART XX.  
EDUCATIONAL SERVICES.

[ ~~§ 20.1~~ 6 VAC 15-45-1940. ] Educational services.

The facility shall provide space, maintain facilities, and provide services for academic, vocational education, and library programs, as required by the contract.

PART XXI.  
INMATE RECREATION AND ACTIVITIES.

[ ~~§ 21.1~~ 6 VAC 15-45-1950. ] Recreational program.

Written policy, procedure, and practice shall provide for a recreational program that includes leisure time activities and outdoor exercise.

[ ~~§ 21.2~~ 6 VAC 15-45-1960. ] Opportunity for exercise.

Every inmate (excluding isolation) who is not employed in outdoor work shall have the opportunity for at least one hour of exercise three separate days per week in an out-of-door area, weather permitting.

[ ~~§ 21.3~~ 6 VAC 15-45-1970. ] Adequate facilities and equipment.

Adequate facilities and equipment for the planned recreation or exercise activities shall be available to the inmate population and shall be maintained in good condition.

[ ~~§ 21.4~~ 6 VAC 15-45-1980. ] Staff supervision.

All recreational activities shall be under staff supervision and approved by the contractor.

[ ~~§ 21.5~~ Commissary services.

~~Inmates shall have access to commissary services.~~

PART XXII.  
RELIGIOUS PROGRAMS AND SERVICES.

[ ~~§ 22.1~~ 6 VAC 15-45-1990. ] Access to religious programs.

Written policy, procedure, and practice shall provide for access to religious programs for all inmates on a voluntary basis. No preference may be given to any activity of one religious denomination, faith, or sect over another.

[ ~~§ 22.2~~ 6 VAC 15-45-2000. ] Chaplains.

Chaplains, clergy, or other religious leaders shall have access to the facility to attend to the religious needs of the inmates.

[ ~~§ 22.3~~ 6 VAC 15-45-2010. ] Confidential counseling.

Counseling by chaplains and clergy shall be confidential.

[ ~~§ 22.4~~ 6 VAC 15-45-2020. ] Space for worship.

Adequate and appropriate space for worship shall be made available by the facility.

PART XXIII.  
COUNSELING AND PROGRAM SERVICES.

[ ~~§ 23.1~~ 6 VAC 15-45-2030. ] Core programs.

Written policy, procedure, and practice shall provide for a system of core programs at each facility appropriate to the needs of inmates.

[ ~~§ 23.2~~ 6 VAC 15-45-2040. ] Program standards and guidelines.

Core programs required by the contract shall meet program standards and guidelines established by the Department of Corrections.

[ ~~§ 23.3~~ 6 VAC 15-45-2050. ] Assignment of counselor.

Written policy, procedure, and practice shall provide that each inmate is assigned a counselor. Staff shall be available to counsel inmates and provisions shall be made for counseling and crisis intervention services as needed.

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[ § 23.4. 6 VAC 15-45-2060. ] *Counseling services.*

*Counseling shall be provided by persons qualified by either formal education or training.*

[ § 23.5. 6 VAC 15-45-2070. ] *Licensure and certification of clinical treatment providers.*

*Written policy, procedure, and practice shall provide that persons providing clinical treatment and professional services are certified or licensed as required by law or regulations.*

[ § 23.6. 6 VAC 15-45-2080. ] *Identifying needs of population.*

*Written policy, procedure, and practice shall provide that facility staff conduct an evaluation of the needs of the inmate population at least every 12 months in order to identify necessary programs and services, or to identify changes needed to existing programs and services.*

## PART XXIV. RELEASE PREPARATION.

[ § 24.1. 6 VAC 15-45-2090. ] *Release preparation.*

*Written policy, procedure, and practice shall provide that all inmates have access to a program of release preparation prior to their release to the community.*

## PART XXV. CITIZEN INVOLVEMENT AND VOLUNTEERS.

[ § 25.1. 6 VAC 15-45-2100. ] *Policies and procedures for citizen and volunteer programs.*

*Written policy and procedure shall specify the lines of authority, responsibility, and accountability for the facility's citizen involvement and volunteer services program.*

[ § 25.2. 6 VAC 15-45-2110. ] *Volunteer orientation.*

*Written policy, procedure, and practice shall provide that each volunteer completes an appropriate, documented orientation or training program prior to assignment.*

[ § 25.3. 6 VAC 15-45-2120. ] *Volunteers to abide by rules.*

*Volunteers shall agree in writing to abide by all facility policies, particularly those relating to the security and confidentiality of information.*

[ § 25.4. 6 VAC 15-45-2130. ] *Qualified volunteers.*

*Volunteer services shall be provided by persons qualified by formal and applicable education, training, or experience.*

VA.R. Doc. No. R96-67; Filed October 20, 1995, 10:46 a.m.

## DEPARTMENT OF GAME AND INLAND FISHERIES (BOARD OF)

**REGISTRAR'S NOTICE:** The Department of Game and Inland Fisheries is exempt from the Administrative Process Act pursuant to subdivision A 3 of § 9-6.14:4.1 of the Code of Virginia when promulgating regulations regarding the management of wildlife.

**Title of Regulation:** [ ~~VR 325-01-4.~~ 4 VAC 15-20-10 et seq. ]  
**Definitions and Miscellaneous:** In General.

**Statutory Authority:** §§ 29.1-501, 29.1-502 and 29.1-566 of the Code of Virginia.

**Effective Date:** January 1, 1996.

### Summary:

*The amendment adds the wolf hybrid to the definition of domestic dog thus making wolf hybrids domestic animals by definition. This coupled with changes to VR 325-01-2, § 4 (4 VAC 15-30-40), removes wolf hybrids from regulation by the Department of Game and Inland Fisheries.*

**Agency Contact:** Copies of the regulation may be obtained from Phil Smith, Regulatory Coordinator, Department of Game and Inland Fisheries, 4010 West Broad Street, Richmond, VA 23230, telephone (804) 367-8341.

4 VAC 15-20-10 et seq. Definitions and Miscellaneous: In General.

## [ CHAPTER 20. DEFINITIONS AND MISCELLANEOUS: IN GENERAL. ]

[ § 1. 4 VAC 15-20-10. ] Definitions; generally.

Words and phrases used in any regulations made by the board shall have the same meaning, unless the context clearly indicates otherwise, as is given for such words and phrases in the Virginia Game and Inland Fisheries laws contained in Title 29.1 of the Code of Virginia.

[ § 2. 4 VAC 15-20-20. ] Definitions; "Counties east of the Blue Ridge Mountains."

Whenever the words "counties east of the Blue Ridge Mountains," or language equivalent thereto, appear in a regulation of the board, such words shall apply to the following counties and cities:

Accomack	King and Queen
Albemarle	King George
Amelia	King William
Amherst	Lancaster
Appomattox	Loudoun
Arlington	Louisa
Bedford	Lunenburg
Brunswick	Madison
Buckingham	Mathews
Campbell	Mecklenburg
Caroline	Middlesex
Charles City	Nelson
Charlotte	New Kent
Chesapeake City	Newport News City
Chesterfield	Northampton

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Culpeper	Northumberland
Cumberland	Nottoway
Dinwiddie	Orange
Essex	Patrick
Fairfax	Pittsylvania
Fauquier	Powhatan
Fluvanna	Prince Edward
Franklin	Prince George
Gloucester	Prince William
Goochland	Rappahannock
Greene	Richmond
Greensville	Southampton
Halifax	Spotsylvania
Hampton City	Stafford
Hanover	Suffolk City
Henrico	Surry
Henry	Sussex
Isle of Wight	Virginia Beach City
James City	Westmoreland
	York

Wythe

[ §-3-1. 4 VAC 15-20-40. ] Definitions; Dismal Swamp Line.

Whenever the words "Dismal Swamp Line," or language equivalent thereto, appear in a regulation of the board, such words shall apply to a line: Beginning at a point on State Highway 10 where it intersects the Isle of Wight County line, thence along such highway to its intersection with the corporate limits of the City of Suffolk, thence through the corporate limits of the City of Suffolk to its intersection with State Secondary Highway 642, and thence along State Secondary Highway 642 (White Marsh Road) in a southerly and westerly direction to State Secondary Highway 604 (Desert Road), and thence southerly along State Secondary Highway 604 to the North Carolina line.

[ §-4. (Repealed.) ]

[ §-5. 4 VAC 15-20-50. ] Definitions; "wild animal," "native animal," "naturalized animal," "nonnative (exotic) animal" and "domestic animal."

In accordance with § 29.1-100 of the Code of Virginia, the following terms shall have the meanings ascribed to them by this section when used in regulations of the board:

*"Wild animal"* means any member of the animal kingdom, except domestic animals, including without limitation any native, naturalized, or nonnative (exotic) mammal, fish, bird, amphibian, reptile, mollusk, crustacean, arthropod or other invertebrate, and includes any hybrid thereof, except as otherwise specified in regulations of the board, or part, product, egg, or offspring thereof, or the dead body or parts thereof.

*"Native animal"* means those species and subspecies of animals naturally occurring in Virginia, as included in the department's 1991 official listing of "Native and Naturalized Fauna of Virginia," with copies available in the Richmond and regional offices of the department.

*"Naturalized animal"* means those species and subspecies of animals not originally native to Virginia which have established wild, self-sustaining populations, as included in the department's 1991 official listing of "Native and Naturalized Fauna of Virginia," with copies available in the Richmond and regional offices of the department.

*"Nonnative (exotic) animal"* means those species and subspecies of animals not naturally occurring in Virginia, excluding domestic and naturalized species.

The following animals are defined as domestic animals.

Domestic dog (*Canis familiaris*), including wolf hybrids.

Domestic cat (*Felis catus*), including hybrids with wild felines.

Domestic horse (*Equus caballus*), including hybrids with *Equus asinus*.

Domestic ass, burro, and donkey (*Equus asinus*).

Domestic cattle (*Bos taurus* and *Bos indicus*).

Domestic sheep (*Ovis aries*), including hybrids with wild sheep.

[ §-3. 4 VAC 15-20-30. ] Definitions; "Counties west of the Blue Ridge Mountains."

Whenever the words "counties west of the Blue Ridge Mountains," or language equivalent thereto, appear in a regulation of the board, such words shall apply to the following counties:

Alleghany	Lee
Augusta	Montgomery
Bath	Page
Bland	Pulaski
Botetourt	Roanoke
Buchanan	Rockbridge
Carroll	Rockingham
Clarke	Russell
Craig	Scott
Dickenson	Shenandoah
Floyd	Smyth
Frederick	Tazewell
Giles	Warren
Grayson	Washington
Highland	Wise

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Domestic goat (*Capra hircus*).

Domestic swine (*Sus scrofa domestica*), including pot-bellied pig.

Llama (*Lama glama*).

Alpaca (*Lama pacos*).

Camels (*Camelus bactrianus* and *Camelus dromedarius*).

Domesticated races of hamsters (*Mesocricetus* spp.).

Domesticated races of mink (*Mustela vison*) where adults are heavier than 1.15 kg or their coat color can be distinguished from wild mink.

Domesticated races of red fox (*Vulpes*) where their coat color can be distinguished from wild red fox.

Domesticated races of guinea pigs (*Cavia porcellus*).

Domesticated races of gerbils (*Meriones unguiculatus*).

Domesticated races of chinchillas (*Chinchilla laniger*).

Domesticated races of rats (*Rattus norvegicus* and *Rattus rattus*).

Domesticated races of mice (*Mus musculus*).

Domesticated races of European rabbit (*Oryctolagus cuniculus*).

Domesticated races of chickens (*Gallus*).

Domesticated races of turkeys (*Meleagris gallopavo*).

Domesticated races of ducks and geese distinguishable morphologically from wild birds.

Feral pigeons (*Columba domestica* and *Columba livia*) and domesticated races of pigeons.

Domesticated races of guinea fowl (*Numida meleagris*).

Domesticated races of peafowl (*Pavo cristatus*).

[ §-6. 4 VAC 15-20-60. ] Definitions; "Person."

The word "person," when used in the regulations of the board, may extend and be applied to bodies politic and corporate as well as individuals.

[ §-7. 4 VAC 15-20-70. ] Violations of regulations.

Any violation of any regulation or part thereof of the board is made a misdemeanor by §§ 29.1-505 and 29.1-746 of the Code of Virginia and persons convicted of such violation will be punished as provided in said sections or other applicable provisions of the Code of Virginia.

[ §-8. 4 VAC 15-20-80. ] Certificate on hunting, trapping and fishing license to be executed by licensee.

No state or county resident license to hunt, trap or fish in or on the lands or inland waters of this Commonwealth shall be deemed to be issued until the certificate printed on the reverse side thereof shall have been executed by the named licensee.

[ §-9. 4 VAC 15-20-90. ] Permits for drilling, dredging and other operations in Back Bay area.

Drilling, dredging and any other operation designed to recover or obtain shell, minerals or any other substance shall be unlawful on lands owned by or under the control of the Commonwealth of Virginia under Back Bay, its tributaries and the North Landing River from the North Carolina line to North Landing Bridge unless a permit is first obtained from the board. Application for a permit under this section shall be made to the board in such form and substance as the board may require. Under the authority of § 29.1-103 of the Code of Virginia, the board shall grant or refuse such permits as conditions may require in order to prevent practices and operations which would harm the area for fish and wildlife.

[ §-10. 4 VAC 15-20-100. ] Prohibited use of vehicles on department-owned lands.

It shall be unlawful on department-owned lands to drive through or around gates designed to prevent entry with any type of motorized vehicle or to use such vehicles to travel anywhere on such lands except on roads open to vehicular traffic. Any motor-driven conveyance shall conform with all state laws for highway travel; provided, that this requirement shall not apply to the operation of motor vehicles for administrative purposes by department-authorized personnel on department-owned lands.

[ §-11. 4 VAC 15-20-110. ] Refusal to surrender licenses, permits, stamps or records to department representatives.

No agent, or any other person for him, in possession of issued or unissued hunting, fishing or trapping licenses, permits or stamps or records pertaining thereto, shall refuse to surrender upon demand such licenses, permits, stamps or records to department representatives authorized by the director to take such licenses, permits, stamps and records into custody.

[ §-12. 4 VAC 15-20-120. ] Appointment of new consignment agents for sale of hunting and fishing licenses.

A. Except as provided below, no person shall be appointed as a consignment agent for the sale of hunting and fishing licenses unless he first sells licenses on a cash basis for at least one year. In addition, the dollar volume of actual or projected sales must equal at least 90% of the average hunting and fishing license sales of consignment agents in the locality.

B. If the cash agent sells the required number of licenses, he may be appointed as a consignment agent, provided he is approved for a surety bond by the board's bonding company.

C. This regulation is applicable to new appointments and not to transfers of existing appointments; provided, that the director may appoint consignment agents as needed to provide for a minimum of two consignment agents within a locality. In addition, the director may appoint consignment agents on state-owned or state-leased facilities.

[ § 13. 4 VAC 15-20-130. ] Endangered and threatened species. Adoption of federal list; additional species enumerated.

A. The board hereby adopts the Federal Endangered and Threatened Species List, Endangered Species Act of December 28, 1973 (16 U.S.C. 1531-1543), as amended, and declares all species listed thereon to be endangered or threatened species in the Commonwealth.

B. In addition to the provisions of subsection A, the following species are declared endangered or threatened in this Commonwealth, and are afforded the protection provided by Article 6 [ ; (§ 29.1-563 et seq.) of ] Chapter 5 [ ; of ] Title 29.1 of the Code of Virginia:

1. Fish:

Endangered:

Dace, Tennessee	Phoxinus Tennesseeensis
Darter, duskytail	Etheostoma sp
Darter, sharphead	Etheostoma acuticeps
Darter, variegate	Etheostoma variatum
Sunfish, blackbanded	Enneacanthus chaetodon

Threatened:

Darter, Carolina	Etheostoma collis
Darter, Tippecanoe	Etheostoma tippecanoe
Darter, greenfin	Etheostoma chlorobranchium
Darter, longhead	Percina macrocephala
Darter, western sand	Ammocrypta clara
Madtom, orangefin	Noturus gilberti
Paddlefish	Polyodon spathula
Shiner, emerald	Notropis atherinoides
Shiner, steelcolor	Cyprinella whipplei
Shiner, whitemouth	Notropis alborus

2. Amphibians:

Endangered:

Salamander, eastern tiger	Ambystoma tigrinum
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Threatened:

Salamander, Mabee's	Ambystoma mabeei
Treefrog, barking	Hyla gratiosa

3. Reptiles:

Endangered:

Rattlesnake, canebrake	Crotalus horridus atricaudatus
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Turtle, bog	Clemmys muhlenbergii
Turtle, chicken	Deirochelys reticularia

Threatened:

Lizard, eastern glass	Ophisaurus ventralis
Turtle, wood	Clemmys insculpta

4. Birds:

Endangered:

Plover, Wilson's	Charadrius wilsonia
Wren, Bewick's	Thryomanes bewicki

Threatened:

Sandpiper, upland	Bartramia longicauda
Shrike, loggerhead	Lanius ludovicianus
Sparrow, Bachman's	Ammophila aestivalis
Sparrow, Henslow's	Ammodrammus henslowii
Tern, gull-billed	Sterna nilotica

5. Mammals:

Endangered:

Bat, eastern big-eared	Plecotus rafinesquii macrotis
Hare, snowshoe	Lepus americanus
Shrew, water	Sorex palustris
Vole, rock	Microtus chrotorrhinus

6. Molluscs:

Endangered:

Bean, purple	Villosa perpurpurea
Cavesnail, Unthanks	Holsingeria unthinksensis
Coil, rubble	Helicodiscus lirellus
Coil, shaggy	Helicodiscus diadema
Combshell, Cumberland	Epioblasma brevidens
Deertoe	Truncilla truncata
Elephant-ear	Eliptio crassidens
Floater, brook	Alasmidonta varicosa
Heelsplitter, Tennessee	Lasmigona holstonia
Lilliput, purple	Toxolasma lividus
Mussel, oyster	Epioblasma capsaeformis
Mussel, slippershell	Alasmidonta viridis

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Pigtoe, Ohio	Pleurobema cordatum
Pigtoe, pink	Pleurobema rubrum
Snuffbox	Epioblasma triquetra
Spectaclecase	Cumberlandia monodonta
Supercoil, spirit	Paravitrea hera

Threatened:

Papershell, fragile	Leptodea fragilis
Pearlymussel, slabside	Lexingtonia dolabelloides
Pigtoe, Atlantic	Fusconaia masoni
Pimpleback	Quadrula pustulosa pustulosa
Rabbitsfoot, rough	Quadrula cylindrica strigillata
Riversnail, spiny	Io fluviialis
Sandshell, black	Ligumia recta
Sheepnose	Plethobasus cyphus
Supercoil, brown	Paravitrea septadens

7. Arthropods:

Threatened:

Amphipod, Madison Cave	Stygobromus stegerorum
Pseudotremia, Ellett Valley	Pseudotremia cavernarum
Xystodesmid, Laurel Creek	Sigmoria whiteheadi

C. It shall be unlawful to take, transport, process, sell or offer for sale within the Commonwealth any threatened or endangered species of fish or wildlife.

[ §14. 4 VAC 15-20-140. ] Endangered species; definitions.

For the purposes of §§ 29.1-564 through 29.1-570 of the Code of Virginia, [ § 13 of this regulation 4 VAC 15-20-130, ] and this section:

1. "Endangered species" means any species which is in danger of extinction throughout all or a significant portion of its range within the Commonwealth, other than a species of the class Insecta deemed to be a pest whose protection would present an overriding risk to the health or economic welfare of the Commonwealth.
2. "Fish or wildlife" means any member of the animal kingdom, vertebrate or invertebrate, without limitation, and includes any part, products, egg or the dead body or parts thereof.
3. "Harass," in the definition of "take," means an intentional or negligent act or omission which creates the likelihood of injury to wildlife by annoying it to such an extent as to significantly disrupt normal behavior patterns

which include, but are not limited to, breeding, feeding or sheltering.

4. "Harm," in the definition of "take," means an act which actually kills or injures wildlife. Such act may include significant habitat modifications or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering.

5. "Person" means any individual, firm, corporation, association or partnership.

6. "Special concern" means any species, on a list maintained by the director, which is restricted in distribution, uncommon, ecologically specialized or threatened by other imminent factors.

7. "Species" includes any subspecies of fish or wildlife and any district population segment of any species or vertebrate fish or wildlife which interbreed when mature.

8. "Take" means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, possess or collect, or to attempt to engage in any such conduct.

9. "Threatened species" means any species which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range within the Commonwealth.

[ §-15. 4 VAC 15-20-150. ] Structures on department-owned lands and national forest lands.

A. It shall be unlawful to construct, maintain or occupy any permanent structure, except by permit, on department-owned lands and national forest lands. This provision shall not apply to structures, stands or blinds provided by the department.

B. It shall be unlawful to maintain any temporary dwelling on department-owned lands for a period greater than 14 consecutive days. Any person constructing or occupying any temporary structure shall be responsible for complete removal of such structures when vacating the site.

C. It shall be unlawful to construct, maintain or occupy any tree stand on department-owned lands and national forest lands; provided, that portable tree stands which are not permanently affixed may be used.

[ §-16. 4 VAC 15-20-160. ] Nuisance species designated.

A. The board hereby designates the following species as nuisance species pursuant to § 29.1-100 of the Code of Virginia.

1. Mammals:
  - a. House mouse (*Mus musculus*).
  - b. Norway rat (*Rattus norvegicus*).
  - c. Black rat (*Rattus rattus*).
  - d. Coyote (*Canis latrans*).
2. Birds:
  - a. European starling (*Sturnus vulgaris*).

- b. English (house) sparrow (*Passer domesticus*).
- c. Pigeon (Rock Dove) (*Columba livia*).

B. It shall be unlawful to take, possess, transport or sell all other wildlife species not classified as game, furbearer or nuisance, or otherwise specifically permitted by law or regulation.

[ ~~§ 17.~~ 4 VAC 15-20-170. ] Taking and possession of certain rodents for private use.

Except as otherwise provided for in the Code of Virginia and regulations of the board, it shall be lawful to take and possess no more than three individuals of any single species of rodents (order Rodentia) for private use except for those species listed as game or furbearers, endangered or threatened ( [ ~~Code of Virginia,~~ ] § 29.1-568 [ *of the Code of Virginia* ] ), or listed as special concern, including the following:

1. Allegheny woodrat (*Neotoma floridana*).
2. Pungo mouse (*Peromyscus leucopus easti*).
3. Rock vole (*Microtus chrotorrhinus carolinensis*).
4. Cotton mouse (*Peromyscus gossypinus gossypinus*).

[ ~~§ 18.~~ 4 VAC 15-20-180. ] Taking of invertebrates.

A. Earthworms. Earthworms may be taken at any time for private or commercial use.

B. Other invertebrates. Except as otherwise provided for in §§ 3.1-1020 through 3.1-1030 and 29.1-418 of the Code of Virginia and in [ ~~VR 325-01-1, § 13, VR 325-01-2 and VR 325-03-5, § 4~~ 4 VAC 15-20-130, 4 VAC 15-30-10 *et seq.* and 4 VAC 15-360-10 ] invertebrates, other than those listed in endangered or threatened, may be taken for private use.

[ ~~§ 19.~~ 4 VAC 15-20-190. ] Definitions; "designated stocked trout waters."

When used in regulations of the board, "designated stocked trout waters" will include those waters that are stocked with harvestable-sized trout and are listed by the director in the annual Trout Stocking Plan. These waters will only be considered designated stocked trout waters from October 1 through June 15, both dates inclusive, except for fee fishing waters covered by [ ~~VR 325-03-1, § 12~~ 4 VAC 15-320-120 ], and urban fishing waters covered by [ ~~VR 325-03-2, § 17~~ 4 VAC 15-330-200 ]. Designated stocked trout waters are either posted by the department with appropriate "stocked trout waters" signs or are posted as fee fishing areas under [ ~~VR 325-03-1, § 12~~ 4 VAC 15-320-120 ].

[ ~~§ 20.~~ 4 VAC 15-20-200. ] Fees for miscellaneous permits.

A. Pursuant to §§ 29.1-417, 29.1-418, 29.1-422, 29.1-743 and other applicable provisions of the Code of Virginia, except as provided by these regulations the following fees shall be paid by applicants for the specified permits before any such permit may be issued.

Boat Ramp Special Use	
Nonprofit Public Use .....	\$10
Private/Commercial Use .....	\$50

Boat Regattas/Tournaments.....	\$50/day
Collect and Sell.....	\$50
Commercial Nuisance Animals.....	\$25
Deer Farming.....	\$350
Exhibitors	
Commercial Use .....	\$50
Educational/Scientific Use .....	\$20
Exotic Importation and Holding.....	\$10
Field Trial.....	\$25
Hold for Commercial Use .....	\$10
Propagation	
Commercial Use .....	\$50
Private Use .....	\$20
Licensed Shooting Preserves .....	\$20
Rehabilitation.....	\$10
Scientific Collection .....	\$20
Special Hunting Permit.....	\$10
Striped Bass Tournament.....	\$10
Threatened & Endangered Species .....	\$20
Trout Catch-Out Pond .....	\$50
Wolf Hybrid -- Individual	
Nonneutered .....	\$20/animal
Neutered .....	\$10/animal
Wolf Hybrid -- Kennel.....	\$100

B. Veterinarians shall not be required to pay a permit fee or to obtain a permit to hold wildlife temporarily for medical treatment.

VA.R. Doc. No. R96-70; Filed October 24, 1995, 11:28 a.m.

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**Title of Regulation:** [ ~~VR 325-01-2, 4 VAC 15-30-10 *et seq.*~~ ]  
**Definitions and Miscellaneous:** Importation, Possession, Sale, Etc., of Animals.

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

**Effective Date:** January 1, 1996.

**Summary:**

*The amendments (i) remove wolf hybrids from the department's nonnative exotic animal list and remove the requirement for a department permit to possess, sell or import a wolf hybrid; (ii) clarify language in the regulation concerning the listing of coyote hybrids; and (iii) clarify language addressing exceptions in the mammalian listing of nonnative exotics.*

# Final Regulations

**Agency Contact:** Copies of the regulation may be obtained from Phil Smith, Regulatory Coordinator, Department of Game and Inland Fisheries, 4010 West Broad Street, Richmond, VA 23230, telephone (804) 367-8341.

4 VAC 15-30-10 et seq. Definitions and Miscellaneous: Importation, Possession, Sale, Etc., of Animals.

[ CHAPTER 30.

**DEFINITIONS AND MISCELLANEOUS: IMPORTATION, POSSESSION, SALE, ETC., OF ANIMALS. ]**

[ §-4. 4 VAC 15-30-10. ] Possession, importation, sale, etc., of wild animals.

Under the authority of §§ 29.1-103 and 29.1-521 of the Code of Virginia it shall be unlawful to take, possess, import, cause to be imported, export, cause to be exported, buy, sell, offer for sale or liberate within the Commonwealth any wild animal unless otherwise specifically permitted by law or regulation. Unless otherwise stated, for the purposes of identifying species regulated by the board, when both the scientific and common names are listed, the scientific reference to genus and species will take precedence over common names.

[ §-2. 4 VAC 15-30-20. ] Permit required to import, liberate or possess predatory or undesirable animals or birds.

Under the authority of § 29.1-542 of the Code of Virginia, live wolves or coyotes, or birds or animals otherwise classed as predatory or undesirable, may not be imported into the Commonwealth or liberated therein, or possessed therein, except under a special permit of the board. Before such permit is issued, the importer shall make application to the department, giving the place of origin, the name and address of the exporter and a certificate from a licensed and accredited practicing veterinarian, or certified fish pathologist, certifying that the animal to be imported is not manifesting any signs of infectious, contagious, or communicable disease.

[ §-3. 4 VAC 15-30-30. ] Exclusions.

This regulation does not prohibit the possession, importation, and sale of native or naturalized albino amphibians, native or naturalized albino reptiles, or those domestic animals as defined in [ VR 325-01-1, §-5 4 VAC 15-20-50 ].

[ §-4. 4 VAC 15-30-40. ] Importation requirements, possession and sale of nonnative (exotic) animals.

A. Permit required. A special permit is required and may be issued by the department, if consistent with the department's fish and wildlife management program, to import, possess, or sell wolves, wolf hybrids or those nonnative (exotic) animals listed below that the board finds and declares to be predatory or undesirable within the meaning and intent of § 29.1-542 of the Code of Virginia, in that their introduction into the Commonwealth will be detrimental to the native fish and wildlife resources of Virginia:

**AMPHIBIANS:**

Order	Family	Genus/Species	Common Name
Anura	Bufo	Bufo marinus	Giant or marine toad*
	Pipidae	Xenopus spp.	Tongueless or African clawed frog
Caudata	Ambystomatidae	Ambystoma tigrinum mavortium	Barred tiger salamander
		A. t. diaboli	Gray tiger salamander
		A. t. melanostictum	Blotched tiger salamander

**BIRDS:**

Order	Family	Genus/Species	Common Name
Psittaciformes	Psittacidae	Myiopsitta monachus	Monk parakeet*

**FISH:**

Order	Family	Genus/Species	Common Name
Cypriniformes	Catostomidae	Ictiobus bubalus	Smallmouth buffalo*
		I. cyprinellus	Bigmouth buffalo*
		I. niger	Black buffalo*
	Characidae	Pygopristis spp.	Piranhas
		Pygocentrus spp.	
		Rooseveltiella spp.	
		Serrasalmo spp.	
		Serrasalmus spp.	
		Taddyyella spp.	
		Cyprinidae	Aristichthys nobilis
	Ctenopharyngodon idella	Grass carp or white amur	
	Cyprinella lutrensis	Red shiner	
	Hypophthalmichthys molitrix	Silver carp*	
	Mylopharyngodon piceus	Black carp	
	Scardinius erythrophthalmus	Rudd	
	Tinca tinca	Tench*	
Perciformes	Cichlidae	Tilapia spp.	Tilapia
		Gymnocephalus cernuum	Ruffe*
Siluriformes	Clariidae	All Species	Air-breathing catfish

## MAMMALS:

Order	Family	Genus/Species	Common Name
Artiodactyla	Suidae	All Species	Pigs or Hogs*
	Cervidae	All Species	Deer*
Carnivora	Canidae	All Species	Wild Dogs*, Wolves, Coyotes or Coyote hybrids thereof, Jackals and Foxes
	Ursidae	All Species	Bears*
	Procyonidae	All Species	Raccoons and* Relatives
	Mustelidae	All Species	Weasels, Badgers,* Skunks and Otters
		Except (except <i>Mustela</i> <i>Putorius furo</i> )	Ferret
	Viverridae	All Species	Civets, Genets,* Lingsangs, Mongoosees, and Fossas
	Herpestidae	All Species	Mongoosees*
	Hyaenidae	All Species	Hyenas*
	Protelidae	<i>Proteles cristatus</i>	Aardwolf*
	Felidae	All Species	Cats*
Chiroptera		All Species	Bats*
Lagomorpha	Lepridae	<i>Lepus europeaeus</i>	European hare
		<i>Oryctolagus curniculus</i>	European rabbit

## MOLLUSKS:

Order	Family	Genus/Species	Common Name
Veneroida	Dreissenidae	<i>Dreissena polymorpha</i>	Zebra mussel

## REPTILES:

Order	Family	Genus/Species	Common Name
Squamata	Alligatoridae	All Species	Alligators, Caimans*
	Colubridae	<i>Boiga irregularis</i>	Brown tree snake*
	Crocodylidae	All Species	Crocodiles*
	Gavialidae	All Species	Gavials*

B. Temporary possession permit for certain animals. Notwithstanding the permitting requirements of subsection A, a person, company or corporation possessing any nonnative (exotic) animal, designated with an asterisk (\*) in subsection A, prior to July 1, 1992; must declare such possession in writing to the department by January 1, 1993. This written declaration shall serve as a permit for possession only, is not

transferable, and must be renewed every five years. This written declaration must include species name, common name, number of individuals, date(s) acquired, sex (if possible), estimated age, height or length, and other characteristics such as bands and band numbers, tattoos, registration numbers, coloration, and specific markings. Possession transfer will require a new permit according to the requirements of this subsection.

C. Exception for certain monk parakeets. A permit is not required for monk parakeets (quakers) that have been captive bred and are closed-banded.

D. Exception for parts or products. A permit is not required for parts or products of those nonnative (exotic) animals listed in subsection A that may be used in the manufacture of products or used in scientific research, provided that such parts or products be packaged outside the Commonwealth by any person, company, or corporation duly licensed by the state in which the parts originate. Such packages may be transported into the Commonwealth, consistent with other state laws and regulations, so long as the original package remains unbroken, unopened and intact until its point of destination is reached. Documentation concerning the type and cost of the animal parts ordered, the purpose and date of the order, point and date of shipping, and date of receiving shall be kept by the person, business or institution ordering such nonnative (exotic) animal parts. Such documentation shall be open to inspection by a representative of the Department of Game and Inland Fisheries.

E. Exception for certain mammals. Nonnative (exotic) mammals listed in subsection A that are imported or possessed by dealers, exhibitors, transporters, and researchers who are licensed or registered by the United States Department of Agriculture under the Animal Control Act (7 U.S.C. §§ 2131 et seq.) will be deemed to be permitted pursuant to this section, provided that those individuals wanting to import such animals notify the department 24 hours prior to importation with a list of animals to be imported, a schedule of dates and locations where those animals will be housed while in the Commonwealth, and a copy of the current license(s) or registration(s) from the U.S. Department of Agriculture, and further provided that such animals shall not be liberated within the Commonwealth.

~~F. Exemptions for hybrids between dogs (*Canis familiaris*) and wolves (*Canis lupus*). A permit will not be required to import, possess or sell hybrids between domestic dogs (*Canis familiaris*) and wolves (*Canis lupus*) until July 1, 1993.~~

G. F. All other nonnative (exotic) animals. All other nonnative (exotic) animals not listed in subsection A may be possessed and sold; provided, that such animals shall be subject to all applicable local, state, and federal laws and regulations, including those that apply to threatened/endangered species, and further provided, that such animals shall not be liberated within the Commonwealth.

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[ §-5. 4 VAC 15-30-50. ] Possession, transportation, and release of wildlife by authorized persons.

A. Department employees in the performance of their official duties; U.S. government agencies' employees whose responsibility includes fisheries and wildlife management; and county, city or town animal control officers in the performance of their official duties related to public health concerns or problem wildlife removal will be deemed to be permitted pursuant to this section to capture, temporarily hold or possess, transport, release, and when necessary humanely euthanize wildlife, provided that the methods of and documentation for the capture, possession, transport, release and euthanasia shall be in accordance with board policy.

B. Employees or agents of other state wildlife agencies while in the performance of their official duty in transporting wildlife through the Commonwealth will be deemed to be permitted pursuant to this section, provided that a list of animals to be transported, a schedule of dates and locations where those animals will be housed while in the Commonwealth, and a letter of authorization from both the forwarding and receiving state agencies are provided to the department 24 hours prior to the transporting of such animals, and further provided that such animals shall not be liberated within the Commonwealth.

VA.R. Doc. No. R96-70; Filed October 24, 1995, 11:28 a.m.

## DEPARTMENT OF TRANSPORTATION (COMMONWEALTH TRANSPORTATION BOARD)

Title of Regulation: [ ~~VR 395-01-8.~~ 24 VAC 30-90-10 et seq. ]  
Subdivision Street Requirements.

Statutory Authority: §§ 33.1-12(3), 33.1-69, 33.1-198 and 33.1-229 of the Code of Virginia.

Effective Date: January 1, 1996.

### Summary:

*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 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 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 is easier to understand; provides additional flexibility to the overall addition process; and addresses economic and environmental concerns fairly.*

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 James S. Givens, State Secondary Roads Engineer, Virginia Department of Transportation, 1401 E. Broad Street, Richmond, Virginia 23219, telephone (804) 786-2746.

24 VAC 30-90-10 et seq. Subdivision Street Requirements.

## [ CHAPTER 90. SUBDIVISION STREET REQUIREMENTS. ]

### PART I. GENERAL PROVISIONS.

[ §-1.1. 24 VAC 30-90-10. ] Definitions.

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

"AASHTO" means the American Association of State Highway and Transportation Officials.

~~[ "Access street" means a subdivision street which provides access to abutting property and serves a traffic volume of not more than 400 vehicles per day, none of which is through traffic. It may also serve similar, lower classification streets of fixed traffic generation. The adjacent property shall be platted in a manner to preclude its subsequent resubdivision or future land development that will generate unanticipated additional traffic volumes. ]~~

"ADT" means average daily traffic count (see "Projected Traffic").

[ "Apartment building" means a building for residential occupancy containing more than two dwelling units which may be rented or occupied by the owner. ]

"Board" means the Commonwealth Transportation Board.

~~"Chief engineer" means the employee of the department who, pursuant to Chapter 1 (§ 33.1-8) of Title 33.1 of the Code of Virginia, is responsible for the design, construction and maintenance of the systems of state highways [ as prescribed under § 33.1-8 of the Code of Virginia ].~~

"Commissioner" means the Chairman chief executive officer of the Virginia Department of Transportation and the Vice-Chairman of the Commonwealth Transportation Board for the Commonwealth of Virginia.

"Complete development" (land) means the utilization of the available areas in [ such ] a manner as to realize its highest density for the best potential use based on current zoning, pending rezoning, the adopted comprehensive plan of the governing body, or the customary use of similar parcels of land.

"Complete development" (streets) means the development of a subdivision street in full compliance with all applicable provisions of these regulations.

"County official" means the representative of the governing body appointed to serve as its agent in matters relating to subdivisions.

"Cul-de-sac" means a street with only one outlet and having an appropriate turnaround for a safe and convenient reverse traffic movement.

"Dam" means an embankment or structure intended or used to impound, retain, or store water, either as a permanent pond or as a temporary storage facility.

"Department" means the Virginia Department of Transportation.

[ "~~Developer~~" means an individual, corporation, or registered partnership engaged in the subdivision of land. ]

"Design manual" means the department's current Road Design Manual, Location and Design Division.

"Design speed" means a speed selected for purposes of design and correlation of those features of a street such as curvature, super elevation, and sight distance, upon which the safe operation of vehicles is dependent.

[ "~~Developer~~" means an individual, corporation, or registered partnership engaged in the subdivision of land. ]

"District administrator" means the employee of the department assigned the overall supervision of the departmental operations in each of the Commonwealth's nine construction districts.

"Drainage manual" means the department's current Drainage Manual, Location and Design Division.

[ "~~Dwelling unit~~" means a structure or part of a structure containing sleeping, kitchen, and bathroom facilities that is suitable for occupancy as a home or residence by one or more persons. ]

"Easement" means a grant of a right to use property of an owner for specific, limited use or purpose.

"Extrinsic structure" means any structure whose primary mission is not essential for the [ ~~intended purpose of the~~ dedicated operation of a subdivision ] street. Customarily, an extrinsic structure is intended to separate the movement of people or products (e.g., utilities, nonlicensed motor vehicles, golf carts, pedestrians, etc.) from those using the street.

"Functional classification" means the process by which streets and highways are grouped into classes, or systems, according to the character of service they are intended to provide.

"Governing body" means the board of supervisors of the county.

[ "~~Intersection~~" means the juncture of two or more streets at which point there are three or more legs. ]

"ITE Trip Generation" means the current edition of Trip Generation, an informational report of the Institute of Transportation Engineers.

"Level of service" means a qualitative measure describing operational conditions within a traffic stream, and their perception by motorists and passengers. For the purposes of these requirements, the applicable provisions of the current Highway Capacity Manual, Transportation Research Board, shall serve as the basis for determining "levels of service."

"Level terrain" means that condition where highway sight distances, as governed by both horizontal and vertical restrictions, are generally long or could be made so without construction difficulty or major expense.

"Loop street" means a street whose two outlets are to the same street.

"Minimum entrance standards" means the department's current Minimum Standards of Entrances to State Highways, Traffic Engineering Division.

"Mountainous terrain" means that condition where longitudinal and traverse changes in the elevation of the ground with respect to the road or street are abrupt and where benching and side hill excavation are frequently required to obtain acceptable horizontal and vertical alignment.

[ "~~Neotraditional development~~" means a type of subdivision that creates a neighborhood or community design with qualities of a traditional small town, combining a mix of uses that may include retail establishments, offices, civic buildings, public squares, and multi-family and single-family housing, all within walking distance of one another. These developments may include a variety of buildings and land use densities along the same street. Street layout may follow a grid pattern using narrow streets having multiple connections to surrounding neighborhoods. These developments may be referred to as "villages" or "hamlets" within the ordinances of the governing body. ]

"Nonresidential street" means a subdivision street adjacent to property that is anticipated to develop for purposes other than residential use.

[ "~~Office building~~" means a building that is used primarily for conducting business transactions other than retail sales. ]

"Pavement design guide" means the current edition of the Pavement Design Guide for Subdivision and Secondary Roads in Virginia, Materials Division and Transportation Research Council.

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"Permit manual" means the department's current Land Use Permit Manual [ , ] Maintenance Division.

"Phased development" (streets) means the method [ outlined in 24 VAC 30-90-140 ] whereby the acceptance of certain subdivision streets into the secondary system of state highways may be considered prior to their complete development in accordance with all applicable requirements.

"Plans" means the standard drawings, including profile and roadway typical section, which show the location, character, dimensions and details for the proposed construction of the subdivision street.

"Plat" means the schematic representation of the land divided or to be divided.

"Private streets" means subdivision streets which are not intended to be accepted into the secondary system of state highways.

"Projected traffic" means the number of vehicles, normally expressed in average daily traffic (ADT), forecast to travel over the segment of the subdivision street involved.

"PUD" means planned unit development which is a form of development characterized by unified site design for a variety of types and densities of development and as more specifically defined in § 15.1-430(s) of the Code of Virginia.

"Requirements" means the design, construction, and related administrative considerations herein prescribed for the acceptance of a subdivision street into the secondary system of state highways pursuant to Chapter 2 (§ 33.1-229) of Title 33.1 § 33.1-229 of the Code of Virginia.

"Resident engineer" means the employee of the department assigned to supervise departmental operations within a specified geographical portion of the Commonwealth, consisting of one to four counties.

"Residential street" means a subdivision street adjacent to property that is anticipated to develop as [ ~~detached single family residential units or qualifying townhouses, condominiums, and apartments as outlined in § 3.6 single-family residences, apartment buildings, or other similar dwelling structures~~ ].

"Right-of-way" means the land, property, or interest therein, usually in a strip, acquired for or devoted to a public street [ ~~or road designated to become part of the secondary system of state highways~~ ].

"Roadway" means the portion of the road or street within the limits of construction and all structures, ditches, channels, etc. necessary for the correct drainage thereof.

"Rolling terrain" means that condition where the natural slopes consistently rise above and fall below the road or street grade and where occasional steep slopes offer some restriction to normal horizontal and vertical roadway alignment.

"Secondary system of state highways" means those public roads, streets, bridges, etc., as established by Chapter 1 (§ 33.1-67 et seq.) of Title 33.1 §§ 33.1-67 and 33.1-68 of the

Code of Virginia that are under the supervision of and maintained by the department.

[ "Shopping center" means a building or buildings containing two or more stores that are used primarily for retail sales but may include commercial trade or professional uses.

"Single-family residence" means a structure, other than an apartment building, maintained and used as a single dwelling unit or any dwelling unit that has direct access to a street and shares neither heating facilities, hot water equipment, nor any other essential facility or service with any other dwelling unit. ]

"Specifications" means the department's current Road and Bridge Specifications, including related supplemental specifications and special provisions.

"Standard crown" means the cross slope of the roadway pavement and shall be 1/4 inch per foot, unless otherwise approved by the resident engineer.

"Standards" means the applicable drawings and related criteria contained in the department's current Road and Bridge Standards.

"State secondary roads engineer" means the employee of the department assigned to manage and administer the operations of the Secondary Roads Division to carry out the statewide secondary roads program.

"Subdivision" means the division of a lot, tract, or parcel into two or more lots, plats, sites, or other division of land for the purpose, whether immediate or future, of sale or of building development. Any resubdivision of a previously subdivided tract or parcel of land shall also be interpreted as a "subdivision." The division of a lot or parcel permitted by Chapter 11 (§ 15.1-466 A (k)) of Title 15.1 §§ 15.1-466 A 12 and 15.1-466 A 13 of the Code of Virginia will not be considered a "subdivision" under this definition, provided no new road or street is thereby established. However, any further division of such parcels shall be considered a "subdivision."

"Subdivision street" means a public way for purposes of vehicular travel, including the entire area within the right-of-way, that results from the subdivision of land. Such streets developed in accordance with these requirements shall be eligible for addition to the secondary system of state highways pursuant to Chapter 2 (§ 33.1-229) of Title 33.1 § 33.1-229 of the Code of Virginia.

"Swale" means a broad depression within which storm water may drain during inclement weather, but which does not have a defined bed or banks.

[ ~~"Tertiary subdivision street" means a lower classification of local street which, by design, is generally a cul-de-sac or loop street and intended to serve not more than 400 vehicles per day. The adjacent property shall be platted in a manner to preclude its subsequent resubdivision or future land development that will generate unanticipated additional traffic volumes. (See Table 1-A) Such streets are often referred to as "access" streets. (See § 4.5)~~ ]

"Through street" means a street which provides access between two other streets.

"Traveled way" means the portion of the subdivision street designated for the movement of vehicles, exclusive of shoulders, parking areas, turn lanes, etc.

"VDOT" means the Virginia Department of Transportation.

"Watercourse" means a definite channel with bed and banks within which water flows, either continuously or in season.

[ § 1.2. 24 VAC 30-90-20. ] Applicability.

These requirements are applicable apply to all subdivision streets designated to become part of the secondary system of state highways. Conversely, The department's review and approval shall be applicable apply only to streets proposed to be added ultimately for [ ultimate ] addition to the secondary system. [ Due to the eventual problems normally associated with private streets, the department does not subscribe to the concept of advocate their use in subdivision development. ] Any plans submitted for review which contain only private streets shall be returned [ marked "unapproved," ] with a notation as to the reason.

This regulation is not intended to be a comprehensive manual for the design and construction of subdivision streets. Its purpose is to govern the aspects of subdivision street development that set them apart from those considerations customarily applied to highway projects. However, in all other matters regarding the design and construction of these streets, the relevant requirements of the standards, design manual, specifications, pavement design guide and associated instructions shall govern.

[ § 1.3. 24 VAC 30-90-30. ] Continuity of public street system.

The continuity of a publicly maintained street system is a prerequisite to the addition of any subdivision street into the secondary system of state highways. [ Therefore, no A ] street [ will may only ] be accepted for state maintenance [ unless if ] it is the continuation of the network of public streets whose maintenance has been officially accepted by the department or, if appropriate, a city, town or county.

[ § 1.4. 24 VAC 30-90-40. ] Large-lot-size subdivision.

[ In the application of these requirements, the department does not recognize Notwithstanding ] any provision of an ordinance adopted by the governing body that exempts certain large-lot-size subdivisions from its definition of subdivision [ —Therefore ] , any street proposed for addition to the secondary system of state highways shall comply with applicable requirements as herein provided.

[ § 1.5. 24 VAC 30-90-50. ] Service requirements.

A. [ No street or road will A street may only ] be accepted into the secondary system of state highways [ unless if ] it renders sufficient public service to justify the expenditure of public funds for its subsequent maintenance. [ Therefore, sufficiently varied proprietorship of the land served is required. ] For the purpose of these requirements, public service may include, but is not necessarily limited to, one or more of the following situations:

1. Serves three or more occupied units of varied proprietorship with a unit being a [ house, townhouse, condominium, single-family residence, owner occupied ] apartment, [ mobile manufactured ] home park, or other similar facility. [ However, cul-de-sac streets should provide service to at least three of those units not served by another street that is either publicly maintained or will qualify for addition to the secondary system of state highways. ]

2. Constitutes a connecting link between other streets which qualify from the point of public service.

3. Provides an extension of a street to the subdivision boundary to facilitate the continuity of possible adjacent development, if required by local ordinance.

4. Serves as access to schools, churches, public sanitary landfills, public recreational facilities, or similar facilities open to public use.

[ 5. Serves at least 100 vehicles per day generated by an office building, industrial site, or other similar nonresidential land use in advance of the occupancy of three or more such units of varied proprietorship. Any addition under this provision shall be limited to the segment of a subdivision street that serves this minimum projected traffic and has been developed in compliance with 24 VAC 30-90-60 D. ]

B. [ Entrances to Streets that serve ] shopping centers or rental apartment buildings do not normally qualify for addition to the system.—This is because the primary service they provide is to the owner, who stands to profit [ , ] rather than the tenant or customer. However, when a street serves as the principal access to [ rental ] apartment buildings [ or condominiums ] , containing either rental or individually-owned units, it may be considered as providing to provide public service if unrestricted public use is permitted and maintenance continuity is practical. Entrances [ to and the internal traffic circulation system of ] shopping centers do not qualify [ unless the streets leading thereto are through streets and are included in the comprehensive plan approved by the local governing body ] . [ However, a street that serves a shopping center may qualify if it is a through street and it is deemed by the department to provide a public service. ]

C. There may be other sets of circumstances that could constitute public service. Consequently, any question regarding unclear situations should be referred to through the resident engineer to the state secondary roads engineer for resolution.

[ § 1.6. 24 VAC 30-90-60. ] Administrative procedure.

A. Conceptual subdivision sketch. Prior to preparation of plats or plans, or both, the developer shall prepare a conceptual subdivision plan to determine functional classification, projected traffic, and terrain. (See [ § 2.4 24 VAC 30-90-130 ] A, B, and C.)

B. Plan submission. Plats or plans, or both, together with other pertinent data as herein prescribed, shall be submitted to the responsible resident engineer for all proposed subdivisions whose streets are intended to be added to the secondary system of state highways. Appendix B contains A

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listing of the locations and jurisdictions of the residency offices department offices is shown in [ §-4.2 24 VAC 30-90-350 ].

C. Plan review. Upon receipt of the plats or plans, or both, the resident engineer will arrange for the appropriate review to determine compliance with all applicable requirements. The general procedure for this review is prescribed in Appendix-A [ §-4.1 24 VAC 30-90-340 ].

D. Plan approval. The resident engineer will advise the appropriate county official and the developer, if applicable, as to the results of the review.

1. If the street development proposed by the plats or plans, or both, is determined to be in compliance with these requirements, the resident engineer will provide written confirmation of this finding. This action signifies the resident engineer's [ ~~recommendation for VDOT~~ ] approval of the street design shown on the plats or plans, as submitted. Any subsequent revision, additions, or deletions thereto shall require specific written approval of the resident engineer for each such change.

2. Where the revision of the submitted plats or plans is determined necessary, the resident engineer will list the required changes in a written response to the county official and the developer, if applicable. Upon completion of the specified revisions, the plats or plans will be resubmitted for review and approval by the resident engineer as prescribed in Appendix-A [ §-4.1 24 VAC 30-90-340 ].

E. Street acceptance. Upon completion of the subdivision street construction, the resident engineer will initiate its acceptance into the secondary system of state highways provided:

1. The developer dedicates the prescribed right-of-way to public use.

2. The street has been constructed in accordance with the applicable specifications, standards and the plats or plans approved by the resident engineer.

3. The street renders a public service as prescribed in [ ~~§-1.5 of these requirements~~ 24 VAC 30-90-50. However, in the event a street meets provisions 1, 2, and 4 of this subsection but does not appear to meet the public service requirements of 24 VAC 30-90-50, the resident engineer shall submit a complete report to the state secondary roads engineer for review prior to a final determination deferring acceptance ].

[ ~~4. The resident engineer determines development activities that cause heavy commercial and construction vehicles to use the street are substantially completed.~~ ]

4. [ ~~5. 4.~~ ] The street has been properly maintained since its completion.

5. [ ~~6. 5.~~ ] The developer furnishes the surety and maintenance fee, if applicable, in accordance with Table III [ §-2.4 24 VAC 30-90-160 ].

6. [ ~~7. 6.~~ ] The governing body requests, by proper resolution which includes the guarantee of an

unrestricted and unencumbered right-of-way as dedicated, the department's acceptance of the street into the secondary system. [ ~~This resolution shall serve as the governing body's acknowledgment that all transportation related proffers, if any, have been satisfactorily implemented.~~ ]

Upon the department's determination that the requested addition is in compliance with the applicable provisions of these requirements, the governing body will be officially advised of the street's acceptance into the secondary system of state highways and the effective date of such action. This notification serves as the resident engineer's authority to begin maintenance thereon.

[ ~~§-1.7. Variances. 24 VAC 30-90-70. Discretionary authority.~~ ]

The department's [ field resident ] engineers are authorized considerable discretionary authority in the application of the geometric standards relative to alignment and grade for streets functionally classified as "local." Such judgments should take into consideration the individual situation, but in no instance are the safety features, structural integrity, or traffic capacities prescribed by these requirements to be sacrificed. Meandering alignment and rolling grades are satisfactory, provided adequate stopping sight distances and reasonable alignment and gradients are provided to safely accommodate the projected traffic at the design speed. [ ~~Other variances may only be granted as designated by the chief engineer.~~ ]

[ ~~§-1.8. 24 VAC 30-90-80.~~ ] Effect of legislation.

If subsequent legislation is enacted that conflicts with any provision of these requirements, the legislative provisions shall govern. As of its effective date such legislation shall take precedence over any conflicting interpretations or decisions rendered by department personnel prior to the enactment of the legislation. However, such action shall not affect the validity of these requirements as a whole, or any part thereof, other than the specific provision involved. (See § 9-6.14:5.1. of the Code of Virginia.)

[ ~~§-1.9. 24 VAC 30-90-90.~~ ] Entrance permits.

An entrance permit is required by the general rules and regulations of the Commonwealth Transportation Board for any form of access to state maintained roads, including the connection of a subdivision street. Such a connection shall comply with applicable commercial entrance requirements of the department's Permit Manual and Minimum Entrance Standards.

Due to the wide variation in prevailing conditions, each location shall be evaluated individually to determine exact requirements. Therefore, it is incumbent upon the developer or his designee to apply for any required entrance permit at the appropriate time to insure the desired completion of the development. Such application shall be made to the resident engineer and commensurate with the approved plats or plans for the subdivision.

[ ~~§ 4.10.~~ 24 VAC 30-90-100. ] Appeal to district administrator.

The district administrator is authorized to consider and render a ruling on unresolved differences of opinion between the developer and the resident engineer that pertain to the interpretation and application of these requirements.

To obtain this review, the developer shall provide the district administrator, with a copy to the county official, a written request for such action, including a brief description of any unresolved issue. After reviewing all pertinent information, the district administrator will advise the developer in writing, with a copy to the county official, as to the decision relative to the appeal. The developer may further appeal the district administrator's decision to the chief engineer for review and disposition as he deems appropriate. A final appeal may be made to the commissioner.

[ ~~§ 4.11.~~ 24 VAC 30-90-110. ] Precedent of local subdivision ordinance.

Where the requirements of the subdivision ordinance adopted by the governing body equal or exceed the requirements herein prescribed, they shall become the department's requirements in that area and govern.

[ ~~§ 4.12.~~ 24 VAC 30-90-120. ] Applicable requirements of other regulatory agencies.

Should a subdivision street proposed for acceptance into the secondary system of state highways be subject to provisions of any regulatory agency pertaining to the maintenance, control, [ and or ] operation of the completed street, the developer shall provide the resident engineer with a copy of such requirements at the time its addition is requested.

## PART II. SPECIFIC PROVISIONS.

[ ~~§ 2.1.~~ 24 VAC 30-90-130. ] Design requirements.

### A. Functional classification.

1. Policy. The characteristics and magnitude of the service to be provided, as herein defined, shall be the basis for the department's determination of the functional classification for each subdivision street intended for acceptance into the secondary system.

2. Criteria. Urban and rural areas have fundamentally different characteristics. Consequently, urban and rural functional systems are classified separately.

a. Urban areas. This designation shall apply to the urbanized areas of Virginia so identified by the U.S. Bureau of the Census (e.g., Northern Virginia, [ *Fredericksburg*, ] Richmond, Peninsula, Southeastern, Hampton Roads, Tri-Cities, Roanoke, Lynchburg, Danville, Charlottesville, Bristol, and Kingsport).

b. Rural areas. Those areas outside the boundaries of urban areas.

### 3. Functional systems.

a. Rural.

(1) Principal arterial. The most significant streets in the area which serve long distance travel demands such as statewide and interstate travel. Provide service to major centers of activities, constitute the highest traffic volume corridors, carry the major portion of the area's through traffic, and provide continuity between other arterials.

(2) Minor arterial. Streets which interconnect and supplement the principal arterial system with a greater emphasis on land access and a lower level of traffic mobility. They are intended as routes that generally have minimum interference to through traffic and provide intracommunity service.

(3) Major collector. These streets provide service to large communities or other major traffic generators not served by the arterial system. They provide links to higher classified routes and serve as important intracounty travel corridors.

(4) Minor collector. Streets that collect traffic from local streets and distribute it to the arterial system. These streets provide land access service and traffic circulation within residential, commercial, and industrial areas.

(5) Local. These streets provide direct access to adjacent land and serve travel of short distances as compared to the higher systems. Service to through traffic is discouraged.

### b. Urban areas.

(1) Principal arterial. These highways are the most significant streets in the urban area that serve the major centers of activity, constitute the highest traffic volume corridors, serve the longest trip desires, carry the major portion of through traffic in the urban area, and provide continuity between rural arterials.

(2) Minor arterial. Streets which interconnect and supplement the principal arterial system with a greater emphasis on land access and a lower level of traffic mobility. They provide intracommunity service as well as connecting rural collectors to the urban highway system.

(3) Urban collector. These streets provide land access service and traffic circulation within residential, commercial, and industrial areas. They collect local traffic and distribute it to the arterial system.

(4) Local. These streets provide direct access to adjacent land and provide access to the higher systems. Service to through traffic is discouraged.

4. Procedures. The department's determination of the functional classification for each street within a subdivision shall be made prior to the resident engineer's approval of its plats or plans. To facilitate the effective development of the plats or plans and permit their expeditious review, it is recommended that this determination be completed prior to the developer's initiation of detail design for the subdivision. To originate

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the functional classification process, the developer shall submit the following information:

a. A sketch accurately depicting the general concept for the proposed development of the subdivision, in conformance with the applicable provisions of the governing body's zoning and subdivision regulations. This sketch shall include:

- (1) The general location and configuration, including the terminus, of each street proposed within the subdivision.
- (2) The location and area of each type of permitted land use within the subdivision.
- (3) The location of any proposed transportation facility, within the subdivision's boundaries, included in the current comprehensive plan of the governing body.
- (4) Where the governing body's zoning or subdivision regulations, or both, require submission of a conceptual plan in general conformance with the aforementioned submission, such may be acceptable for review by the resident engineer.

b. Other available information pertinent to the intended development of the subdivision.

5. Approval. The resident engineer shall provide written notification to the appropriate county official and the developer, if applicable, regarding the approved functional classification for each street in the subdivision. This approval shall be valid as long as the basic concept for the subdivision's development, as submitted pursuant to [ ~~the previous paragraph~~ 24 VAC 30-90-130 A 4 ], remains unchanged.

## B. Projected traffic/capacity analysis.

1. For the purposes of these requirements, "projected traffic" shall include the traffic resulting from the complete development of all land to be served by the subject roadway facility. This shall include traffic forecasted ~~that is forecast~~ to be generated by development, both internal and external, to the subdivision under consideration. The basis for this forecast will be the governing body's current comprehensive plan or other available information pertinent to the permitted land use and transportation planning for the subdivision and adjacent properties. Traffic projections shall be based on each single-family detached residential dwelling unit generating 10 vehicle trips per day. The trip generation rates in the ITE Trip Generation Report ~~shall~~ may be utilized in determining the projection of traffic resulting from development other than PUD and single-family detached residential. The use of other bonafide traffic studies in determining projected traffic for all types of land development may be considered, subject to their submission for review and approval by the department. *In PUD developments, trip generation rates shall be developed for each type of land use and combined to determine projected traffic for each of the subdivision streets.*

2. As an alternative to the application of the projected traffic to the applicable geometric design criteria of these requirements, the department will consider subdivision street design based on a capacity analysis concept provided:

a. The governing body permits the utilization of this concept in the design of subdivision streets in the county.

b. The developer furnishes full rationale, from an engineer licensed by the Commonwealth to perform such studies, to support the recommendations of this analysis. The submission shall include all pertinent traffic data and computations affecting the design proposal for the subdivision streets involved.

c. A minimum level of service "C" shall be accommodated in the street design proposed under the capacity analysis concept.

C. Terrain classification. The applicable provisions of the current Policy on Geometric Design of Highways and Streets, AASHTO, 1990, shall be used as a *guide* in the determination of the appropriate classification of terrain for a subdivision ~~street.~~ *street.* (See [ ~~§-1.4~~ 24 VAC 30-90-10 ] for the definitions of the terrain classifications.) *The following table may be used to clarify the application of those classifications.*

Terrain Classification	Range of topography slopes [ along street alignment. ]
Level	0% to 8%
Rolling	8.1% to 15%
Mountainous	Greater than 15%

D. Roadway geometric design criteria. Except as may be permitted under the ~~provisions of subdivision 2, subsection B of this section,~~ [ ~~§-2.1~~ 24 VAC 30-90-130 ] B 2, the following criteria shall apply in the design of subdivision streets intended for addition to the secondary system of *state highways*:

1. Any street functionally classified as "local" pursuant to subsection A of this section shall ~~be designed in accordance with the~~ have a minimum design based on [ ~~§-4.5~~ 24 VAC 30-90-350 ] and other applicable provisions of ~~Tables 1 and 1-A of these requirements~~ *this [ regulation chapter ]*.

2. Streets functionally classified as a "collector" and "arterial" shall be designed in accordance with applicable provisions of the department's *design manual* and standards for the appropriate functional and terrain classification.

3. *The following criteria shall apply to the design of all subdivision streets functionally classified as "local":*

a. *Individual street design shall be based on projected traffic, design speed, and terrain classification.*

b. *Street designs shall be based on a sustained minimum level of service "C" for the projected traffic that assumes complete development of the land. To*

maintain this level of service, additional travel lanes, channelized roadways, etc., may be required.

c. The typical [ cross ] section for each street should be uniform [ ~~throughout its length, allowing modifications only as justified to accommodate changes in projected traffic, i.e., at an intersecting street between intersections.~~ The resident engineer, as allowed under 24 VAC 30-90-70, may consider modifications in the typical section as required to satisfy changes in traffic volume or as necessary to address environmentally sensitive areas ] .

d. Sight distances shall be based on a height of eye of 3.5 feet and an object height of 0.5 feet, except at intersections where an object height of 4.25 feet shall be used. [ Sight distance easements may be required to preserve appropriate sight distance at intersections. ]

e. The curve data shown in [ ~~§ 4.5~~ 24 VAC 30-90-350 ] establishes the minimum horizontal control criteria used for the design of subdivision streets. Horizontally curved roadways shall be superelevated as required in § 4.5 with transitions developed in accordance with department standard TC-5ULS transition requirements.

f. Roadway designs shall be broadly based on two categories:

(1) Shoulder and Ditch Design

(2) Curb and Gutter Design, further defined by the land use served by the street — residential or nonresidential.

[ ~~g. The minimum pavement widths shall be as shown in § 4.5 and the following table. For traffic counts not shown in this table and for shoulder and ditch roadway sections, the pavement widths shown in § 4.5 shall be used.~~

For the purposes of the following table, "Length" shall mean the travel distance from the most distant point of trip origin to an intersecting nonaccess or nontertiary street, "c-c" shall mean the minimum face to face of curb width, and "ROW" shall mean the minimum right-of-way width.

Residential Subdivision Streets			
Length	Up to 0.5 miles		Over 0.5 miles
On-Street Parking	Not Allowed	Allowed	Allowed
ADT Up to 250	c-c = 22 ft. ROW = 30 ft.	c-c = 28 ft. ROW = 40 ft.	c-c = 30 ft. ROW = 40 ft.
ADT 251-400	c-c = 24 ft. ROW = 30 ft.	c-c = 28 ft. ROW = 40 ft.	c-c = 30 ft. ROW = 40 ft.

Nonresidential Subdivision Streets		
Length	Not a Factor	
On-Street Parking	Not Allowed	Allowed
ADT Up to 250	c-c = 24 ft. ROW = 40 ft.	c-c = 30 ft. ROW = 40 ft.
ADT 251-400	c-c = 24 ft. ROW = 40 ft.	c-c = 30 ft. ROW = 40 ft.

Note: For all other applicable roadway design criteria refer to § 4.5.

g. Pavement width. Except as may be permitted in this subsection, the minimum pavement widths shall be as shown in 24 VAC 30-90-350, within which the term "length" shall mean the travel distance from the most distant point of trip origin to an intersecting street.

Reduction in the residential curb and gutter roadway widths shown in 24 VAC 30-90-350 may be approved by the resident engineer. Any such reduction must be specifically requested in writing by the governing body and include its commitment to require the provision of sufficient off-street parking to accommodate normal demand for vehicular parking space. As a minimum, not less than three such spaces, exclusive of any garage or similar car shelter facility for a single-family residence, shall be provided in the proximity of the dwelling unit they are intended to serve. For the purposes of this subsection, provisions D 3 g (1) and (2) of this section shall apply only to streets that are less than 0.5 miles in length as defined above. However, provision D 3 g (3) of this section may be considered without regard to the length of street.

(1) For any street with a projected traffic of 250 ADT or less, a curb to curb width of 22 feet on a right-of-way of not less than 30 feet may be approved.

(2) For any street with a projected traffic of 251-400 ADT, a curb to curb width of 24 feet on a right-of-way of not less than 30 feet may be approved.

(3) For streets with a projected traffic between 401 and 4000 ADT, a curb to curb width of 30 feet on a right-of-way not less than 40 feet may be approved.

For nonresidential streets, no roadway width less than those shown in 24 VAC 30-90-350 may be considered. ]

h. Shoulder designs shall be in accordance with Standard GS-12.

i. Curb and gutter designs shall be in accordance with [ the designs depicted in § 4.4 with the following restrictions: 24 VAC 30-90-340. ]

[ (1) Curb and gutter standards CG-7 and Roll Top may not be used adjacent to sidewalk installations.

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~~(2) Roll top curb and gutter shall be constructed with approved slip form type equipment, designed for that type of installation.~~

~~(3) On any segment of a street, only one curb and gutter design may be used.~~

~~(4) If sidewalk is not used, a relatively flat, graded area, at least 2.5 feet in width, shall be provided behind the back of curb. ]~~

## E. Bridge and culvert design criteria.

1. Capacity. All bridges and culverts shall be of HS 20-44 loading or alternate military loading, or both, in accordance with the current AASHTO bridge design specifications and VDOT modifications. To facilitate the department's review, all pertinent calculations for the structure's design shall be submitted with each bridge plan.

2. Width. Clear roadway widths shall be provided on of all structures ~~shall be~~ in accordance with the department's standards design manual.

## F. Drainage.

1. Policy and procedures. All drainage facilities shall be designed in accordance with the department's current drainage manual and supplemental directives.

2. Criteria. Standards appropriate to the functional classification of the street and the potential impact on adjacent property shall apply.

3. Design. Specific reference is made to the following design requirements:

### a. VDOT Drainage Manual.

- (1) Hydrology—Chapter 1
- (2) Open Channels and Ditches—Chapter 2
- (3) Culverts—Chapter 3
- (4) Storm Sewer Systems—Chapter 4
- (5) Bridges—Chapter 5
- (6) Storm Water Management—Chapter 10

### b. ~~Division of Soil and Water Conservation Erosion and Sediment Control Handbook~~

#### ~~(1) Erosion and Sediment Control~~

b. VDOT Location and Design Division Instructional Memorandum for Pipe Criteria and Drainage Instructions.

### c. Virginia Erosion and Sediment Control Handbook.

## 4. Storm water detention management.

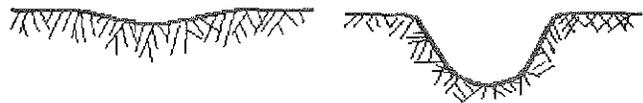
The department does not require ~~detention storm water management in the construction of subdivision streets.~~ However, it ~~does recognize it storm water management, including the construction of detention or retention facilities, or both, is recognized as an available design alternative.~~ Where the developer is required by

~~regulations of the local government or elects to utilize detention promulgated by an agency or governmental subdivision other than the department, or the developer chooses to use storm water management facilities in the design of a subdivision, an acceptable agreement from the local government is required which absolves the governing body shall, by formal agreement, acknowledge that the department from any responsibility or liability is neither responsible nor liable for the storm water detention facility.~~

~~VDOT does adhere to In the development of VDOT projects, storm water management controls are based on criteria outlined in the state Stormwater Management Criteria for Controlling Off-Site Erosion, Division of Soil and Water Conservation, GC-7. Erosion (Minimum Standard #19 - Adequate Receiving Channels).~~

## 5. Easements.

a. An acceptable easement shall be provided from all drainage outfalls to a natural watercourse, i.e., "A defined natural channel with bed and banks within which water flows either continuously or intermittently." A swale is a broad depression without defined bed and banks and is not a natural watercourse [ , ] as opposed to a swale. [ (See 24 VAC 30-90-10 for definitions.) ]



Swale

Watercourse

(See VDOT Drainage Manual, Chapter 7)

b. The department normally accepts and maintains only that portion of a drainage [ easement system ] that falls within the limits of the dedicated right of way for a street. However, the department may enter drainage easements outside of the dedicated right-of-way to undertake corrective measures to alleviate [ drainage problems within the dedicated right-of-way problems that adversely affect the roadway ] .

b. c. An acceptable agreement from the local government, governing body which absolves the department from any future responsibility or liability may be considered as an alternative to providing an easement.

e. d. Where development activity results in increased runoff to the extent that adjustment of an outfall facility is required, such adjustment shall be at the developer's expense and contained within an appropriate easement.

6. Documentation. All drainage design computation shall be complete, properly documented and presented to the resident engineer for review.

G. Pavement structure design. The design of the pavement structure for subdivision streets shall be in

accordance with ~~Table II of these requirements~~ *the pavement design guide, including any prescribed underdrains.*

[ ~~§ 2.2.~~ 24 VAC 30-90-140. ] Phased development of subdivision streets.

A. Policy. Certain subdivision streets may be considered for addition to the secondary system of state highways prior to their complete development in accordance with applicable provisions of these requirements.

B. Criteria.

1. The street shall be functionally classified as a "collector" or "arterial" pursuant to [ ~~§ 2.1 of these requirements~~ 24 VAC 30-90-130 ].

2. The traveled way of the street, upon complete development pursuant to applicable provision of these requirements, shall provide four or more lanes for motor vehicles, exclusive of turn lanes, parking lanes, etc.

3. Except as may be expressly authorized by the state secondary roads engineer, only two phases of the street's development, i.e., initial and complete, shall be permitted.

4. The governing body, by resolution, recommends the street's acceptance into the secondary system of state highways prior to its complete development.

5. The governing body elects to enter into an agreement, acceptable to the department, to assure the street's subsequent completion in full compliance with these requirements. It shall specifically include suitable provisions for each of the following issues:

a. All cost incurred in the street's complete development, including construction, right-of-way, engineering, utility adjustment, etc., shall be provided from funds other than those derived from state revenue sources administered by VDOT, except as may be expressly authorized by the state secondary roads engineer.

b. The governing body's assurance for the completion of the street's full development pursuant to the applicable provisions of these requirements.

c. The governing body shall have the sole responsibility to collect and maintain any funds provided, either voluntarily or pursuant to its requirements, for the required subsequent development of the street.

d. The determination relative to the timing of the street's complete development shall be exclusively that of the department and will be based on whichever of the following situations occurs first:

(1) The street's actual traffic volume, as determined by the department, exceeds 8,000 ADT.

(2) The department determines the initial phase of the street's development is incapable of permitting a minimum level of service of "D" to be maintained.

e. Consideration for the acceptance of any street under the provisions of this section shall be limited to the phased development of only the street's roadway. All other applicable requirements, e.g., public service, drainage easements, and administrative procedures shall apply.

C. Procedures.

1. Plats or plans, or both, for the street's complete development, in accordance with all applicable provisions of these requirements, shall be submitted for approval.

2. The plats or plans shall also delineate the street's initial development as proposed pursuant to this section. In no case shall this design provide less than one-half of the roadway typical section required by the applicable requirements for the street's complete development.

3. A capacity analysis, as prescribed in [ ~~subsection B of § 2.1 of these requirements~~ 24 VAC 30-90-130 B ], shall be submitted to document that a minimum level of service of "C" will be maintained by the initial roadway phase throughout its intended duration.

4. Concurrent with the submissions prescribed in [ ~~subdivisions provisions~~ ] 1, 2, and 3 of this subsection, the developer shall request the governing body to advise the resident engineer of its recommendation for the street's phase development and of its intent to enter into the agreement prescribed in [ ~~subsection B, subdivision 5 provision B 5~~ ] of this section.

5. Upon the resident engineer's determination that the proposal is in compliance with the applicable provisions of this section, he may approve the plans accordingly.

6. Upon completion of the street's initial phase in accordance with approved plans, its compliance with all other applicable provisions of [ ~~subsection D of § 4.6 of these requirements~~ 24 VAC 30-90-60 D ] and the governing body's execution of the prescribed agreement, the street may be accepted into the secondary system of state highways.

[ ~~§ 2.3.~~ 24 VAC 30-90-150. ] Right-of-way.

A. Width. A clear and unencumbered right-of-way shall be dedicated to public use for any subdivision street proposed for addition to the secondary system of state highways. ~~The width of such dedication shall be in accordance with Tables I and I-A for those streets functionally classified as "local." For streets functionally classified as "local," the width of such dedication shall be as specified in [ this section 24 VAC 30-90-350 or, if applicable, 24 VAC 30-90-130 D 3 g ] . For "local" streets based on a design speed greater than that shown in [ § 4.5 24 VAC 30-90-350 ] and for streets functionally classified as "collector" or "arterial [ , ] " the dedicated width shall be in accordance with applicable provisions of the department's standards and design manual. Where sidewalk is to be provided which qualifies for maintenance by the department, additional right-of-way shall be dedicated to the extent necessary to accommodate the sidewalk and facilitate its future maintenance.~~

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Except as specified under this section, the widths shown in [ ~~§ 4.5~~ 24 VAC 30-90-350 ] and [ ~~§ 2.4~~ 24 VAC 30-90-130 ] D 3 g, are the minimum widths normally expected to accommodate all roadway elements, including cut and fill slopes. Unless otherwise indicated, these widths assume lawful on street parking [ ~~is~~ will normally be ] allowed. For other required elements of a subdivision street, e.g., turn lanes and [ ~~cut-de-sacs~~ turnarounds ] , and median or mall type roadway separators, additional right-of-way shall also be provided as necessary to include those elements within the extremities of the right-of-way.

1. For curb and gutter sections, the limits of right-of-way shall be not less than 2.5 feet behind the back of curbs. If sidewalks are used, the limits of right-of-way shall be not less than one foot beyond the back of sidewalk.

2. For shoulder and ditch sections, additional right-of-way width [ ~~may be required, in increments of 10 feet, as necessary to accommodate necessary roadway in excess of the minimum specified in 24 VAC 30-90-350~~ ] may be required to accommodate roadway elements, including sidewalks and cut slopes or fill slopes or both, where applicable, ] within the dedicated right-of-way. Where sidewalk which qualifies for maintenance by the department is to be provided, additional right-of-way shall be dedicated as necessary to accommodate and facilitate its future maintenance, extending not less than one foot beyond the edge of the sidewalk.

B. Utilities. To assure the unencumbered dedication of the right-of-way for subdivision street additions, easements or other interests within the platted right-of-way shall be quit-claimed of any prior rights therein. In exchange, a permit may be issued by the department for a utility to occupy the area involved. This permit will be processed by the resident engineer upon acceptance of the street into the secondary system of state highways. No inspection fee is required for permits so issued. However, the approval of the permit shall be contingent upon the utility's compliance with applicable provisions of the Permit Manual.

~~Insofar as is practical, longitudinal~~ Underground utilities may be located within the dedicated right of way of streets. Longitudinal underground utilities ~~shall~~ should be located outside of the normal travel lanes of a street and preferably beyond the street's pavement. Installations within the parking area and the shoulders along the roadway are normally acceptable.

However, where the governing body has established adequate requirements for the design, location, and construction of underground utilities within the right-of-way for subdivision streets, they shall become the department's requirements in that area and govern, provided they are not in conflict with any applicable requirements of the department. Departmental regulations prohibit the open-cutting of hardsurfaced roads except in extenuating circumstances. Therefore, all underground utilities within the right-of-way, as determined necessary by good engineering practice to serve the complete development of adjacent properties, shall be installed during the street's initial construction and prior to the application of its final pavement surface course.

All above ground utilities shall be installed behind the sidewalk or as close as possible to the limits of the street's right-of-way.

C. "Spite strips." Plans that include a reserved or "spite" strip which prohibits otherwise lawful vehicular access to a street from the adjacent properties, whether within or outside the subdivision, will not be approved.

[ ~~§ 2.4~~ 24 VAC 30-90-160. ] Surety and fees.

A. Except as otherwise provided in this section, the developer shall provide surety and fees as determined in subsection D of this section.

A. B. Surety.

1. Bond or cash deposit. The developer shall furnish an acceptable surety, in accordance with ~~Table III~~ subsection D of this section, to guarantee the satisfactory performance of the street for a period of one year from the date of its acceptance into the secondary system of state highways. The surety may be a performance bond, cash deposit, certified check or other form mutually satisfactory to the department and the developer.

2. Alternatives to surety.

a. In jurisdictions where the staff of the governing body administers a comprehensive subdivision construction inspection program which has been approved by the department, the surety may be waived upon certification by the governing body that the proposed addition has been constructed in accordance with approved plans and specifications.

b. If requested by the developer and subject to availability of departmental personnel, the VDOT may perform the construction inspection of subdivision streets proposed to be added to the secondary system of state highways. In such cases, the developer shall bear all costs incurred by the department.

~~B. C.~~ Maintenance fee. A maintenance fee, in accordance with ~~Table III~~ subsection D of this section, will be required for the acceptance of a subdivision street into the secondary system at any time other than July 1. Any fraction of a month shall be computed as a whole month in arriving at the amount of fee involved.

The official acceptance date of any addition will not be made retroactive. However, where it is demonstrated that extenuating circumstances beyond the control of the developer prevented the addition's acceptance on July 1, the department may waive the maintenance fee. Administrative delays by the governing body or the department may be considered an extenuating circumstance. However, failure of the developer to comply with all applicable requirements, including the provision for the dedication of an unencumbered right-of-way, will not be considered extenuating.

## D. Surety and maintenance fee schedule.

Mileage	2 - Lane Streets		4 - Lane Streets	
	Surety	Maintenance Fee	Surety	Maintenance Fee
Minimum (up to 0.25 mi.)	\$3,750	\$375/year	\$7,500	\$750/year
From 0.25 mi. To 0.50 mi.	\$7,500	\$750/year	\$15,000	\$1,500/year
Over 0.50 mi.	\$1,500 per tenth mile and fraction thereof	\$150 per tenth mile and fraction thereof per year	\$3,000 per tenth mile and fraction thereof	\$300 per tenth mile and fraction thereof per year

### Examples

1. A two lane street, 0.35 miles long, is processed for addition effective September 18. Therefore, surety is required for four-tenths mile and maintenance fee is required for 10 months.

Surety required:  $\$7,500$

Maintenance fee required:  $\$750 \times 10/12 = \$625$

2. A four lane street, 0.78 mile long, is processed for addition effective February 4. Therefore, surety is required for eight-tenths mile and maintenance fee is required for five months.

Surety required:  $8 \times \$3,000 = \$24,000$

Maintenance fee required:  $8 \times \$300 \times 5/12 = \$1,000$

## PART III. MISCELLANEOUS PROVISIONS.

### [ §-3.1. 24 VAC 30-90-170. ] Sidewalk.

A. The installation of sidewalk is not a requisite for the department's acceptance of a subdivision street. However, ~~board policy permits~~ sidewalk located within the dedicated right-of-way, whose construction is either voluntary or a requirement of the governing body, ~~to~~ may be accepted for maintenance subject to its compliance with the following [ guidelines and ] criteria [ and standards ] .

#### A. Guidelines.

Sidewalks may be accepted on (i) streets adjacent to and in the immediate vicinity of multiple businesses [ or , ] public buildings, [ or public recreational facilities, ] or (ii) on subdivision streets within the specified range of the governing body's policy regarding pedestrian transportation between home and school.

#### B. Criteria.

1. Sidewalk on one side or both sides of [ through ] streets within one mile of all existing elementary schools, and one and one-half miles of all existing intermediate and high schools, will be eligible for maintenance. This criteria shall also apply to [ sidewalk on ] streets in the vicinity of proposed schools, the construction of which is

included in a county's five-year capital improvement budget.

2. ~~Sidewalk on both sides of a school access street described in subdivision 1 of this subsection will be eligible for maintenance when the existing or projected traffic exceeds 3,000 ADT.~~

3. ~~No sidewalks will be eligible for maintenance on permanent deadend street, loop streets or cross streets which do not serve as access to a high density residential area.~~

4. 2. Sidewalks on streets adjacent to and in the immediate vicinity of multiple commercial businesses or public facilities will be eligible for maintenance. Immediate vicinity shall mean [ up to ] 1,000 feet beyond zoning line.

3. ~~Sidewalks along any permanent cul-de-sac [ , or ] loop [ , or cross ] street will be eligible for acceptance only if the street [ provides the route of principle is the principal route for ] pedestrian access to a residential area having a land use density of four or more units per acre and the provisions of either [ subdivision provision ] 1 or 2 of this subsection are satisfied.~~

5. 4. In situations not herein addressed, sidewalks may be approved for maintenance eligibility after individual study and joint concurrence by the resident engineer and the governing body.

#### C. Standards.

1. [ Sidewalk ] ~~constructed adjacent to a curb and gutter typical section street [ may not be constructed adjacent to curb and gutter designs other than standard CG-6. ]~~ When used with [ a ] curb and gutter [ typical section ] , sidewalk shall be [ located as prescribed in 24 VAC 30-90-340. Sidewalk shall be ] constructed at least not less than four feet wide by four inches deep, [ except as required by 24 VAC 30-90-340 D 2 c, ] on a compacted subgrade, and in accordance with the department's specifications for hydraulic cement concrete sidewalk.

On ~~rural shoulder and ditch~~ typical sections, asphalt concrete sidewalk may be acceptable when located behind the ditch line in cut sections and behind the guardrail in fill sections. Such sidewalks shall be at least four feet wide by four inches deep and at a grade and elevation compatible with the adjacent roadway element. [ Cement Hydraulic cement ] concrete sidewalk on [ shoulder and ditch ] typical sections will [ be acceptable only when constructed on not normally be accepted. However, they may be approved if their construction is on ] an alignment and grade [ considered by the resident engineer ] to be compatible with the eventual conversion of the street to a curb and gutter section. ~~Construction of sidewalk within the prescribed shoulder area of the roadway will not be permitted.~~

On ~~shoulder and ditch~~ sections, construction of sidewalk within the prescribed shoulder area of the roadway will not be permitted.

2. Sidewalk underdrain shall be provided in accordance with the department's Standard UD-3.

D. Auxiliary sidewalk. Sidewalk that is deemed ineligible for department acceptance under the provisions of [

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~~subsections either subsection ] A [ and or ] B [ or both ] of this section shall be considered an auxiliary pedestrian facility and may occupy the dedicated right-of-way of a subdivision street provided:~~

~~1. The auxiliary sidewalk is constructed to standards prescribed under subsection C of this section.~~

~~2. The liability for the auxiliary sidewalk is accepted by the governing body and the responsibility for its future maintenance is assured under terms of a permit, agreement, or other legal instrument satisfactory to the department under [ which one of the following conditions ]:~~

~~a. The governing body accepts the responsibility to administer the future repair and replacement of the auxiliary sidewalk [ ; or . ]~~

~~b. The department may [ accept the responsibility to ] administer the future repair, maintenance, or replacement of the auxiliary sidewalk upon the official request of the governing body provided it agrees to reimburse the department for all costs incurred in the associated activities.~~

~~D. E. Nonstandard sidewalks. Nonstandard sidewalks that meander horizontally or vertically, or both, relative to the roadway may be permitted. However, the department will not accept responsibility for their maintenance. A permit which clearly specifies the applicant's responsibility for the sidewalk's maintenance and related activities shall be obtained from the department to the extent it will encroach upon the street's right-of-way. The permit applicant shall be a county, incorporated town, or other agency which has perpetual maintenance capability. These sidewalks may be constructed of asphalt, concrete, gravel, or other stabilizer convenient to the applicant.~~

~~[ § 3.2. 24 VAC 30-90-180. ] Intersections.~~

~~The legs of intersecting streets that will operate under a STOP or YIELD condition preferably should be at right angles. The resident engineer may require the developer to provide and install traffic control signs, in accordance with the Manual for Uniform Traffic Control Devices. Also, a relatively flat landing, of sufficient length to properly accommodate the projected traffic volume, shall be provided. (See the design manual.) Where turning volumes are significant, appropriate channelization of intersection may be required.~~

~~[ § 3.3. 24 VAC 30-90-190. ] Guardrail.~~

~~Guardrail shall be provided and installed by the developer as necessary for the safety of the traveling public as well as protection for adjacent properties. The use of guardrail types that are aesthetically compatible with the surrounding areas should be considered. One acceptable type is "Corten" or weathering steel rail with treated timber post. Alternate types may be considered provided they [ (i) ] conform to applicable VDOT standards or the criteria prescribed in the National Cooperative Highway Research Program Report 230, [ (ii) ] blend in with [ the surrounding their surroundings ] and [ (iii) ] do not create an undue maintenance problem.~~

~~[ § 3.4. 24 VAC 30-90-200. ] Curb and gutter.~~

~~For the purpose of these requirements, the use of a curb and gutter is an acceptable alternative, rather than a requisite, for the acceptance of subdivision streets. However, where its use is required by the governing body or is otherwise desired, "local" streets utilizing a curb and gutter typical section shall be designed in accordance with Tables I and I-A. The appropriate standard for curb and gutter, as prescribed in Table IV, shall be utilized. the curb and gutter design shall be [ as shown ] in [ § 4.4 of these requirements accordance with 24 VAC 30-90-340 ].~~

~~Curb-cut ramps shall be provided in accordance with Chapter 10 (§ 15.1-381) of Title 15.1 § 15.1-381 of the Code of Virginia and constructed in accordance with the department's Standard CG-12.~~

~~[ § 3.5. 24 VAC 30-90-210. ] Turn lanes.~~

~~Left or right turn lanes shall be provided at intersections when the department determines that projected turning movements warrant their installation. These facilities shall be designed in accordance with the appropriate provisions of the department's Minimum Entrance Standards. Where necessary, additional width of right-of-way shall be provided to accommodate these facilities.~~

~~[ § 3.6. 24 VAC 30-90-220. ] Townhouses and condominiums [ Townhouses, condominiums, and ] Neotraditional developments.~~

~~[ The density of units normally associated with ] the development of townhouses and condominiums [ these developments presents several unique situations that must be considered in the design of the adjacent subdivision streets. ]~~

~~Primarily, [ With regard to townhouse and condominium developments, these situations primarily relate to parking and the frequency of desired entrances. In the absence of local regulations which are deemed acceptable by the department, the following criteria shall apply for the design of subdivision streets serving these developments:~~

~~1. A minimum of two parking spaces for each unit shall be provided. On street parking, if available and in the proximity of the unit it is intended to serve, may be combined with "on site" parking to satisfy this provision.~~

~~2. ] In the event [ if parking bays are provided, they shall be located off the street's right-of-way and designed to prevent vehicles from backing into the adjacent subdivision street.~~

~~3. Entrances to parking bays or individual units shall be separated by at least 50 feet and designed in accordance with the appropriate provisions of the Standards or Permit Manual.~~

~~Neotraditional developments may include a variety of buildings and land use densities along the same street. These developments may be defined as "villages" or "hamlets" in the ordinance of the governing body. The design of these streets may be accommodated in accordance with Part II of this regulation and subject to a review and specific approval by the resident engineer.~~

~~The design of streets within neotraditional developments can be accommodated within the standards prescribed by~~

this chapter. Therefore, any street within these types of subdivisions that is designated to become a part of the secondary system of state highways must comply with all applicable provisions of these requirements. ]

[ § 3-7. 24 VAC 30-90-230. ] Concentric design.

The design of the subdivision street's principal roadway elements shall, except in extenuating circumstances, be concentric to the center of the right-of-way. No variance from the appropriate typical section will be permitted except as necessary to provide for vehicular safety and traffic channelization features, e.g., turn lanes, intersection radius, etc.

[ § 3-8. ~~Turnaround/cul-de-sac.~~ 24 VAC 30-90-240. ~~Cul-de-sacs and turnarounds.~~ ]

An adequate turnaround facility shall be provided at the end of each cul-de-sac street to permit the safe and convenient maneuvering by service vehicles. ~~Where a circular turnaround is used, a minimum 30-foot radius from its center to the outer edge of pavement shall be provided in residential subdivisions and a minimum 45-foot radius in all other types of subdivision. Additional right-of-way, as necessitated by the turnaround, shall be provided. To afford the greatest flexibility in design, various types of turnaround designs may be approved. [ (For examples, see the Policy on Geometric Design of Highways and Streets, AASHTO.) ] Additional right-of-way shall be provided as required by the turnaround design. [ ~~Nontraffic~~ Any nontraveled way ] areas included within turnarounds, such as islands, shall be included in the dedicated right-of-way of the facility.~~

For circular turnarounds, a well-defined, identifiable street segment shall extend from the intersected street to the beginning of the radial portion of the turnaround. The length of this segment shall equal the normal lot width along the intersected street which serves the cul-de-sac. A minimum radius [ , measured to the edge of pavement or face of curb, ] of 30 feet shall be used for circular turnarounds on residential cul-de-sac streets planned to serve [ 40 25 ] or fewer [ dwelling ] units. For [ ~~all other~~ ] circular turnarounds on [ ~~all other~~ ] residential cul-de-sac streets, as well as [ any ] nonresidential cul-de-sac [ ~~streets street~~ ] , a minimum [ pavement ] radius of 45 feet shall be used.

[ § 3-9. 24 VAC 30-90-250. ] Dams.

Subdivision streets which cross a dam may be eligible for acceptance into the secondary system of state highways subject to the following criteria:

1. The right of way across the dam is recorded as either an easement for public road purposes or is dedicated [ to the county specifically to the governing body ] . Right of way that includes a dam and which is dedicated in the name of the Commonwealth or any of its agencies is not acceptable and roads through such right of way will not be accepted as a part of the secondary system of state highways.

4. 2. An appropriate alternate roadway facility for public ingress and egress, with suitable provisions to assure its perpetual maintenance, is provided.

2. 3. The An engineer, licensed to practice in the Commonwealth of Virginia, certifies that the dam's

hydraulic and structural design shall be is in accordance with current national engineering practice. ~~Flow of water over the roadway is not acceptable as an emergency spillway.~~

3. 4. Applicable federal and state permits must be secured prior to VDOT acceptance of the street.

4. 5. Protection of the roadway from inundation shall be provided as herein prescribed by these requirements. ~~Flow of water over the roadway is not acceptable as an emergency spillway.~~

5. 6. VDOT maintenance responsibilities shall be limited to the roadway surface and related elements. The maintenance of the dam shall be that the responsibility of the owner, other than VDOT, as established by Chapter 4 (~~§ 33.1-176 et seq.~~) of Title 33.1 § 33.1-176 of the Code of Virginia.

6. 7. ~~An acceptable agreement is entered into with the governing body and other parties as may be appropriate, which absolves the department of any future liability due to the dam's existence. The governing body shall provide the department with an acceptable agreement, which acknowledges the department's liability is limited to the maintenance of the roadway and its related elements and that the department has no responsibility or liability due to the presence of the dam.~~

[ § 3-10. 24 VAC 30-90-260. ] Railroad crossing.

Short-arm gates or with flashing signals, ~~flashing signals alone~~, or other protective devices as deemed appropriate by VDOT, shall be provided by any at-grade crossing of an active railroad by a subdivision street. Prior to the execution of the agreement between the railroad and the developer or the governing body, regarding the construction or maintenance of any at-grade crossing, bridge, or signal device, it shall be reviewed and approved in by the department, which will coordinate a concurrent review with the Department of Rail and Public Transportation. This agreement shall be fully executed prior to the street's acceptance into the secondary system.

[ § 3-11. 24 VAC 30-90-270. ] Private entrances.

All private entrances shall be designed and constructed in accordance with the applicable standard. For rural ~~shoulder and ditch~~ typical section streets, the department's Standard PE-1 shall be utilized. ~~All entrance pipe culverts shall be sized to accommodate the run off expected from a 10-year frequency storm.~~ On streets with curb and gutter, the appropriate entrance gutter, as prescribed by the standards, shall be provided.

[ § 3-12. 24 VAC 30-90-280. ] Parking.

Perpendicular and angle parking along subdivision streets shall be prohibited. ~~[ On streets with curb and gutter, parallel parking may be permitted where appropriate parking lanes are provided. ]~~

~~Street designs [ which anticipate no that anticipate the restriction of ] on street parking shall only be [ allowed approved ] with the consent of the county official and the resident engineer. [ Further, the provisions of § 2-1 D 3-g shall be satisfied with adequate off-street parking provided. Designs anticipating the prohibition of parking will only be~~

# Final Regulations

~~allowed in situations where no direct access to the abutting property is allowed or when the type of development of all adjacent property is anticipated in accordance with § 3-6. ]~~

[ In the absence of local regulations that are deemed acceptable by the department, the following criteria shall apply for the design of subdivision streets:

1. A minimum of two off-street parking spaces per dwelling unit shall be provided in the proximity of the unit they are intended to serve. Additional off-street parking space shall be provided when the width of any residential curb and gutter roadway is proposed for reduction under the provisions of 24 VAC 30-90-130 D 3 g and as specified therein.
2. If parking bays are provided, they shall be located off the street's right-of-way and designed to prevent vehicles from backing into the adjacent subdivision street.
3. Entrances to parking bays shall be separated by at least 50 feet and designed in accordance with the appropriate provisions of the standards or Permit Manual. ]

[ § 3-13. 24 VAC 30-90-290. ] Landscaping.

All disturbed areas within the dedicated right-of-way and easements of any subdivision street shall be restored with a vegetation compatible with the surrounding area. No street will be accepted into the secondary system of state highways where there is visual evidence of erosion or siltation unless appropriate protective measures, in accordance with VDOT's construction practices, have been taken. Any planting of trees or shrubs shall be in accordance with the department's current Guidelines for Planting Along Virginia's Roadways, Environmental Division.

[ § 3-14. 24 VAC 30-90-300. ] Encroachments and extrinsic structures.

~~Posts, walls, signs, or similar ornamental [ structures ] that do not enhance [ shall not devices that do not interfere with roadway capacity or traffic safety may ] be permitted within the right-of-way [ of a subdivision street, unless such encroachment enhances a roadway's capacity or traffic safety ] , shall not be permitted within the right of way of a subdivision street [ Only these structures specifically authorized by permit issued by the department may be located within the street's right-of-way. However, specific authorization by a permit issued by the department is a requisite for these devices or any other encroachment to be located within the right-of-way. ]~~

No street that includes an extrinsic structure within the right-of-way will be accepted as part of the secondary system of state highways unless the local governing body provides the department with an acceptable agreement that [ acknowledges the department has no responsibility or liability due to the presence of the structure and ] assures the costs of inspection, maintenance, and future improvements to the structure are provided from sources other than those administered by the department.

[ § 3-15. 24 VAC 30-90-310. ] Lighting.

Where roadway, security, or pedestrian lighting is required by the governing body or desired by the developer, it shall be installed in accordance with the department's Guidelines for Lighting by Permit on State Right-of-Way (No. M-245-87), Maintenance Division [ and department policy concerning lighting ] .

[ § 3-16. 24 VAC 30-90-320. ] Noise abatement.

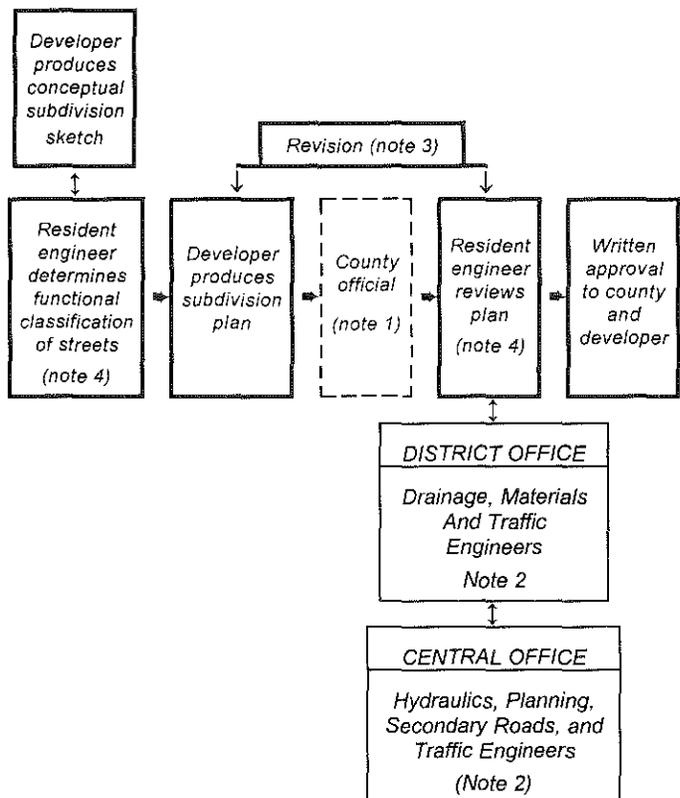
Where applicable, the governing body and the developer are reminded of the board's adoption, on August 18, 1988, of the State Noise Abatement Policy which applies to nonfederal-aid highway construction and improvement projects.

[ § 3-17. 24 VAC 30-90-330. ] Effective date and transition.

These requirements are effective as of January 1, 1990 1996; provided, however, that during the period of January 1, 1990 1996, through [ March 31 June 30 ] , 1990 1996, the department will consider approval of streets designed in accordance with either the former requirements (1980) (1990) or with these requirements. Any street design initially submitted for approval by the department after [ March 31 June 30 ] , 1990 1996, shall be in accordance with these requirements.

## PART IV. REFERENCE SECTION.

[ § 4-1. 24 VAC 30-90-340. ] Subdivision street plan review procedure.



## NOTES

1. Depending on the individual county's ordinance, plan may be submitted to county official or directly to resident engineer.
2. Referral to district and central offices will occur only if the complexity of the subdivision plan requires such review.
3. Plan will be returned to the developer if revision is required (for minor revisions, the revised plan will receive priority review when resubmitted).
4. Plan review for subdivision development in counties of Fairfax, Loudoun, and Prince William is performed in the Northern Virginia District Office.

[ ~~§ 4.2.~~ 24 VAC 30-90-350. ] Offices of the Virginia Department of Transportation.

Residency and district offices are located in or near the localities or cities shown.

County Served	Residency	District
Accomack	Accomac	Suffolk
Albemarle	Charlottesville	Culpeper
Alleghany	Lexington	Staunton
Amelia	Amelia	Richmond
Amherst	Amherst	Lynchburg
Appomattox	Appomattox	Lynchburg
Augusta	[ Staunton Verona ]	Staunton
Bath	Lexington	Staunton
Bedford	Bedford	Salem
Bland	Tazewell	Bristol
Botetourt	Salem	Salem
Brunswick	South Hill	Richmond
Buchanan	Lebanon	Bristol
Buckingham	Dillwyn	Lynchburg
Campbell	Appomattox	Lynchburg
Caroline	Bowling Green	Fredericksburg
Carroll	Hillsville	Salem
Charles City	Sandston	Richmond
Charlotte	Halifax	Lynchburg
Chesterfield	Chesterfield	Richmond
City of Suffolk	Suffolk	Suffolk
Clarke	Luray	Staunton
Craig	Salem	Salem
Culpeper	Culpeper	Culpeper
Cumberland	Dillwyn	Lynchburg
Dickenson	Wise	Bristol
Dinwiddie	Petersburg	Richmond
Essex	Bowling Green	Fredericksburg
Fairfax	Fairfax	Northern Virginia
Fauquier	Warrenton	Culpeper
Floyd	Hillsville	Salem
Fluvanna	Louisa	Culpeper
Franklin	Rocky Mount	Salem
Frederick	Edinburg	Staunton
Giles	Christiansburg	Salem
Gloucester	Saluda	Fredericksburg
Goochland	Ashland	Richmond
Grayson	Wytheville	Bristol
Greene	Charlottesville	Culpeper
Greensville	Franklin	Suffolk

Halifax	Halifax	Lynchburg
Hanover	Ashland	Richmond
Henry	Martinsville	Salem
Highland	[ Staunton Verona ]	Staunton
Isle of Wight	Suffolk	Suffolk
James City	Williamsburg	Suffolk
King & Queen	Saluda	Fredericksburg
King George	Fredericksburg	Fredericksburg
King William	Bowling Green	Fredericksburg
Lancaster	Warsaw	Fredericksburg
Lee	Jonesville	Bristol
Loudoun	Leesburg	Northern Virginia
Louisa	Louisa	Culpeper
Lunenburg	Amelia	Richmond
Madison	Culpeper	Culpeper
Mathews	Saluda	Fredericksburg
Mecklenburg	South Hill	Richmond
Middlesex	Saluda	Fredericksburg
Montgomery	Christiansburg	Salem
Nelson	Amherst	Lynchburg
New Kent	Sandston	Richmond
Northampton	Accomac	Suffolk
Northumberland	Warsaw	Fredericksburg
Nottoway	Amelia	Richmond
Orange	Culpeper	Culpeper
Page	Luray	Staunton
Patrick	Martinsville	Salem
Pittsylvania	Chatham	Lynchburg
Powhatan	Chesterfield	Richmond
Prince Edward	Dillwyn	Lynchburg
Prince George	Petersburg	Richmond
Prince William	Manassas	Northern Virginia
Pulaski	Christiansburg	Salem
Rappahannock	Warrenton	Culpeper
Richmond	Warsaw	Fredericksburg
Roanoke	Salem	Salem
Rockbridge	Lexington	Staunton
Rockingham	Harrisonburg	Staunton
Russell	Lebanon	Bristol
Scott	Jonesville	Bristol
Shenandoah	Edinburg	Staunton
Smyth	Abingdon	Bristol
Southampton	Franklin	Suffolk
Spotsylvania	Fredericksburg	Fredericksburg
Stafford	Fredericksburg	Fredericksburg
Surry	Waverly	Suffolk
Sussex	Waverly	Suffolk
Tazewell	Tazewell	Bristol
Warren	Luray	Staunton
Washington	Abingdon	Bristol
Westmoreland	Warsaw	Fredericksburg
Wise	Wise	Bristol
Wythe	Wytheville	Bristol
York	Williamsburg	Suffolk

[ ~~§ 4.3.~~ 24 VAC 30-90-360. ] Listing of documents (publications) incorporated by reference.

Information pertaining to the availability and cost of any of these publications should be directed to the address indicated below the specific document. Requests for documents available from the department, indicated as

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"(VDOT)," may be obtained from the department's division and representative indicated, by writing to:

Virginia Department of Transportation, 1401 East Broad Street  
Richmond, Virginia 23219.

1. Drainage Manual (January 1, 1980), Location and Design Division (VDOT)

Location and Design Engineer

2. Guidelines for Lighting by Permit on State Right of Way (October 15, 1987)

Maintenance Division (VDOT)  
Maintenance Engineer

3. Guidelines for Planting Along Virginia's Roadways (1986)

Environmental Division (VDOT)  
Environmental Engineer

4. "ITE Trip Generation," (5th edition, 1991) Information Report of the Institute of Transportation Engineers

Institute of Transportation Engineers  
525 School Street, S.W., Suite 410  
Washington, DC 20024-2729

5. Highway Capacity Manual [ (1985), (1994) ] Transportation Research Board, Special Report 209

Transportation Research Board  
2107 Constitution Avenue, N.W.  
Washington, DC 20418

6. Land Use Permit Manual (1985), Maintenance Division (VDOT)

Maintenance Engineer

7. Manual on Uniform Traffic Control Devices for Streets and Highways (1988 edition)

United State Department of Transportation  
Superintendent of Documents  
U. S. Government Printing Office,  
Washington, DC 20402

- [ 8. ] The Virginia Supplement to the Manual on Uniform Traffic Control Devices for Streets and Highways, (November, 1980) Traffic Engineering Division (VDOT)

State Traffic Engineer

- [ ~~Minimum Entrance Standards~~ 9. Minimum Standards of Entrances to State Highways ] (March 29, 1989), Traffic Engineering Division (VDOT)

State Traffic Engineer

- [ 8. 10. ] National Cooperative Highway Research Program Report 230 (1981), Transportation Research Board

Transportation Research Board  
2107 Constitution Avenue, N.W.  
Washington, DC 20418

- [ 11. Pavement Design Guide for Subdivision and Secondary Roads in Virginia (1993), Materials Division (VDOT)

State Materials Engineer ]

- [ 9. 12. ] Policy on Geometric Design of Highways and Streets (1990), AASHTO

American Association of State Highway and Transportation Officials  
444 North Capital Street, Suite 225  
Washington, DC 20001

- [ 40. 13. ] Road and Bridge Specifications (January, 1994), Construction Division (VDOT)

Construction Engineer

- [ 44. 14. ] Road Design Manual (May 1, 1990) and Road and Bridge Standards (January 1, 1993)

Location and Design Division (VDOT)  
Location and Design Engineer

- [ 42. 15. ] Standard Specifications for Highway Bridges (14th edition, 1989), AASHTO

American Association of State Highway and Transportation Officials  
444 North Capital Street, Suite 225  
Washington, DC 20001

VDOT Modifications, Bridge and Structure Division (VDOT)  
Structure and Bridge Engineer

- [ 43. 16. ] Virginia Erosion and Sediment Control Handbook (3rd edition - 1992), Division of Soil and Water Conservation with The Virginia Erosion and Sediment Control Law and Regulations (September 13, 1990)

Division of Soil and Water Conservation  
203 Governor Street, Suite 206  
Richmond, Virginia 23219

- [ ~~§ 4.4. 24 VAC 30-90-370.~~ ] Acceptable curb and gutter designs.

~~[ The bottom of the curb and gutter may be constructed parallel to the slope of subsurface courses, provided a minimum depth of seven inches is maintained.~~

~~Curb having a radius of 300 feet or less, along face of curb, shall be considered radial curb.~~

~~Where the roll top curb and gutter section is used, drop inlets must be spaced so that the 10-year frequency gutter flow does not exceed four inches. Roll top curb and gutter shall be constructed with approved slip form type of equipment, designed for that type of installation.~~

~~On curb and gutter sections adjacent to sidewalk, Standard CG-6 shall be used.~~

~~Standard Curb CG-6 may be used for design speeds of 40 mph or less.~~



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[ § 4.5. 24 VAC 30-90-380. ] Table 1 - Geometric Design Guide for Subdivision Streets Functionally Classified as Local.

ENGLISH MEASUREMENTS ALL UNITS IN FEET, MPH, OR DEGREES			HORIZONTAL & VERTICAL CONTROL Maximum Cut or Fill Slope = 2:1						ROADWAY SECTION CRITERIA								
PROJECTED TRAFFIC (ADT)	TERRAIN	DESIGN SPEED (MPH)	CURVE RADIUS (MIN.)	DEGREE (MAX)	SUPER-ELEVATION	% GRADE	STOPPING SIGHT DISTANCE (MINIMUM)	INTER-SECTIONS (MINIMUM)	SHOULDER & DITCH ROADWAY SECTIONS				CURB AND GUTTER ROADWAY SECTIONS				
									FILL W GR	FILL W/O GR	CUT	DITCH WIDTH & SLOPE (W, V:H)	RESIDENTIAL		NON-RESIDENTIAL		
													WIDTH FACE TO FACE OF CURB (MIN)	RIGHT OF WAY WIDTH (MIN)	WIDTH FACE TO FACE OF CURB (MIN)	RIGHT OF WAY WIDTH (MIN)	
<b>TERTIARY ACCESS STREET</b>																	
UP TO 250	LEVEL	20	120	48°	NONE	10	125	200	7	4	4	4_1:3	See § 2.1 D. 3 g for this data.				
	ROLLING	20	95	60°		16	125	200									
251-400	LEVEL	25	180	37°		7	150	250	7	4	4	4_1:3					
	ROLLING	25	135	45°		10	150	250									
	MOUNTAINOUS	20	95	60°		16	125	200									
<b>OTHER LOCAL SUBDIVISION STREETS</b>																	
401-1000	LEVEL	30	250	23°	RATE =	7	200	300	22								
	ROLLING	30	200	23°	STD.	10	200	300	22	7	4	4_1:3	50	36	44	38	46
	MOUNTAINOUS	30	250	23°	CROWN	14	200	300	20								
1001-2000	LEVEL	30	250	23°	RATE =	7	200	300	22								
	ROLLING	30	250	23°	STD.	10	200	300	22	9	6	6_4_1:3	50	36	44	38	46
	MOUNTAINOUS	30	250	23°	CROWN	14	200	300	20								
2001-4000	LEVEL	40	535	10.5°	RATE =	7	275	400	22								
	ROLLING	40	535	10.5°	STD.	9	275	400	22	9	6	6_4_1:3	50	38	46	40	48
	MOUNTAINOUS	30	250	23°	CROWN	14	200	300									
OVER 4000	LEVEL	40	535	10.5°	RATE =	7	275	400	24								
	ROLLING	40	535	10.5°	STD.	9	275	400	24	9	6	6_4_1:3	50	40	48	40	48
	MOUNTAINOUS	30	250	23°	CROWN	14	200	300									

Entire Section as published July 10, 1995 is replaced by amendment.

ENGLISH MEASUREMENTS ALL UNITS ARE IN FEET, MPH, OR DEGREES		HORIZONTAL & VERTICAL CONTROL Maximum Cut or Fill Slope = 2:1							ROADWAY SECTION CRITERIA										
									SHOULDER & DITCH ROADWAYS				CURB AND GUTTER ROADWAYS						
									SLOPE OF DITCH AND MINIMUM WIDTH SHALL BE BASED ON SLOPES OF 1:3 TO PROVIDE A WIDTH OF 4 FEET OR MORE.				RESIDENTIAL		NON-RESIDENTIAL				
									MINIMUM ROADWAY (c-c) AND RIGHT-OF-WAY (ROW) WIDTHS SHALL BE BASED ON THE LENGTH OF STREET AND SPECIAL REQUIREMENTS REGARDING OFF-STREET PARKING, SEE §2.1.D.3.g. AND § 3.12.										
PROJECTED TRAFFIC VOLUME (ADT)	TERRAIN	DESIGN (MPH) SPEED (MIN.)	CURVE DATA			SUGGESTED % GRADE	SIGHT DISTANCE MINIMUM		PAVEMENT WIDTH (MINIMUM)	RIGHT OF WAY WIDTH (MIN.)	SHOULDER WIDTH (MINIMUM)		LENGTH UNDER 0.5 MILES	LENGTH 0.5 MILES OR MORE	LENGTH NOT A FACTOR				
			RADIUS (MIN.)	DEG. MAX	SUPER- ELEVATION		STOPPING	@ INTER- SECTIONS			FILL W/ GR	CUT OR FILL W/O GR			PARKING ALLOWED	PARKING RESTRICTED	PARKING ALLOWED		
UP TO 250	LEVEL	20	120	48°	NONE	7	125	200	18	40	7	4	cc = 28	cc = 30	cc = 24	cc = 30			
	ROLLING		120	48°		10							ROW = 40	ROW = 40	ROW = 40	ROW = 40			
	MOUNTAINOUS		95	60°		16							ROW = 40	ROW = 40	ROW = 40	ROW = 40			
251-400	LEVEL	20	120	48°	NONE	7	125	200	20	50	7	4	cc = 28	cc = 30	cc = 24	cc = 30			
	ROLLING		120	48°		10							ROW = 40	ROW = 40	ROW = 40	ROW = 40			
	MOUNTAINOUS		95	60°		16							ROW = 40	ROW = 40	ROW = 40	ROW = 40			
401-1000	LEVEL	25	180	32°	NONE	7	150	250	22	50	7	4	cc = 36	cc = 36	N/A	cc = 38			
	ROLLING		10	150		250			22				50	7	4	cc = 36	cc = 36	N/A	cc = 38
	MOUNTAINOUS		16	20		20			50				7	4	cc = 36	cc = 36	N/A	cc = 38	
1001-2000	LEVEL	30	300	19°	NONE	7	200	300	22	50	9	6	cc = 36	cc = 36	N/A	cc = 38			
	ROLLING		10	200		300			22				50	9	6	cc = 36	cc = 36	N/A	cc = 38
	MOUNTAINOUS		14	20		20			50				9	6	cc = 36	cc = 36	N/A	cc = 38	
2001-4000	LEVEL	30	300	19°	NONE	7	200	300	22	50	9	6	cc = 38	cc = 38	N/A	cc = 40			
	ROLLING		10	200		300			22				50	9	6	cc = 38	cc = 38	N/A	cc = 40
	MOUNTAINOUS		14	200		300			22				50	9	6	cc = 38	cc = 38	N/A	cc = 40
OVER 4000	LEVEL	40	535	10.5°	RATE =	7	275	400	24	50	9	6	cc = 40	cc = 40	N/A	cc = 40			
	ROLLING	40	535	10.5°	STD.	9	275	400					cc = 40	cc = 40	N/A	cc = 40			
	MOUNTAINOUS	30	250	23°	CROWN	14	200	300					cc = 40	cc = 40	N/A	cc = 40			

TABLE 1  
 GEOMETRIC DESIGN CRITERIA FOR MAJOR SUBDIVISION STREETS FUNCTIONALLY CLASSIFIED AS LOCAL ROADS (1)  
 (NUMBERS SHOWN IN PARENTHESES DESIGNATE APPLICABLE FOOTNOTES)

APPROXIMATE TRAFFIC VOLUME (AADT)	TERRAIN	MINIMUM DESIGN SPEED (MPH)	MAXIMUM PERCENT OF GRAVITY GRADE	SUGGESTED MIN. STOPPING DIST. (12)	MINIMUM INTERSECTION SPACING (11)	MINIMUM PAVEMENT CLASS (SEE TABLE 11)	SLOPES (11)	MINIMUM PAVEMENT WIDTH (14)	MINIMUM SHOULDER WIDTH (15)	MINIMUM FULL WIDTH (16)	MINIMUM RIGHT-OF-WAY WIDTH (17)	MINIMUM DISTANCE FROM FACE OF CURB TO CENTERLINE OF ROAD (18)	MINIMUM DISTANCE FROM FACE OF CURB TO CENTERLINE OF SIDEWALK (19)
251 - 400	LEVEL	40	7	275'	400'	11	11	20'	6'	6'	50'	36'	68'
	ROLLING	30	10	200'	200'	10	10	20'	6'	6'	50'	36'	68'
	MOUNTAINOUS	20	12	125'	200'	11	11	20'	6'	6'	50'	36'	68'
401 - 1000	LEVEL	50	6	500'	500'	11B & 19	11B & 19	22'	6'	6'	50'	36'	68'
	ROLLING	40	12	400'	400'	11B & 19	11B & 19	22'	6'	6'	50'	36'	68'
	MOUNTAINOUS	30	22	200'	200'	11B & 19	11B & 19	20'	6'	6'	50'	36'	68'
1001 - 2000	LEVEL	50	7	300'	300'	19 & 20	19 & 20	22'	9'	6'	50'	36'	68'
	ROLLING	40	12	275'	275'	19 & 20	19 & 20	22'	9'	6'	50'	36'	68'
	MOUNTAINOUS	30	22	140'	200'	19	19	20'	9'	6'	50'	36'	68'
2001 - 4000	LEVEL	50	7	300'	400'	19 & 20	19 & 20	22'	9'	6'	50'	36'	68'
	ROLLING	40	12	275'	400'	19 & 20	19 & 20	22'	9'	6'	50'	36'	68'
	MOUNTAINOUS	30	22	140'	200'	19 & 20	19 & 20	22'	9'	6'	50'	36'	68'
OVER 4000	LEVEL	50	7	300'	500'	19 & 20	19 & 20	22'	9'	6'	50'	36'	68'
	ROLLING	40	12	275'	400'	19 & 20	19 & 20	22'	9'	6'	50'	36'	68'
	MOUNTAINOUS	30	22	140'	200'	19 & 20	19 & 20	22'	9'	6'	50'	36'	68'

REPLACED

NOTES: 1. RAMP FUNCTIONALLY CLASSIFIED UNDER LOCAL ARE TO BE IN ACCORDANCE WITH THE GEOMETRIC DESIGN REQUIREMENTS OF THE CRITERIA OF THE 1997 ROAD AND BRIDGE STANDARDS FOR THE APPLICABLE ROAD FUNCTIONAL CLASSIFICATION.

2. DISTANCES ARE BASED ON A 5.5' HEIGHT OF EYE AND A 0.25' HEIGHT OF OBJECT.

3. DISTANCES ARE BASED ON A 5.5' HEIGHT OF EYE AND A 0.25' HEIGHT OF OBJECT.

4. A MINIMUM LEVEL OF SERVICE OF 5 IS TO BE MAINTAINED. ADDITIONAL LANE AND/OR CHANNELIZED INTERSECTIONS MAY BE REQUIRED.

5. SHOULDER WIDTHS ARE TO BE IN ACCORDANCE WITH STANDARD 05-12.

6. OTHER ELEMENTS (FROM CURB TO BOTTOM OF DITCH) ARE TO BE 1' VERTICAL FOR EACH 4' HORIZONTAL FOR 6" WIDE DITCHES, AND 1" VERTICAL FOR EACH 4' HORIZONTAL FOR 4" WIDE DITCHES.

7. A RIGHT-OF-WAY OF 50' OR MORE AT ANY IS REQUIRED. ADDITIONAL RIGHTS IN INCREMENTS OF 10' AS NECESSARY TO ACCOMMODATE THE ROADWAY ELEMENTS INCLUDING SIDEWALKS AND STRUCTURES.

8. DISTANCES SHOWN TAKE INTO CONSIDERATION THAT PAVEMENT MAY BE REQUIRED.

9. WHERE SHOULDER ARE TO BE PROVIDED, ADDITIONAL RIGHT OF WAY WIDTH TO ACCOMMODATE THEM IS REQUIRED.

10. WHERE SHOULDER ARE CONTINUED BY DESIGN THROUGHOUT, THEREFORE, MULTIPLE OR "STEP DOWN" TYPICAL DESIGNS WILL NOT BE ACCEPTABLE EXCEPT WHERE A MAJOR TRAFFIC GENERATOR SUCH AS AN INTERSECTION WOULD BE LOCATED & CLEAR LINE OF VISION REQUIRED.

11. THE MINIMUM WIDTH OF THE SHOULDER AND THE MINIMUM WIDTH OF THE PAVEMENT ARE TO BE AS SHOWN IN THE TABLES. THE MINIMUM WIDTH OF THE SHOULDER AND THE MINIMUM WIDTH OF THE PAVEMENT ARE TO BE AS SHOWN IN THE TABLES. THE MINIMUM WIDTH OF THE SHOULDER AND THE MINIMUM WIDTH OF THE PAVEMENT ARE TO BE AS SHOWN IN THE TABLES.

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17. THE MINIMUM WIDTH OF THE SHOULDER AND THE MINIMUM WIDTH OF THE PAVEMENT ARE TO BE AS SHOWN IN THE TABLES. THE MINIMUM WIDTH OF THE SHOULDER AND THE MINIMUM WIDTH OF THE PAVEMENT ARE TO BE AS SHOWN IN THE TABLES.

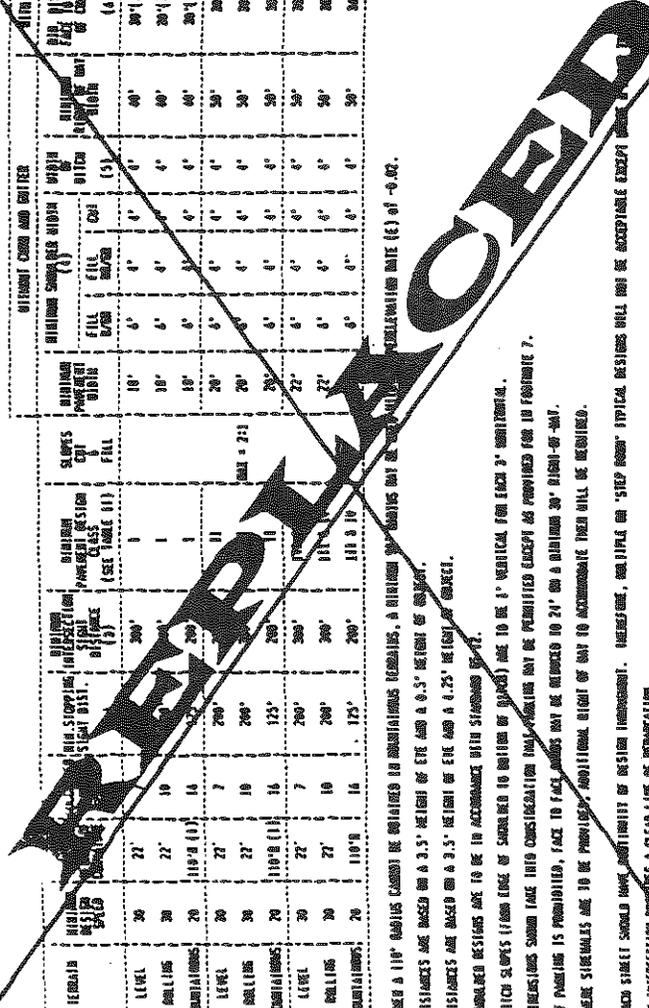
18. THE MINIMUM WIDTH OF THE SHOULDER AND THE MINIMUM WIDTH OF THE PAVEMENT ARE TO BE AS SHOWN IN THE TABLES. THE MINIMUM WIDTH OF THE SHOULDER AND THE MINIMUM WIDTH OF THE PAVEMENT ARE TO BE AS SHOWN IN THE TABLES.

19. THE MINIMUM WIDTH OF THE SHOULDER AND THE MINIMUM WIDTH OF THE PAVEMENT ARE TO BE AS SHOWN IN THE TABLES. THE MINIMUM WIDTH OF THE SHOULDER AND THE MINIMUM WIDTH OF THE PAVEMENT ARE TO BE AS SHOWN IN THE TABLES.

20. THE MINIMUM WIDTH OF THE SHOULDER AND THE MINIMUM WIDTH OF THE PAVEMENT ARE TO BE AS SHOWN IN THE TABLES. THE MINIMUM WIDTH OF THE SHOULDER AND THE MINIMUM WIDTH OF THE PAVEMENT ARE TO BE AS SHOWN IN THE TABLES.

TABLE 1-4  
 GEOMETRIC DESIGN CRITERIA FOR TERTIARY SUBURBAN STREETS  
 CUL-DE-SACS, LEMPS, AND OTHER STREETS OF TYPICAL RESIDENTIAL DEVELOPMENT  
 (NUMBERS SHOWN IN PARENTHESES DESIGNATE APPLICABLE FORMULAS)

DESIGNED TRAFFIC VOLUME (AD)	MINIMUM DESIGN SPEED (MPH)	MINIMUM STOPPING DISTANCE (SEE TABLE 1-1)	MINIMUM INTERSECTION SIGHT DISTANCE (SEE TABLE 1-1)	MINIMUM PAVEMENT WIDTH (SEE TABLE 1-1)	SLOPES ON FALL	MINIMUM PAVEMENT WIDTH	WITHOUT CURB AND GUTTER		WITH CURB AND GUTTER	
							FULL DEPTH	MINIMUM WIDTH	FULL DEPTH	MINIMUM WIDTH
UP TO 250	LEVEL	20	22'	300'	1	18'	6'	4'	40'	20'-17)
	ROLLING	30	22'	10	1	18'	6'	4'	40'	20'-17)
	MONOTONOUS	20	110'-8 (1)	16	1	18'	6'	4'	40'	20'-17)
251 - 400	LEVEL	30	22'	7	1	20'	6'	4'	50'	20'
	ROLLING	30	22'	10	1	20'	6'	4'	50'	20'
	MONOTONOUS	20	110'-8 (1)	16	1	20'	6'	4'	50'	20'
401 - 1000	LEVEL	30	22'	7	1	22'	6'	4'	50'	20'
	ROLLING	30	22'	10	1	22'	6'	4'	50'	20'
	MONOTONOUS	20	110'-8 (1)	16	1	22'	6'	4'	50'	20'



NOTES: 1. WHEN A 110' RADIUS CANNOT BE OBTAINED IN MONOTONOUS TERRAINS, A RADIUS OF 100' MAY BE USED. 2. DISTANCES ARE BASED ON A 3.5' HEIGHT OF EYE AND A 6.5' HEIGHT OF OBJECT. 3. DISTANCES ARE BASED ON A 3.5' HEIGHT OF EYE AND A 4.25' HEIGHT OF OBJECT. 4. SHOULDERS ARE TO BE IN ACCORDANCE WITH STANDARD 55-41. 5. DITCH SLOPES (FROM EDGE OF SHOULDER TO BOTTOM OF DITCH) ARE TO BE 3' VERTICAL FOR EACH 3' HORIZONTAL. 6. DIMENSIONS SHOWN TAKE INTO CONSIDERATION THE FINISHING MAY BE PERMITTED EXCEPT AS PROVIDED FOR IN FOOTNOTE 7. 7. IF PAVED IS PROHIBITED, FACE TO FACE RADII MAY BE REDUCED TO 24' ON A RADIUS OR 30' RADIUS-OF-WAY. 8. WHERE SHOULDER IS TO BE PROVIDED, ADDITIONAL RIGHT OF WAY TO ACCOMMODATE THEM WILL BE REQUIRED.

GENERAL NOTES: EACH STREET SHOULD HAVE SUFFICIENCY OF DESIGN THROUGHOUT. THEREFORE, MULTIPLE OR "STEP DOWN" TYPICAL DESIGNS WILL NOT BE ACCEPTABLE EXCEPT WHERE SPECIFIC INDICATIONS ARE MADE. AN INTERSECTION PROVIDES A CLEAR LINE OF DEMARCATION. DUE TO THE NATURE OF TERTIARY STREETS AND THEIR LOW DESIGN SPEED, CURVE SUPERELEVATION IS NOT REQUIRED. AN ADEQUATE THROUGHWAY SHALL BE PROVIDED AT THE END OF ROAD END ON CUL-DE-SAC STREETS TO ALLOW SAFE MANEUVERING BY SERVICE VEHICLES, SCHOOL BUSES, AND HEAVY EQUIPMENT. FOR RESIDENTIAL SUBDIVISIONS WHERE CIRCULAR THROUGHWAYS ARE USED, A RADIUS OF 30 FEET SHOULD BE PROVIDED, AND FOR STREETS INTENDED TO SERVE MORE THAN 10 RESIDENCES, A 45 FOOT RADIUS IS RECOMMENDED.

FOR DESIGNATION SUBDIVISIONS, THE MINIMUM THROUGHWAY ARE 45 FEET. A RADIUS OF 45 FEET IS REQUIRED BASED ON TRAFFIC VOLUME RESULTS FROM "COMPLETE DEVELOPMENT" (LOAD).

TABLE 11

PARENT STRUCTURE RESTOR

CLASS	SURBASE	BASE	SURFACE
1. 10' - 15' 000 A81	1' SELECT MATERIAL, TYPE 1, OR 111 2' CEMENT OR LIME STABILIZED SURBASE	1' ASP. BASE MATERIAL 2' 3" CEMENT STAB. NATIVE SOIL OR DORMANT 3' ASP. BASE MATERIAL 4' ASP. BASE MATERIAL 5' PLAIN PORTLAND CEMENT CONCRETE	TYPE 1 OR 111 TYPE 1 OR 111 TYPE 1 OR 111 TYPE 1 OR 111 TYPE 1 OR 111
11. 25' - 400 A81	1' SELECT MATERIAL, TYPE 1 OR 111 2' CEMENT STABILIZED SURBASE	1' ASP. BASE MATERIAL 2' LOCAL OR SELECT MATERIAL, STAB. WITH CEMENT 3' ASP. BASE MATERIAL 4' ASP. BASE MATERIAL 5' PLAIN PORTLAND CEMENT CONCRETE	TYPE 1 OR 111 TYPE 1 OR 111 TYPE 1 OR 111 TYPE 1 OR 111 TYPE 1 OR 111
111. 40' - 750 A81	1' SURBASE OR SELECT MATERIAL, TYPE 11 2' SELECT MATERIAL, TYPE 1 OR 111 3' CEMENT STABILIZED SURBASE 4' LIME STABILIZED SURBASE	1' ASP. BASE MATERIAL 2' LOCAL OR SELECT MATERIAL, STAB. WITH CEMENT 3' ASP. BASE MATERIAL 4' ASP. BASE MATERIAL 5' PLAIN PORTLAND CEMENT CONCRETE	TYPE 1 OR 111 TYPE 1 OR 111 TYPE 1 OR 111 TYPE 1 OR 111 TYPE 1 OR 111
1111. 75' - 1500 A81	1' SELECT MATERIAL, TYPE 1 OR 111 2' ASP. SURBASE OR BASE MATERIAL 3' CEMENT STABILIZED SURBASE 4' LIME STABILIZED SURBASE	1' ASP. BASE MATERIAL 2' LOCAL OR SELECT MATERIAL, STAB. WITH CEMENT 3' ASP. BASE MATERIAL 4' ASP. BASE MATERIAL 5' PLAIN PORTLAND CEMENT CONCRETE	TYPE 1 OR 111 TYPE 1 OR 111 TYPE 1 OR 111 TYPE 1 OR 111 TYPE 1 OR 111
11111. 150' - 4000 A81	1' SELECT MAT'L, TYPE 1 OR 111 2' ASP. SURBASE OR BASE MATERIAL 3' CEMENT STAB. SURBASE OR 3" ASP. SURBASE OR TYPE 10-10 4' LIME STABILIZED SURBASE	1' ASP. BASE MATERIAL 2' LOCAL OR SELECT MATERIAL, STAB. WITH CEMENT 3' ASP. BASE MATERIAL 4' ASP. BASE MATERIAL 5' PLAIN PORTLAND CEMENT CONCRETE	TYPE 1 OR 111 TYPE 1 OR 111 TYPE 1 OR 111 TYPE 1 OR 111 TYPE 1 OR 111
111111. 400' - 10,000 A81	1' LIME STAB. SURBASE OR ASP. SURBASE OR BASE MATERIAL 2' LOCAL OR SELECT MATERIAL, TYPE 11 3' CEMENT STAB. SURBASE OR SELECT MATERIAL 4' ASP. SURBASE OR BASE MATERIAL	1' ASP. CONCRETE TYPE 10-10 2' ASP. CONCRETE TYPE 10-10 3' ASP. CONCRETE TYPE 10-10 4' ASP. CONCRETE TYPE 10-10	TYPE 10-10 TYPE 10-10 TYPE 10-10 TYPE 10-10
1111111. 10,001-30,000 A81	1' CEMENT STAB. SURBASE OR ASP. SURBASE OR BASE MATERIAL 2' LOCAL OR SELECT MATERIAL, TYPE 11 3' CEMENT STAB. SURBASE OR SELECT MATERIAL 4' ASP. SURBASE OR BASE MATERIAL	1' ASP. CONCRETE TYPE 10-10 2' ASP. CONCRETE TYPE 10-10 3' ASP. CONCRETE TYPE 10-10 4' ASP. CONCRETE TYPE 10-10	TYPE 10-10 TYPE 10-10 TYPE 10-10 TYPE 10-10

(SEE SUBSEQUENT PAGE FOR GENERAL NOTES)



TABLE 11 (Continued)  
PAVEMENT STRUCTURE DESIGN

WEAR SURF:

(1) THESE DESIGN ARE BASED ON THE ASSUMPTION THAT THE NUMBER OF HEAVY COMMERCIAL VEHICLES (HCV), CONSISTING OF TRUCKS, BUSES, ETC., WITH 4 TIMES OR GREATER, WILL NOT EXCEED 5% OF THE TOTAL PROJECTED TRAFFIC. IF THE TOTAL PROJECTED TRAFFIC INCLUDES MORE THAN 5% OF SUCH VEHICLES, AN EQUIVALENT PROJECTED TRAFFIC SHALL BE UTILIZED IN DETERMINING THE APPROPRIATE PAVEMENT STRUCTURE DESIGN. THIS EQUIVALENT PROJECTED TRAFFIC, EXPRESSED IN ADT, SHALL BE CALCULATED IN THE FOLLOWING MANNER:

AVERAGE DAILY TRAFFIC EQUALS 20 TIMES THE NUMBER OF HEAVY COMMERCIAL VEHICLES (ADT = 20 X HCV).

(2) PAVEMENT DESIGN IN ACCORDANCE WITH "A DESIGN GUIDE FOR SUBDIVISION ROAD PAVEMENTS IN WISCONSIN" BY DR. H.L. WASHURNI IS AN ACCEPTABLE ALTERNATE TO THESE DESIGNS. INCREASE THE THICKNESS EQUIVALENT VALUE OF THE ASPHALT CONCRETE FROM 1.47 TO 2.25 WHERE ITS TOTAL THICKNESS IS 4.50 INCHES OR MORE AS REQUIRED BY WASHURNI'S METHOD. THE NUMBER OF THE THICKNESS EQUIVALENT VALUE (SEV), AND SOIL SUPPORT VALUE (SSV) ARE FOUND IN THE APPROPRIATE DESIGN GUIDE, WHICH IS AVAILABLE FROM MOST DISTRICT MATERIALS ENGINEERS. IN ADDITION, PAVEMENTS MAY BE DESIGNED UTILIZING THE ASPHALT PAVEMENT DESIGN GUIDELINES ON THE PCA COMPUTER PROGRAM.

(3) WHEN THE PROJECTED TRAFFIC REQUIRES FOUR LANE FACILITY, ONE OF THE PROJECTED TRAFFIC (ADT) SHALL BE THE BASIS FOR DETERMINING THE APPLICABLE CLASS FOR THE PAVEMENT STRUCTURE DESIGN.

(4) THESE DESIGNS ARE BASED ON THE SUBGRADE SOILS, THE BEARING CAPACITY OF THE PAVEMENT STRUCTURE, HAVING A SOIL SUPPORT VALUE (SSV) OF 10. IF DIFFERENT THAN 10: ADD 1/2" ASPHALT CONCRETE OR 1" AGGREGATE BASE MATERIAL FOR EACH 5 SSV ABOVE 10. IF THE SAME FOR EACH 10 SSV ABOVE. (SOIL SUPPORT VALUE EQUALS THE CALIFORNIA BEARING RATIO TIMES THE RESILIENT FACTOR (SSV = CBR x RF)).

(5) REPRESENTATIVE CALIFORNIA BEARING RATIO (CBR) SAMPLES, TAKEN AT SUFFICIENT INTERVALS, SHOULD BE USED AS THE BASIS FOR EVALUATING THE SOIL SUPPORT VALUE (SSV). GUIDANCE MAY BE OBTAINED FROM WDOT'S DISTRICT MATERIALS ENGINEER TO DETERMINE THE NUMBER OF SAMPLES REQUIRED TO OBTAIN REPRESENTATIVE CBR VALUES.

(6) EACH STREET SHOULD HAVE CONTINUITY OF DESIGN THROUGHOUT. THEREFORE, MAINLINE AND INTERSECTION STRUCTURE DESIGNS WILL NOT BE ACCEPTABLE EXCEPT IN UNUSUAL SITUATIONS.

(7) ALTERNATE DESIGN WITHIN A SPECIFIC TRAFFIC CLASS MAY NOT BE STRUCTURALLY EQUIVALENT TO THE MATERIALS' FACTORIAL STRENGTHS AND PRACTICAL CONSTRUCTION CONSIDERATION.

(8) CEMENT TREATED AGGREGATE (CTA) OR FULL DEPTH ASPHALT CONCRETE MAY BE SUBSTITUTED FOR ANY AGGREGATE STABILIZATION, OR SELECT MATERIAL ON BASIS OF 1 INCH OF CTA OR ASPHALT CONCRETE FOR 2 INCHES OF THE OTHER MATERIALS. WHETHER CTA OR ASPHALT CONCRETE SHOULD BE PLACED OVER OR UNDER A RESILIENT SOIL (AS REQUIRED IN WASHURNI'S DESIGN GUIDE) UNLESS THE SOIL IS STABILIZED WITH CEMENT OR OTHER APPROVED STABILIZING AGENT. CEMENT TREATED AGGREGATE (CTA) SHOULD HAVE A MINIMUM OF 4 INCHES OF AGGREGATE BASE MATERIAL UNDER IT WHEN LESS THAN 4 INCHES OF ASPHALT CONCRETE IS TO BE APPLIED OVER THE CTA.

(9) CURB AND SHOULDERS IN THIS TABLE REFER TO A FLOOR LOCATION (SUBBASE-BASE-SURFACE) OF THE MATERIAL WITHIN THE PAVEMENT STRUCTURE, AND THE DIMS REFER TO THE MATERIALS' TYPES AND CLASSIFICATION IN ACCORDANCE WITH DIVISION 11 OF 1991 ROAD AND BRIDGE SPECIFICATIONS.

(10) WHEN THE APPLICATION OF ASPHALT CONCRETE IS SPECIFIED IN POUNDS PER SQUARE YARD (PSY), ITS DEPTH MAY BE DETERMINED FROM THE FOLLOWING:  $INCHES = WEIGHT/PSY \times FACTOR$   
 BASE - 115.0 PSY x 1.000  
 SURFACE - 110.0 PSY x 1.000

(11) ALL UNGRADED AGGREGATE BASE OR SUBBASE MATERIAL SHALL BE 710 GRANULATION. IF AGGREGATE IS CEMENT STABILIZED, USE 210 GRANULATION.

(12) ALL MATERIALS AND CONSTRUCTION CONTROLS SHALL BE IN ACCORDANCE WITH CURRENT WDOT SPECIFICATIONS AND SPECIAL PROVISIONS.

(13) IF TYPE 11 SELECT MATERIAL IS USED AS SUBBASE, THE ENTIRE LAYER SHALL BE CEMENT STABILIZED. IF USED AS BASE, THE TYPE 11 SELECT MATERIAL SHALL BE CEMENT STABILIZED AS INDICATED.

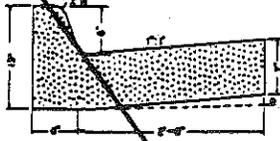
(14) ASPHALT CONCRETE WITH A TOTAL THICKNESS GREATER THAN 6 1/2" IS CONSIDERED BASE AND SURFACE. ALL AGGREGATE MATERIALS UNDER SAME ARE CONSIDERED SUBBASE. APPROPRIATE STRUCTURAL VALUES SHOULD BE ASSIGNED THESE MATERIALS WHEN USING THE WASHURNI METHOD OF DESIGN.

TABLE III  
FEES AND SURETY SCHEDULE

SUBDIVISION STREETS		
<u>2-Lane Street</u>	<u>Surety</u>	<u>Maintenance Fee</u>
Minimum (up to 0.25 mi.)	\$ 3,750	\$ 750/year
From 0.25 to 0.50 mile	7,500	1,500/year
Over 0.50 mile	1,500/tenth of mile and fraction thereof	300/tenth of mile and fraction thereof/year
<u>4-Lane Street</u>		
Minimum (up to 0.25 mi.)	7,500	750/year
From 0.25 to 0.50 mile	15,000	1,500/year
Over 0.50 mile	3,000/tenth of mile and fraction thereof	300/tenth of mile and fraction thereof/year
<u>Examples</u>		
<p>A two lane street, 0.35 mile long, is processed for addition effective September 18. Therefore, surety is required for four-tenths mile and maintenance fee is required for ten months.</p> <p>Surety required: \$7,500</p> <p>Maintenance fee required: <math>1,500 \times 10/12 = \\$1,250</math></p> <p>A four lane street, 0.78 mile long, is processed for addition effective February 4. Therefore, surety is required for eight-tenths mile and maintenance fee is required for five months.</p> <p>Surety required: <math>8 \times 3,000 = \\$24,000</math></p> <p>Maintenance fee required: <math>8 \times 300 \times 5/12 = \\$1,000</math></p>		

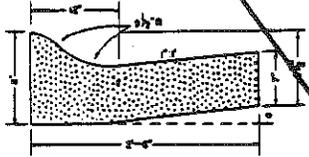
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TABLE IV




CG-6

CG-7



ROLL TOP

NOTES

\* THE BOTTOM OF THE CURB AND GUTTER MAY BE CONSTRUCTED PARALLEL TO THE SLOPE OF SUBSURFACE COURSELS PROVIDED A MINIMUM DEPTH OF 7" IS MAINTAINED.

CURB HAVING A RADIUS OF 100 FT. OR LESS (ALONG FACE OF CURB) SHALL BE CONSIDERED RADIAL CURB.

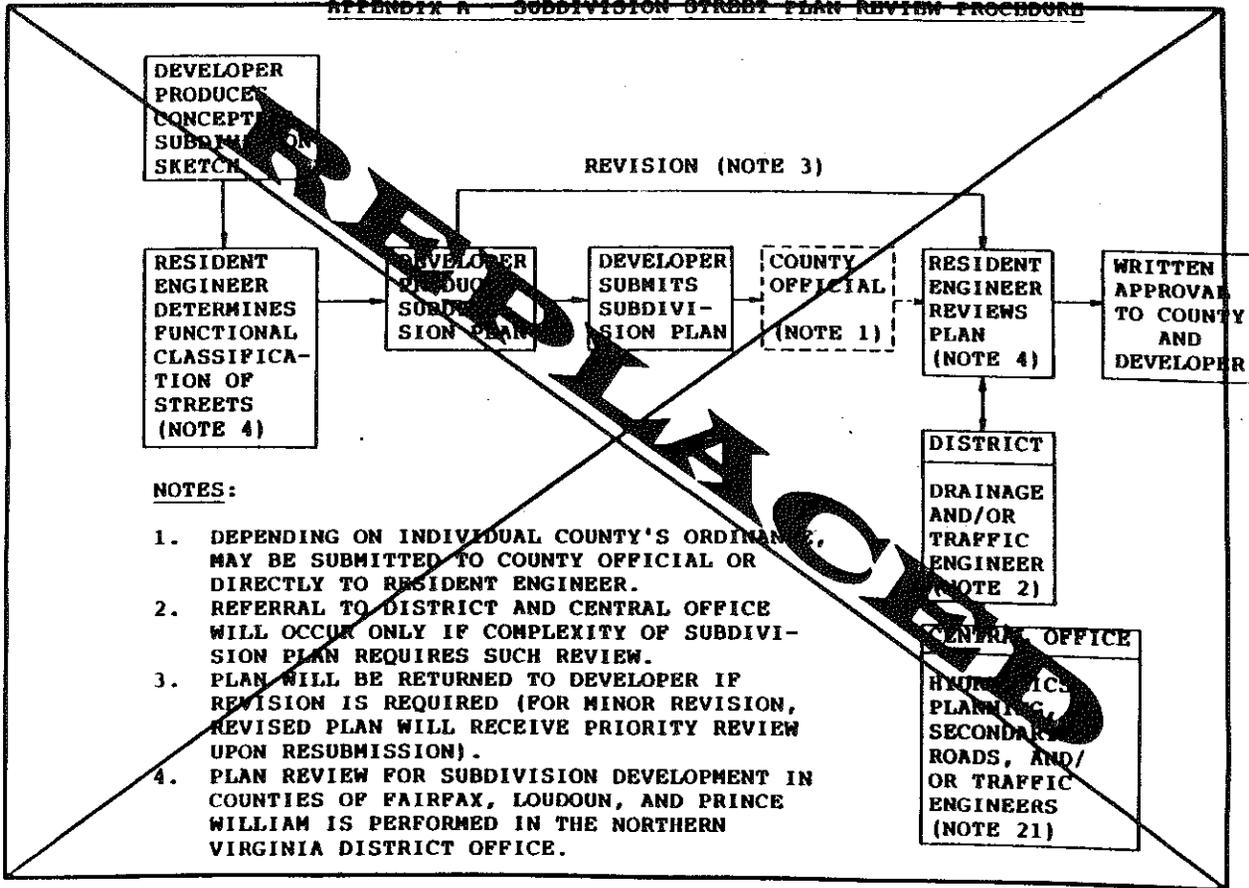
IF THE ROLL TOP CURB AND GUTTER SECTION IS USED THE SPACING OF GULLY BOWLS MUST BE SPACED SUCH THAT THE 10-YEAR FREQUENCY GUTTER FLOW DEPTH DOES NOT EXCEED 4 INCHES.

ACCEPTABLE CURB & GUTTER DESIGNS FOR VARIOUS STREET CLASSIFICATIONS				
DESIGN SPEED	STANDARD			
	MAJOR ARTERIALS	COLLECTOR	LOCAL	TERTIARY
40 MPH OR LESS	CG-6	CG-6	CG-6	CG-6, CG-7 OR ROLL TOP
GREATER THAN 40 MPH	CG-7	CG-7	CG-7	NOT APPLICABLE

**ACCEPTABLE CURB & GUTTER DESIGNS**

VIRGINIA DEPARTMENT OF TRANSPORTATION

APPENDIX A SUBDIVISION STREET PLAN REVIEW PROCEDURE



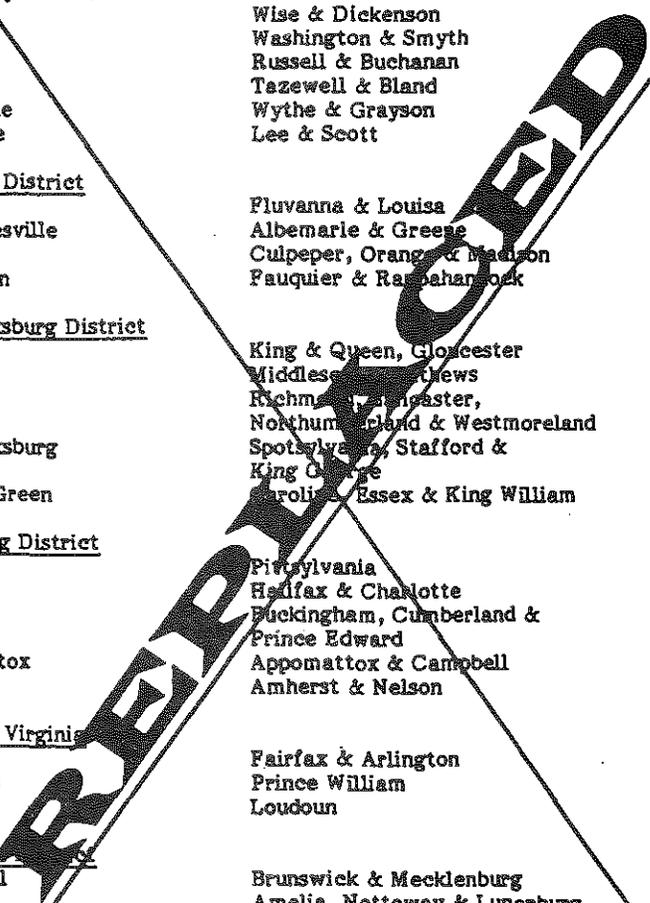
NOTES:

1. DEPENDING ON INDIVIDUAL COUNTY'S ORDINANCE, A SUBDIVISION PLAN MAY BE SUBMITTED TO COUNTY OFFICIAL OR DIRECTLY TO RESIDENT ENGINEER.
2. REFERRAL TO DISTRICT AND CENTRAL OFFICE WILL OCCUR ONLY IF COMPLEXITY OF SUBDIVISION PLAN REQUIRES SUCH REVIEW.
3. PLAN WILL BE RETURNED TO DEVELOPER IF REVISION IS REQUIRED (FOR MINOR REVISION, REVISED PLAN WILL RECEIVE PRIORITY REVIEW UPON RESUBMISSION).
4. PLAN REVIEW FOR SUBDIVISION DEVELOPMENT IN COUNTIES OF FAIRFAX, LOUDOUN, AND PRINCE WILLIAM IS PERFORMED IN THE NORTHERN VIRGINIA DISTRICT OFFICE.

APPENDIX B

Residency Offices are listed below. District Offices are located in or near the cities bearing the District name.

<u>Bristol District</u> Residency Office) Wise Abingdon Lebanon Tazewell Wytheville Jonesville	(Counties Served) Wise & Dickenson Washington & Smyth Russell & Buchanan Tazewell & Bland Wythe & Grayson Lee & Scott
<u>Culpeper District</u> Louisa Charlottesville Culpeper Warrenton	Fluvanna & Louisa Albemarle & Greene Culpeper, Orange & Madison Fauquier & Rapahannock
<u>Fredericksburg District</u> Saluda Warsaw Fredericksburg Bowling Green	King & Queen, Gloucester Middlesex & Mathews Richmond & Lancaster, Northampton & Westmoreland Spotsylvania, Stafford & King George Carroll, Essex & King William
<u>Lynchburg District</u> Chatham Halifax Dillwyn Appomattox Amherst	Pittsylvania Halifax & Charlotte Buckingham, Cumberland & Prince Edward Appomattox & Campbell Amherst & Nelson
<u>Northern Virginia</u> Fairfax Manassas Leesburg	Fairfax & Arlington Prince William Loudoun
<u>Richmond District</u> South Hill Amelia Petersburg Chesterfield Sandston Ashland	Brunswick & Mecklenburg Amelia, Nottoway & Lunenburg Dinwiddie & Prince George Chesterfield & Powhatan Charles City, Henrico & New Kent Goochland & Hanover



APPENDIX B (continued)

<u>Salem District</u> <u>(Residency Office)</u>	<u>(Counties Served)</u>
Fallsville	Carroll & Floyd
Christiansburg	Montgomery, Giles & Pulaski
Marlinsville	Henry & Patrick
Rocky Mount	Franklin
Salem	Craig, Roanoke & Botetourt
Bedford	Bedford
<u>Staunton District</u>	
Lexington	Alleghany, Rockbridge & Bath
Staunton	Augusta & Highland
Harrisonburg	Rockingham
Edinburg	Frederick & Shenandoah
Luray	Clarke, Page & Warren
<u>Suffolk District</u>	
Franklin	Greensville & Southampton
Waverly	Surry & Sussex
Norfolk	Cities: Norfolk, Virginia Beach, Chesapeake & Portsmouth
Williamsburg	James City & York
Suffolk	Isle of Wight, City of Suffolk
Accomac	Accomac & Northampton

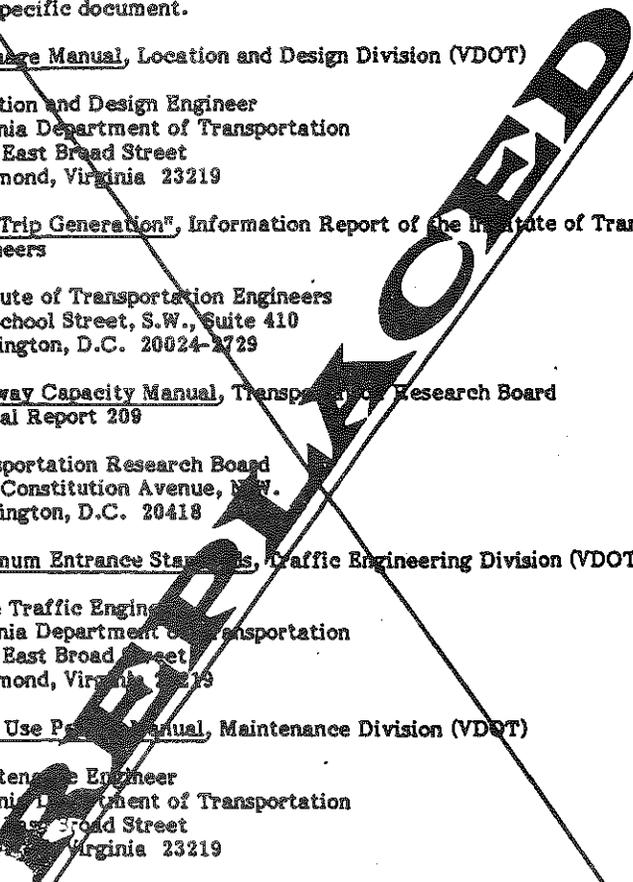
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APPENDIX C

Listing of Documents (Publications) Incorporated by Reference  
- VDOT Subdivision Street Requirements -

Note: Information pertaining to the availability and cost of any of these publications should be directed to the address indicated below the specific document.

1. Drainage Manual, Location and Design Division (VDOT)  
 Location and Design Engineer  
 Virginia Department of Transportation  
 1401 East Broad Street  
 Richmond, Virginia 23219
2. "TTE Trip Generation", Information Report of the Institute of Transportation Engineers  
 Institute of Transportation Engineers  
 525 School Street, S.W., Suite 410  
 Washington, D.C. 20024-2729
3. Highway Capacity Manual, Transportation Research Board  
 Special Report 209  
 Transportation Research Board  
 2107 Constitution Avenue, N.W.  
 Washington, D.C. 20418
4. Minimum Entrance Standards, Traffic Engineering Division (VDOT)  
 State Traffic Engineer  
 Virginia Department of Transportation  
 1401 East Broad Street  
 Richmond, Virginia 23219
5. Land Use Planning Manual, Maintenance Division (VDOT)  
 Maintenance Engineer  
 Virginia Department of Transportation  
 1401 East Broad Street  
 Richmond, Virginia 23219
6. Road and Bridge Specifications, Construction Division (VDOT)  
 Construction Engineer  
 Virginia Department of Transportation  
 1401 East Broad Street  
 Richmond, Virginia 23219



APPENDIX C (continued)

7. Road and Bridge Standards, Location and Design Division (VDOT)

Location and Design Engineer  
Virginia Department of Transportation  
1401 East Broad Street  
Richmond, Virginia 23219

8. Policy on Geometric Design of Highways and Streets, AASHTO

American Association of State Highway and Transportation Officials  
444 North Capital Street, N.W., Suite 225  
Washington, D.C. 20001

9. Standard Specifications for Highway Bridges, AASHTO

American Association of State Highway Transportation Officials  
444 North Capital Street, Suite 225  
Washington, D.C. 20001

VDOT Modifications, Bridge and Structures Division (VDOT)

Structure and Bridge Engineer  
Virginia Department of Transportation  
1401 East Broad Street  
Richmond, Virginia 23219

10. Virginia Erosion and Sediment Control Handbook, Division of Soil and Water Conservation, with The Virginia Erosion and Sediment Control Law and General Criteria

Division of Soil and Water Conservation  
203 Governor Street, Suite 206  
Richmond, Virginia 23219

11. National Cooperative Highway Research Program Report 230, Transportation Research Board

Transportation Research Board  
2101 Constitution Avenue, N.W.  
Washington, D.C. 20418

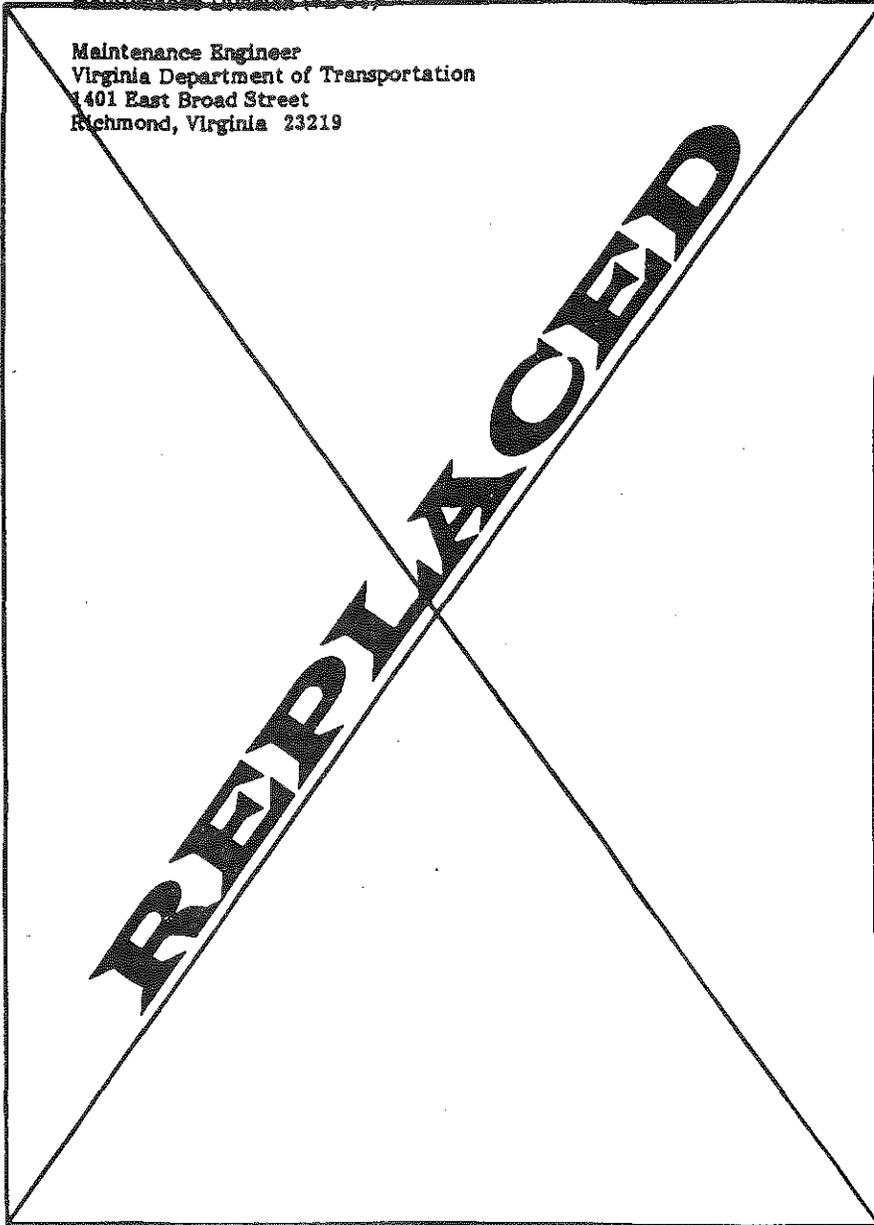
12. Guidelines for Planting Along Virginia's Roadways, Environmental Division (VDOT)

Environmental Engineer  
Virginia Department of Transportation  
1401 East Broad Street  
Richmond, Virginia 23219

APPENDIX C (continued)

13. Guidelines for Lighting by Permit on State Right of Way,  
~~Maintenance Division (VDOT)~~

Maintenance Engineer  
Virginia Department of Transportation  
1401 East Broad Street  
Richmond, Virginia 23219



# Final Regulations

## DOCUMENTS INCORPORATED BY REFERENCE

Drainage Manual, 1980, Virginia Department of Transportation

Guidelines for Lighting by Permit on State Right of Way, 1987, Virginia Department of Transportation, Maintenance Division

Guidelines for Planting Along Virginia's Roadways, 1986, Virginia Department of Transportation

ITE Trip Generation, 1991, Institute of Transportation Engineers

Highway Capacity Manual, 1994, Transportation Research Board, National Research Council

Land Use Permit Manual, 1983, Virginia Department of Transportation

The Manual on Uniform Traffic Control Devices (MUTCD), 1989, U.S. Department of Transportation

The Virginia Supplement to the Manual on Uniform Traffic Control Devices (MUTCD), 1980, Virginia Department of Transportation

Minimum Standards of Entrances to State Highways, 1989, Virginia Department of Transportation.

National Cooperative Highway Research Program Report 230, Recommended Procedures for the Safety Performance Evaluation of Highway Appurtenances, 1981, Transportation Research Board

Policy on Geometric Design of Highways and Streets, 1990, American Association of State Highway and Transportation Officials

Road and Bridge Specifications, January 1994, Virginia Department of Transportation

Road Design Manual, Volumes I & II, 1990, Virginia Department of Transportation, Location & Design Division

Road and Bridge Standards, Volumes I & II, January 1993, Virginia Department of Transportation

Standard Specifications for Highway Bridges (SSHB), with VDOT Modifications, 1992, American Association of State Highways and Transportation Officials, Inc.

Pavement Design Guide for Subdivision and Secondary Roads in Virginia, March 1993, Virginia Department of Transportation Materials Division and Virginia Transportation Research Council

The Virginia Erosion and Sediment Control Regulations and General Criteria, March 21, 1995, Virginia Soil and Water Conservation Board

VA.R. Doc. No. R96-71; Filed October 25, 1995, 11:19 a.m.

## DEPARTMENT FOR THE VISUALLY HANDICAPPED

Title of Regulation: [ ~~VR-670-04-4, 22 VAC 45-10-10 et seq.~~ ] Regulation Guidelines for Public Participation (REPEALED).

VA.R. Doc. No. R96-68; Filed October 23, 1995, 11:50 a.m.

Title of Regulation: [ ~~VR-670-04-400, 22 VAC 45-11-10 et seq.~~ ] Public Participation Guidelines.

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

Effective Date: December 13, 1995.

### Summary:

*The Public Participation Guidelines (22 VAC 45-11-10 et seq.) replace in entirety the Regulation Guidelines for Public Participation (22 VAC 45-10-10 et seq.) first promulgated on October 25, 1984. The new guidelines identify the specific actions to be taken by staff of the Department for the Visually Handicapped to ensure participation by interested persons in the process of developing regulations. The guidelines also address how the public may initiate consideration of regulation or review.*

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 Glen R. Slonneger, Regulatory Coordinator, Virginia Department for the Visually Handicapped, 397 Azalea Avenue, Richmond, VA 23227, telephone (804) 371-3140.

22 VAC 45-11-10 et seq. Public Participation Guidelines.

### [ CHAPTER 11. PUBLIC PARTICIPATION GUIDELINES. ]

#### PART I. STATEMENT OF PURPOSE.

[ ~~§-1.1, 22 VAC 45-11-10.~~ ] Purpose.

*The purpose of [ these regulations this chapter ] is to provide guidelines for the involvement of the public in the development and promulgation of regulations of the Department for the Visually Handicapped. The guidelines do not apply to regulations exempted or excluded from the provisions of the Administrative Process Act (§ 9-6.14:4.1 of the Code of Virginia).*

#### PART II. MAILING LIST.

[ ~~§-2.1, 22 VAC 45-11-20.~~ ] Composition of the mailing list.

A. The commissioner shall maintain a list of persons or entities who have requested to be notified of the formation and promulgation of regulations.

B. Any person or entity may request to be placed on the mailing list by indicating so in writing to the commissioner. The commissioner may add to the list any person or entity he

believes will serve the purpose of enhancing participation in the regulatory process.

C. The commissioner may maintain additional mailing lists for persons or entities who have requested to be informed of specific regulatory issues, proposals, or actions.

D. The commissioner shall periodically request those on the mailing list to indicate their desire to continue to receive documents or be deleted from the list. When mail is returned as undeliverable, individuals or organizations shall be deleted from the list.

[ ~~§ 2-2~~ 22 VAC 45-11-30. ] Documents to be sent to persons or entities on the mailing lists.

Persons or entities on the mailing list described in [ ~~§ 2-4~~ 22 VAC 45-11-20 ] shall be mailed the following documents related to the promulgation of regulations:

1. A Notice of Intended Regulatory Action;
2. A Notice of Comment Period;
3. A copy of any final regulation adopted by the department; and
4. A notice soliciting comment on a final regulation when the regulatory process has been extended.

### PART III. PUBLIC PARTICIPATION PROCEDURES.

[ ~~§ 3-4~~ 22 VAC 45-11-40. ] Petition for rulemaking.

A. As provided in § 9-6.14:7.1 of the Code of Virginia, any person may petition the commissioner to develop a new regulation or amend an existing regulation.

B. A petition shall include but need not be limited to the following:

1. The petitioner's name, mailing address, telephone number, and, if applicable, the organization represented in the petition.
2. The number and title of the regulation to be addressed.
3. A description of the regulatory problem or need to be addressed.
4. A recommended addition, deletion, or amendment to the regulation.

C. The commissioner shall receive, consider and respond to a petition within 180 days.

D. Nothing herein shall prohibit the commissioner from receiving information from the public and proceeding on his own motion for rulemaking.

[ ~~§ 3-2~~ 22 VAC 45-11-50. ] Notice of Intended Regulatory Action.

A. The Notice of Intended Regulatory Action shall state the purpose of the action and a brief statement of the need or problem the proposed action will address.

B. The notice shall indicate whether the commissioner intends to hold a public hearing on the proposed regulation

after it is published. If the department does not intend to hold a public hearing, it shall state the reason in the notice.

C. The notice shall state that a public hearing will be scheduled, if, during the 30-day comment period, the commissioner receives requests for a hearing from at least 25 persons.

[ ~~§ 3-3~~ 22 VAC 45-11-60. ] Notice of Comment Period.

A. The Notice of Comment Period shall indicate that copies of the proposed regulation are available from the department [ in an accessible format ] and may be requested in writing from the contact person specified in the notice.

B. The notice shall indicate that copies of the statement of substance, issues, basis, purpose, and estimated impact of the proposed regulation may also be requested in writing.

The commissioner shall conduct a public hearing during the 60-day comment period following the publication of a proposed regulation or amendment to an existing regulation, unless, at a noticed meeting, the commissioner determines that a hearing is not required.

[ ~~§ 3-4~~ 22 VAC 45-11-70. ] Triennial review of regulations.

A. At least once each three years, the commissioner shall conduct an informational proceeding to receive comment on all existing regulations as to their effectiveness, efficiency, necessity, clarity, and cost of compliance.

B. Such proceeding may be conducted separately or in conjunction with other informational proceedings or hearings.

C. Notice of the proceeding shall be transmitted to the Registrar for inclusion in the Virginia Register and shall be sent to the mailing list identified in [ ~~§ 2-4~~ 22 VAC 45-11-20 ].

### PART IV. ADVISORY COMMITTEES.

[ ~~§ 4-1~~ 22 VAC 45-11-80. ] Appointment of committees.

A. The commissioner may appoint an ad hoc advisory committee whose responsibility shall be to assist in the review and development of regulations for the department.

B. The commissioner may appoint an ad hoc advisory committee to provide professional specialization or technical assistance when the commissioner determines that such expertise is necessary to address a specific regulatory issue or need or when groups of individuals register an interest in working with the agency.

[ ~~§ 4-2~~ 22 VAC 45-11-90. ] Limitation of service.

A. An advisory committee which has been appointed by the commissioner may be dissolved by the commissioner when:

1. There is no response to the Notice of Intended Regulatory Action; or
2. The commissioner determines that the promulgation of the regulation is either exempt or excluded from the requirements of the Administrative Process Act (§ 9-6.14:4.1 of the Code of Virginia).

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*B. An advisory committee shall remain in existence no longer than 12 months from its initial appointment.*

*1. If the commissioner determines that the specific regulatory need continues to exist beyond that time, he shall set a specific term for the committee of not more than six additional months.*

*2. At the end of that extended term, the commissioner shall evaluate the continued need and may continue the committee for additional six-month terms.*

VA.R. Doc. R96-69; Filed October 23, 1995, 11:50 a.m.

# EMERGENCY REGULATIONS

## STATE AIR POLLUTION CONTROL BOARD

**Title of Regulation:** VR 120-01. Regulations for the Control and Abatement of Air Pollution (Revision II - Federal Operating Permits for Stationary Sources, Rule 8-5; Permit Program Fees for Stationary Sources, Rule 8-6).

**Statutory Authority:** §§ 10.1-1308 and 10.1-1322 of the Code of Virginia, 42 U.S.C. §§ 7661-7661f (Clean Air Act Title V, §§ 501-07), and 40 CFR Part 70 (State Operating Permit Programs).

**Effective Dates:** October 20, 1995, through October 19, 1996.

### Preamble:

On November 12, 1993, the Commonwealth of Virginia submitted to the U.S. Environmental Protection Agency (EPA) the various elements of an operating permit program to meet the requirements of Title V of the new Clean Air Act. The program was based upon emergency operating permit and fee program regulations adopted by the State Air Pollution Control Board at its June 1993 meeting.

On December 5, 1994 (59 FR 62324), EPA disapproved the operating permit program submitted by the Commonwealth on November 12, 1993. This disapproval constitutes disapproval under Section 502(d) of the Clean Air Act (CAA). As provided under Section 502(d)(1) of the CAA, the Commonwealth has up to 180 days (July 5, 1996) from the date of EPA's notification of final disapproval for the Governor of Virginia to revise and resubmit the program. EPA disapproved the program on the basis that Virginia has not met the following requirements:

1. Pursuant to Section 502(b)(6) of the CAA and 40 CFR 70.4(b)(3)(x) and 70.7(h), adequate provisions for public participation in the permit process, including statutory authority that meets the minimum threshold for judicial standing.
2. Pursuant to Section 505(b)(3) of the CAA and 40 CFR 70.8(e), authority to prevent default issuance of permits.
3. Regulations that are permanent (emergency regulations expired on June 28, 1994).
4. Authority to issue permits to the proper universe of sources required by 40 CFR Part 70.
5. Regulations that meet the requirements of 40 CFR Part 70 ensuring issuance of permits that contain all applicable federal requirements and correctly delineate provisions only enforceable by the Commonwealth.

In addition to the above, EPA indicates in the notice that a number of other deficiencies (mostly regulatory) that are explained in the Technical Support Document need to be corrected.

On January 9, 1995, the Commonwealth submitted revised regulations, adopted by the Board on December 16, 1994, to correct the deficiencies noted in items 3, 4

and 5 above and those noted in the Technical Support Document. On that same day, the Commonwealth filed suit in federal court disputing the legal basis of item 1 above. On May 17, 1995, the Commonwealth submitted revised code provisions to correct the deficiency noted in item 2 above.

On September 19, 1995 (60 FR 48435), EPA once again proposed disapproval of the operating permit program. This includes disapproval of the regulation corrections submitted on January 9, 1995, and reaffirmation of disapproval of the original program submittal. If promulgated, this disapproval will constitute a disapproval under Section 502(d) of the Clean Air Act (CAA). As provided under Section 502(d)(1) of the CAA, the Commonwealth will have up to 180 days from the date of EPA's notification of final disapproval for the Governor of Virginia to revise and resubmit the program. EPA is proposing to disapprove this program on the grounds that it does not substantially meet the requirements of the CAA and of the implementing regulations at 40 CFR Part 70. EPA's primary objections to Virginia's program are as follows:

1. As required by Section 502(b)(6) of the CAA and 40 CFR 70.4(b)(3)(x), the program does not adequately afford persons the opportunity to seek judicial review of final permit decisions.
2. As required by Section 502(b)(5) of the CAA and 40 CFR 70.3, the program does not assure that all sources required by the CAA to obtain Title V permits will be required to obtain such permits.
3. As required by Section 502(b)(3) of the CAA and 40 CFR 70.9, the program does not contain an adequate provision for collection of Title V program fees.

In addition to the above, EPA indicates in the notice that a number of other deficiencies (mostly regulatory) that are explained in the Technical Support Document need to be corrected.

EPA says it must disapprove Virginia's program and cannot merely grant it interim approval because the deficiencies are so significant that they prevent the entire program from substantially meeting the requirements of 40 CFR Part 70. EPA will not approve Virginia's operating permit program until the state amends Code of Virginia § 10.1-1318 B as well as the applicable provisions of Rules 8-5 and 8-6 in Regulations for the Control and Abatement of Air Pollution.

If Virginia's program does not have interim approval status by November 15, 1995, EPA must promulgate, administer, and enforce a federal permit program for Virginia on that date. In addition, if EPA finalizes its proposed disapproval, Virginia may become subject to sanctions under the CAA. The possible sanctions include the cessation of certain federal highway funding and a requirement that new or modified major sources achieve an emissions reduction-to-increases ratio of at least 2:1. EPA may apply the sanctions at any time after the final disapproval notice; however, EPA must apply

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one of these sanctions 18 months following the date of a final disapproval unless Virginia has submitted a revised program and EPA has determined that it corrects the noted deficiencies. A second sanction will apply 6 months after the first if the deficiencies have not been corrected. EPA will be required to apply sanctions against Virginia on July 5, 1996, unless by that date all deficiencies noted in the first disapproval have been corrected. Thus, to ensure that the sanctions are not imposed for regulatory deficiencies, new regulatory corrections need to be submitted by July 5, 1996.

The emergency regulations are necessary for the following reasons. First, a failure to promulgate the regulations will pose an imminent threat to public safety and possibly to public health because of the severe highway funds sanction that the federal government will impose in the Northern Virginia, Richmond, and Hampton Roads ozone nonattainment areas if the Commonwealth fails to correct the noted regulatory provisions before the sanction is implemented. Second, approvable regulations must be effective in less than 280 days from the date of publication of EPA's proposed rule to disapprove the operating permit program (September 19, 1995) in order to prevent further sanction of the Commonwealth.

## Summary of Changes to Regulations:

1. For both Rule 8-5 and Rule 8-6, source applicability has been cited directly to federal law rather than to the state regulation which incorporates that law.
2. A definition of "Title I modification" has been added to Rule 8-5 and subsequent references to these modifications have been clarified.
3. The definition of those state regulations that are considered federally enforceable has been clarified in Rule 8-5.
4. The opportunity for public hearing in the public participation process has been expanded in Rule 8-5.
5. The fee calculation formula in Rule 8-6 has been changed to specify a fee of \$25.
6. Comfort air conditioning and refrigeration systems have been removed from the list of insignificant activities in Appendix W.
7. Language pertaining to threshold levels has been clarified in Appendix W.

## Terms of the Order:

This emergency regulation shall be enforced under applicable statutes and shall remain in full force and effect for one full year from the effective date, unless sooner modified or vacated or superseded by permanent regulations adopted pursuant to the Administrative Process Act.

The State Air Pollution Control Board will receive, consider, and respond to petitions by any interested persons at any time for the reconsideration or revision of this regulation.

It is so ordered

BY:

/s/ Peter W. Schmidt  
Director, Department of Environmental Quality  
Date: October 16, 1995

APPROVED BY:

/s/ Robert W. Lauterberg  
Director, Department of Planning and Budget  
Date: October 13, 1995

/s/ Becky Norton Dunlop  
Secretary of Natural Resources  
Date: October 13, 1995

/s/ George Allen  
Governor  
Date: October 13, 1995

FILED WITH:

/s/ Jane D. Chaffin for  
E. M. Miller, Jr.  
Acting Registrar of Regulations  
Date: October 20, 1995

VR 120-01. Regulations for the Control and Abatement of Air Pollution (Revision II).

PART VIII  
FEDERAL OPERATING PERMITS FOR STATIONARY  
SOURCES  
(RULE 8-5)

§ 120-08-0501. Applicability.

A. Except as provided in subsection C of this section, the provisions of this rule apply to the following stationary sources:

1. Any major source.
2. Any source, including an area source, subject to the provisions of Parts IV and V as adopted pursuant to a standard, limitation, or other requirement under § 111 of the federal Clean Air Act.
3. Any source, including an area source, subject to the provisions of Part VI as adopted pursuant to a standard, limitation, or other requirement under § 112 of the federal Clean Air Act.
4. Any affected source or any portion thereof not subject to Rule 8-7.

B. The provisions of this rule apply throughout the Commonwealth of Virginia.

C. The provisions of this rule shall not apply to the following:

1. Any source that would be subject to this rule solely because it is subject to the provisions of 40 CFR Part 60, Subpart AAA (Standards of Performance for New Residential Wood Heaters), as prescribed in Rule 5-5.
2. Any source that would be subject to this rule solely because it is subject to the provisions of 40 CFR Part 61,

Subpart M (National Emission Standard for Hazardous Air Pollutants for Asbestos), § 61.145 (Standard for Demolition and Renovation), as prescribed in Rule 6-1.

3. Any source that would be subject to this rule solely because it is subject to regulations or requirements concerning prevention of accidental releases under § 112(r) of the federal Clean Air Act.

4. Any emissions unit that is determined to be shutdown under the provisions of §§ 120-08-01, 120-08-02, 120-08-03, 120-08-04 or 120-08-0514.

#### D. Deferral from initial applicability.

##### 1. Sources deferred from initial applicability.

Area sources subject to this rule under subsection A 2 or subsection A 3 of this section shall be deferred from the obligation to obtain a permit under this rule. The decision to require a permit for these sources shall be made at the time that a new standard is promulgated and shall be incorporated into Parts IV, V or VI along with the listing of the new standard.

##### 2. Sources not deferred from initial applicability.

The following sources shall not be deferred from the obligation to obtain a permit under this rule:

###### a. Major sources.

b. Solid waste incineration units subject to the provisions of Parts IV and V as adopted pursuant to § 129 (e) of the federal Clean Air Act.

3. Any source deferred under subsection D 1 of this section may apply for a permit. The board may issue the permit if the issuance of the permit does not interfere with the issuance of permits for sources that are not deferred under this section or otherwise interfere with the implementation of this rule.

E. Regardless of the exemptions provided in this section, permits shall be required of owners who circumvent the requirements of this rule by causing or allowing a pattern of ownership or development of a source which, except for the pattern of ownership or development, would otherwise require a permit.

F. The provisions of § 120-08-0505 concerning application requirements shall not apply to insignificant activities designated in Section II of Appendix W with the exception of the requirements of § 120-08-0505 D 1 and Section I of Appendix W.

#### § 120-08-0502. Definitions.

A. For the purpose of these regulations and subsequent amendments or any orders issued by the board, the words or terms shall have the meaning given them in subsection C of this section.

B. As used in this rule, all terms not defined herein shall have the meaning given them in Part I, unless otherwise required by context.

##### C. Terms defined.

"Affected source" means a source that includes one or more affected units.

"Affected states" means all states (i) whose air quality may be affected by the permitted source and that are contiguous to Virginia or (ii) that are within 50 miles of the permitted source.

"Affected unit" means a unit that is subject to any acid rain emissions reduction requirement or acid rain emissions limitation under 40 CFR Parts 72, 73, 75, 76, 77 or 78.

"Allowable emissions" means the emission rates of a stationary source calculated by using the maximum rated capacity of the emissions units within the source (unless the source is subject to state or federally enforceable limits which restrict the operating rate or hours of operation or both) and the most stringent of the following:

a. Applicable emission standards.

b. The emission limitation specified as a state or federally enforceable permit condition, including those with a future compliance date.

c. Any other applicable emission limitation, including those with a future compliance date.

"Applicable federal requirement" means all of the following as they apply to emissions units in a source subject to this rule (including requirements that have been promulgated or approved by the administrator through rulemaking at the time of permit issuance but have future-effective compliance dates):

a. Any standard or other requirement provided for in the State Implementation Plan or the Federal Implementation Plan, including any source-specific provisions such as consent agreements or orders.

b. Any term or condition of any preconstruction permit issued pursuant to §§ 120-08-01, 120-08-02, or 120-08-03 or of any operating permit issued pursuant to § 120-08-04, except for terms or conditions derived from applicable state requirements or from any requirement of these regulations not included in the definition of applicable requirement.

c. Any standard or other requirement prescribed under these regulations, particularly the provisions of Parts IV, V or VI, adopted pursuant to requirements of the federal Clean Air Act or under § 111, 112 or 129 of the federal Clean Air Act.

d. Any requirement concerning accident prevention under § 112(r)(7) of the federal Clean Air Act.

e. Any compliance monitoring requirements established pursuant to either § 504(b) or § 114(a)(3) of the federal Clean Air Act or these regulations.

f. Any standard or other requirement for consumer and commercial products under § 183(e) of the federal Clean Air Act.

g. Any standard or other requirement for tank vessels under § 183(f) of the federal Clean Air Act.

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h. Any standard or other requirement in 40 CFR Part 55 to control air pollution from outer continental shelf sources.

i. Any standard or other requirement of the regulations promulgated to protect stratospheric ozone under Title VI of the federal Clean Air Act, unless the administrator has determined that such requirements need not be contained in a permit issued under this rule.

j. With regard to temporary sources subject to § 120-08-0509, (i) any ambient air quality standard, except applicable state requirements, and (ii) requirements regarding increments or visibility as provided in § 120-08-02.

*"Applicable requirement"* means any applicable federal requirement or applicable state requirement.

*"Applicable state requirement"* means all of the following as they apply to emissions units in a source subject to this rule (including requirements that have been promulgated or approved through rulemaking at the time of permit issuance but have future-effective compliance dates):

a. Any standard or other requirement prescribed by any regulation adopted pursuant to a requirement of the Code of Virginia governing a specific subject or category of sources.

b. Any regulatory provision or definition directly associated with or related to any of the specific state requirements listed in this definition.

*"Area source"* means any stationary source that is not a major source. For purposes of this rule, the phrase "area source" shall not include motor vehicles or nonroad vehicles.

*"Complete application"* means an application that contains all the information required pursuant to § 120-08-0504 and § 120-08-0505 sufficient to determine all applicable requirements and to evaluate the source and its application. Designating an application complete does not preclude the board from requesting or accepting additional information.

*"Designated representative"* means a responsible natural person authorized by the owners and operators of an affected source and of all affected units at the source, as evidenced by a certificate of representation submitted in accordance with subpart B of 40 CFR Part 72, to represent and legally bind each owner and operator, as a matter of federal law, in matters pertaining to the acid rain program. Whenever the term "responsible official" is used in this regulation, it shall be deemed to refer to the "designated representative" with regard to all matters under the acid rain program. Whenever the term "designated representative" is used in this regulation, the term shall be construed to include the alternate designated representative.

*"Draft permit"* means the version of a permit for which the board offers public participation under § 120-08-0523 or affected state review under § 120-08-0525.

*"Emissions allowable under the permit"* means a federally and state enforceable or state-only enforceable permit term or condition determined at issuance to be required by an

applicable requirement that establishes an emissions limit (including a work practice standard) or a federally and state enforceable emissions cap that the source has assumed to avoid an applicable requirement to which the source would otherwise be subject.

*"Emissions unit"* means any part or activity of a stationary source that emits or has the potential to emit any regulated air pollutant. This term is not meant to alter or affect the definition of the term "unit" in 40 CFR Part 72.

*"Federal implementation plan"* means the plan, including any revision thereof, which has been promulgated in Subpart VV of 40 CFR Part 52 by the administrator under § 110(c) of the federal Clean Air Act and which implements the relevant requirements of the federal Clean Air Act.

*"Federally enforceable"* means all limitations and conditions which are enforceable by the administrator, including the following:

a. Requirements approved by the administrator pursuant to the provisions of § 111 or § 112 of the federal Clean Air Act;

b. Requirements in the State Implementation Plan;

c. Any permit requirements established pursuant to (i) 40 CFR 52.21 or (ii) Part VIII, with the exception of terms and conditions established to address applicable state requirements; and

d. Any other applicable federal requirement.

*"Final permit"* means the version of a permit issued by the board under this rule that has completed all review procedures required by §§ 120-08-0523 and 120-08-0525.

*"Fugitive emissions"* are those emissions which cannot reasonably pass through a stack, chimney, vent, or other functionally-equivalent opening.

*"General permit"* means a permit issued under this rule that meets the requirements of § 120-08-0508.

*"Hazardous air pollutant"* means any pollutant listed in § 112(b)(1) of the federal Clean Air Act.

*"Locality particularly affected"* means any locality which bears any identified disproportionate material air quality impact which would not be experienced by other localities.

*"Major source"* means

a. For hazardous air pollutants other than radionuclides, any stationary source that emits or has the potential to emit, in the aggregate, 10 tons per year or more of any hazardous air pollutant or 25 tons per year or more of any combination of hazardous air pollutants. Notwithstanding the preceding sentence, emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any pipeline compressor or pump station shall not be aggregated with emissions from other similar units, whether or not such units are in a contiguous area or under common control, to determine whether such units or stations are major sources.

b. For air pollutants other than hazardous air pollutants, any stationary source that directly emits or has the potential to emit 100 tons per year or more of any air pollutant (including any major source of fugitive emissions of any such pollutant). The fugitive emissions of a stationary source shall not be considered in determining whether it is a major stationary source, unless the source belongs to one of the following categories of stationary source:

- (1) Coal cleaning plants (with thermal dryers).
- (2) Kraft pulp mills.
- (3) Portland cement plants.
- (4) Primary zinc smelters.
- (5) Iron and steel mills.
- (6) Primary aluminum ore reduction plants.
- (7) Primary copper smelters.
- (8) Municipal incinerators capable of charging more than 250 tons of refuse per day.
- (9) Hydrofluoric, sulfuric, or nitric acid plants.
- (10) Petroleum refineries.
- (11) Lime plants.
- (12) Phosphate rock processing plants.
- (13) Coke oven batteries.
- (14) Sulfur recovery plants.
- (15) Carbon black plants (furnace process).
- (16) Primary lead smelters.
- (17) Fuel conversion plant.
- (18) Sintering plants.
- (19) Secondary metal production plants.
- (20) Chemical process plants.
- (21) Fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input.
- (22) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels.
- (23) Taconite ore processing plants.
- (24) Glass fiber processing plants.
- (25) Charcoal production plants.
- (26) Fossil-fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input.
- (27) All other stationary source categories regulated by a standard promulgated under § 111 or § 112 of the federal Clean Air Act, but only with respect to those air pollutants that are regulated for that category.

c. For ozone nonattainment areas, any stationary source with the potential to emit 100 tons per year or more of volatile organic compounds or oxides of nitrogen in areas classified as "marginal" or "moderate," 50 tons per year or more in areas classified as "serious," 25 tons per year or more in areas classified as "severe," and 10 tons per year or more in areas classified as "extreme"; except that the references in this definition to nitrogen oxides shall not apply with respect to any source for which the administrator has made a finding that requirements under § 182(f) of the federal Clean Air Act (NO<sub>x</sub> requirements for ozone nonattainment areas) do not apply.

d. For attainment areas in ozone transport regions, any stationary source with the potential to emit 50 tons per year or more of volatile organic compounds.

*"Malfunction"* means any sudden and unavoidable failure of air pollution control equipment or process equipment or of a process to operate in a normal or usual manner that (i) arises from sudden and reasonably unforeseeable events beyond the control of the source, including acts of God, (ii) causes an exceedance of a technology-based emission limitation under the permit due to unavoidable increases in emissions attributable to the failure and (iii) requires immediate corrective action to restore normal operation. Failures that are caused entirely or in part by poor maintenance, careless operation, or any other preventable upset condition or preventable equipment breakdown shall not be considered malfunctions.

*"Permit"* (unless the context suggests otherwise) means any permit or group of permits covering a source subject to this rule that is issued, renewed, amended, or revised pursuant to this rule.

*"Permit modification"* means a revision to a permit issued under this rule that meets the requirements of § 120-08-0517 on minor permit modifications, § 120-08-0518 on group processing of minor permit modifications, or § 120-08-0519 on significant modifications.

*"Permit revision"* means any permit modification that meets the requirements of §§ 120-08-0517, 120-08-0518 or 120-08-0519 or any administrative permit amendment that meets the requirements of § 120-08-0516.

*"Potential to emit"* means the maximum capacity of a stationary source to emit any air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of a source to emit an air pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation is state and federally enforceable.

*"Proposed permit"* means the version of a permit that the board proposes to issue and forwards to the administrator for review in compliance with § 120-08-0525.

*"Regulated air pollutant"* means any of the following:

- a. Nitrogen oxides or any volatile organic compound.

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b. Any pollutant for which an ambient air quality standard has been promulgated.

c. Any pollutant subject to any standard promulgated under § 111 of the federal Clean Air Act.

d. Any Class I or II substance subject to a standard promulgated under or established by Title VI of the federal Clean Air Act concerning stratospheric ozone protection.

e. Any pollutant subject to a standard promulgated under or other requirements established under § 112 of the federal Clean Air Act concerning hazardous air pollutants and any pollutant regulated under Subpart C of 40 CFR Part 68.

f. Any pollutant subject to a regulation adopted pursuant to a requirement of the Code of Virginia governing a specific subject or category of sources.

*"Renewal"* means the process by which a permit is reissued at the end of its term.

*"Research and development facility"* means all the following as applied to any stationary source:

a. The primary purpose of the source is the conduct of either (i) research and development into new products or processes or into new uses for existing products or processes or into refining and improving existing products or processes or (ii) basic research to provide for education or the general advancement of technology or knowledge.

b. The source is operated under the close supervision of technically trained personnel.

c. The source is not engaged in the manufacture of products for commercial sale.

An analytical laboratory that primarily supports a research and development facility is considered to be part of that facility.

*"Responsible official"* means one of the following:

a. For a business entity, such as a corporation, association or cooperative:

(1) The president, secretary, treasurer, or vice-president of the business entity in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the business entity, or

(2) A duly authorized representative of such business entity if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a permit and either:

(i) The facilities employ more than 250 persons or have gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars); or

(ii) The authority to sign documents has been assigned or delegated to such representative in

accordance with procedures of the business entity and the delegation of authority is approved in advance by the board;

b. For a partnership or sole proprietorship: a general partner or the proprietor, respectively; or

c. For a municipality, state, federal, or other public agency: either a principal executive officer or ranking elected official. A principal executive officer of a federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., a regional administrator of EPA).

d. For affected sources:

(1) The designated representative insofar as actions, standards, requirements, or prohibitions under Title IV of the federal Clean Air Act or the regulations promulgated thereunder are concerned; and

(2) The designated representative or any other person specified in this definition for any other purposes under this rule.

*"State enforceable"* means all limitations and conditions which are enforceable by the board, including those requirements developed pursuant to § 120-02-11, requirements within any applicable order or variance, and any permit requirements established pursuant to Part VIII.

*"State implementation plan"* means the plan, including any revision thereof, which has been submitted by the Commonwealth and approved in Subpart VV of 40 CFR Part 52 by the administrator under § 110 of the federal Clean Air Act and which implements the relevant requirements of the federal Clean Air Act.

*"Stationary source"* means any building, structure, facility or installation which emits or may emit any regulated air pollutant. A stationary source shall include all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control). Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same "Major Group" (i.e., which have the same two-digit code) as described in the Standard Industrial Classification Manual (see Appendix M). At the request of the applicant, any research and development facility may be considered a separate stationary source from the manufacturing or other facility with which it is co-located.

*"Title I modification"* means any modification under Parts C and D of Title I or §§ 111(a)(4), 112(a)(5), or 112(g) of the federal Clean Air Act; under regulations promulgated by the U.S. Environmental Protection Agency thereunder or in § 61.07 of 40 CFR Part 61; or under regulations approved by the U.S. Environmental Protection Agency to meet such requirements.

## § 120-08-0503. General.

A. No permit may be issued pursuant to this rule until the rule has been approved by the administrator, whether full, interim, partial or otherwise.

B. If requested in the application for a permit or permit renewal submitted pursuant to this rule, the board may combine the requirements of and the permit for a source subject to § 120-08-04 with the requirements of and the permit for a source subject to this rule provided the application contains the necessary information required for a permit under § 120-08-04.

C. For the purpose of this rule, the phrase "these regulations" means the entire Regulations for the Control and Abatement of Air Pollution (VR 120-01). For purposes of ~~applicable federal requirements implementing and enforcing those provisions of this rule associated with applicable federal requirements as well as those provisions of this rule intended to implement Title V of the federal Clean Air Act~~, the phrase "these regulations" means only those provisions of VR 120-01 that have been approved by EPA as part of the State Implementation Plan or otherwise have been approved by or found to be acceptable by EPA for the purpose of implementing requirements of the federal Clean Air Act. For the purpose of this rule, terms and conditions relating to applicable federal requirements shall be derived only from provisions of VR 120-01 that qualify as applicable federal requirements.

## § 120-08-0504. Applications.

A. A single application is required identifying each emission unit subject to this rule. The application shall be submitted according to the requirements of this section, § 120-08-0505 and procedures approved by the board. Where several units are included in one stationary source, a single application covering all units in the source shall be submitted. A separate application is required for each stationary source subject to this rule.

B. For each stationary source, the owner shall submit a timely and complete permit application in accordance with subsections C and D of this section.

### C. Timely application.

1. The owner of a stationary source applying for a permit under this rule for the first time shall submit an application within 12 months after the source becomes subject to this rule, except that stationary sources not deferred under § 120-08-0501 D shall submit their applications on a schedule to be determined by the department but no later than 12 months following the effective date of approval of this rule by the administrator.

### 2. New source review.

a. The owner of a source subject to the requirements of § 112(g)(2) (construction, reconstruction or modification of sources of hazardous air pollutants) of the federal Clean Air Act or to the provisions of §§ 120-08-01, 120-08-02, or 120-08-03 shall file a complete application to obtain the permit or permit revision within 12 months after commencing operation.

Where an existing permit issued under this rule would prohibit such construction or change in operation, the owner shall obtain a permit revision before commencing operation.

b. The owner of a source may file a complete application to obtain the permit or permit revision under this rule on the same date the permit application is submitted under the requirements of § 112(g)(2) of the federal Clean Air Act or under §§ 120-08-01, 120-08-02, or 120-08-03.

3. For purposes of permit renewal, the owner shall submit an application at least six months but no earlier than eighteen months prior to the date of permit expiration.

### D. Complete application.

1. To be determined complete, an application shall contain all information required pursuant to § 120-08-0505.

2. Applications for permit revision or for permit reopening shall supply information required under § 120-08-0505 only if the information is related to the proposed change.

3. Within 60 days of receipt of the application, the board shall notify the applicant in writing either that the application is or is not complete. If the application is determined not to be complete, the board shall provide (i) a list of the deficiencies in the notice and (ii) a determination as to whether the application contains sufficient information to begin a review of the application.

4. If the board does not notify the applicant in writing within 60 days of receipt of the application, the application shall be deemed to be complete.

5. For minor permit modifications, a completeness determination shall not be required.

6. If, while processing an application that has been determined to be complete, the board finds that additional information is necessary to evaluate or take final action on that application, it may request such information in writing and set a reasonable deadline for a response.

7. The submittal of a complete application shall not affect the requirement that any source have a preconstruction permit under §§ 120-08-01, 120-08-02, or 120-08-03.

8. Upon notification by the board that the application is complete or after 60 days following receipt of the application by the board, the applicant shall submit three additional copies of the complete application to the board.

### E. Duty to supplement or correct application.

1. Any applicant who fails to submit any relevant facts or who has submitted incorrect information in a permit application shall, upon becoming aware of such failure or incorrect submittal, promptly submit such supplementary facts or corrected information.

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2. An applicant shall provide additional information as necessary to address any requirements that become applicable to the source after the date a complete application was filed but prior to release of a draft permit.

## F. Application shield.

1. If an applicant submits a timely and complete application for an initial permit or renewal under this section, the failure of the source to have a permit or the operation of the source without a permit shall not be a violation of this rule until the board takes final action on the application under § 120-08-0511.

2. No source shall operate after the time that it is required to submit a timely and complete application under subsections C and D of this section for a renewal permit, except in compliance with a permit issued under this rule.

3. If the source applies for a minor permit modification and wants to make the change proposed under the provisions of either §§ 120-08-0517 F or 120-08-0518 E, the failure of the source to have a permit modification or the operation of the source without a permit modification shall not be a violation of this rule until the board takes final action on the application under § 120-08-0511.

4. If the source notifies the board that it wants to make an operational flexibility permit change under § 120-08-0524 B, the failure of the source to have a permit modification or operation of the source without a permit modification for the permit change shall not be a violation of this rule unless the board notifies the source that the change is not a permit change as specified in § 120-08-0524 B 1 a.

5. If an applicant submits a timely and complete application under this section for a permit renewal but the board fails to issue or deny the renewal permit before the end of the term of the previous permit, (i) the previous permit shall not expire until the renewal permit has been issued or denied and (ii) all the terms and conditions of the previous permit, including any permit shield granted pursuant to § 120-08-0510, shall remain in effect from the date the application is determined to be complete until the renewal permit is issued or denied.

6. The protection under subsections F 1 and F 5 (ii) of this section shall cease to apply if, subsequent to the completeness determination made pursuant to subsection D of this section, the applicant fails to submit by the deadline specified in writing by the board any additional information identified as being needed to process the application.

## G. Signatory and certification requirements.

1. Any application form, report, compliance certification, or other document required to be submitted to the board under this rule shall be signed by a responsible official.

2. Any person signing a document required to be submitted to the board under this rule shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering and evaluating the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

## § 120-08-0505. Application information required.

A. The board shall furnish application forms to applicants.

B. Each application for a permit shall include, but not be limited to, the information listed in subsections C through K of this section.

### C. Identifying information.

1. Company name and address (or plant name and address if different from the company name), owner's name and agent, and telephone number and names of plant site manager or contact or both.

2. A description of the source's processes and products (by Standard Industrial Classification Code) including any associated with each alternate scenario identified by the source.

### D. Emissions-related information.

1. All emissions of pollutants for which the source is major and all emissions of regulated air pollutants.

a. A permit application shall describe all emissions of regulated air pollutants emitted from any emissions unit with the following exceptions.

(1) Any emissions unit exempted from the requirements of this subsection because the emissions level or size of the unit is deemed to be insignificant under Section II B or II C of Appendix W shall be listed in the permit application and identified as an insignificant activity. This requirement shall not apply to emissions units listed in Section II A of Appendix W.

(2) Regardless of the emissions units designated in Section II A or II C of Appendix W or the emissions levels listed in Section II B of Appendix W, the emissions from any emissions unit shall be included in the permit application if the omission of those emissions units from the application would interfere with the determination of the applicability of this rule, the determination or imposition of any applicable requirement, or the calculation of permit fees.

b. Emissions shall be calculated as required in the permit application form or instructions.

c. Fugitive emissions shall be included in the permit application to the extent quantifiable regardless of whether the source category in question is included in

the list of sources contained in the definition of major source.

2. Additional information related to the emissions of air pollutants sufficient to verify which requirements are applicable to the source, and other information necessary to collect any permit fees owed under the fee schedule approved pursuant to Rule 8-6 as required by the board. Identification and description of all points of emissions described in subsection D 1 of this section in sufficient detail to establish the basis for fees and applicability of requirements of these regulations and the federal Clean Air Act.

3. Emissions rates in tons per year and in such terms as are necessary to establish compliance consistent with the applicable standard reference test method.

4. Information needed to determine or regulate emissions as follows: fuels, fuel use, raw materials, production rates, loading rates, and operating schedules.

5. Identification and description of air pollution control equipment and compliance monitoring devices or activities.

6. Limitations on source operation affecting emissions or any work practice standards, where applicable, for all regulated air pollutants at the source.

7. Other information required by any applicable requirement (including information related to stack height limitations required under § 120-04-02 I or § 120-05-02 H).

8. Calculations on which the information in subsections D 1 through 7 of this section is based. Any calculations shall include sufficient detail to permit assessment of the validity of such calculations.

#### E. Air pollution control requirements.

1. Citation and description of all applicable requirements.

2. Description of or reference to any applicable test method for determining compliance with each applicable requirement.

F. Additional information that may be necessary to implement and enforce other requirements of these regulations and the federal Clean Air Act or to determine the applicability of such requirements.

G. An explanation of any proposed exemptions from otherwise applicable requirements.

H. Additional information as determined to be necessary by the board to define alternative operating scenarios identified by the source pursuant to § 120-08-0507 J or to define permit terms and conditions implementing operational flexibility under § 120-08-0524.

#### I. Compliance plan.

1. A description of the compliance status of the source with respect to all applicable requirements.

2. A description as follows:

a. For applicable requirements with which the source is in compliance, a statement that the source will continue to comply with such requirements.

b. For applicable requirements that will become effective during the permit term, a statement that the source will meet such requirements on a timely basis.

c. For applicable requirements for which the source is not in compliance at the time of permit issuance, a narrative description of how the source will achieve compliance with such requirements.

#### 3. A compliance schedule as follows:

a. For applicable requirements with which the source is in compliance, a statement that the source will continue to comply with such requirements.

b. For applicable requirements that will become effective during the permit term, a statement that the source will meet such requirements on a timely basis. A statement that the source will meet in a timely manner applicable requirements that become effective during the permit term shall satisfy this provision, unless a more detailed schedule is expressly required by the applicable requirement or by the board if no specific requirement exists.

c. A schedule of compliance for sources that are not in compliance with all applicable requirements at the time of permit issuance. Such a schedule shall include a schedule of remedial measures, including an enforceable sequence of actions with milestones, leading to compliance with any applicable requirements for which the source will be in noncompliance at the time of permit issuance. This compliance schedule shall resemble and be at least as stringent as that contained in any judicial consent decree or board order to which the source is subject. Any such schedule of compliance shall be supplemental to, and shall not sanction noncompliance with, the applicable requirements on which it is based.

4. A schedule for submission of certified progress reports no less frequently than every six months for sources required to have a schedule of compliance to remedy a violation.

#### J. Compliance certification.

1. A certification of compliance with all applicable requirements by a responsible official or a plan and schedule to come into compliance or both as required by subsection I of this section.

2. A statement of methods used for determining compliance, including a description of monitoring, recordkeeping, and reporting requirements and test methods.

3. A schedule for submission of compliance certifications during the permit term, to be submitted no less frequently than annually, or more frequently if specified by the underlying applicable requirement or by the board.

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4. A statement indicating the source is in compliance with any applicable federal requirements concerning enhanced monitoring and compliance certification.

K. If applicable, a statement indicating that the source has complied with the applicable federal requirement to register a risk management plan under § 112(r)(7) of the federal Clean Air Act or, as required under subsection I of this section, has made a statement in the source's compliance plan that the source intends to comply with this applicable federal requirement and has set a compliance schedule for registering the plan.

L. Regardless of any other provision of this section, an application shall contain all information needed to determine or to impose any applicable requirement or to evaluate the fee amount required under the schedule approved pursuant to Rule 8-6.

## § 120-08-0506. Emission caps.

A. The board may establish an emission cap for sources or emissions units applicable under this rule when the applicant requests that a cap be established.

B. The criteria in subsections B 1 through B 5 of this section shall be met in establishing emission standards for emission caps to the extent necessary to assure that emissions levels are met permanently.

1. If an emissions unit was subject to emission standards prescribed in these regulations prior to the date the permit is issued, a standard covering the emissions unit and pollutants subject to the emission standards shall be incorporated into the permit issued under this rule.

2. A permit issued under this rule may also contain emission standards for emissions units or pollutants that were not subject to emission standards prescribed in these regulations prior to the issuance of the permit.

3. Each standard shall be based on averaging time periods for the standards as appropriate based on applicable air quality standards, any emission standard applicable to the emissions unit prior to the date the permit is issued, or the operation of the emissions unit, or any combination thereof. The emission standards may include the level, quantity, rate, or concentration or any combination thereof for each affected pollutant.

4. In no case shall a standard result in emissions which would exceed the lesser of the following:

a. Allowable emissions for the emissions unit based on emission standards applicable prior to the date the permit is issued.

b. The emissions rate based on the potential to emit of the emissions unit.

5. The standard may prescribe, as an alternative to or a supplement to an emission limitation, an equipment, work practice, fuels specification, process materials, maintenance, or operational standard, or any combination thereof.

C. Using the significant modification procedures of § 120-08-0519, an emissions standard may be changed to allow an increase in emissions level provided the amended standard meets the requirements of subsections B 1 and B 4 of this section and provided the increased emission levels would not make the source subject to § 120-08-01, § 120-08-02 or § 120-08-03, as appropriate.

## § 120-08-0507. Permit content.

### A. General.

1. For major sources subject to this rule, the board shall include in the permit all applicable requirements for all emissions units in the major source except those deemed insignificant in Appendix W.

2. For any source other than a major source subject to this rule, the board shall include in the permit all applicable requirements that apply to emissions units that cause the source to be subject to this rule.

3. For all sources subject to this rule, the board shall include in the permit applicable requirements that apply to fugitive emissions regardless of whether the source category in question is included in the list of sources contained in the definition of major source.

4. Each permit issued under this rule shall include the elements listed in subsections B through N of this section.

### B. Emission limitations and standards.

Each permit shall contain terms and conditions setting out the following requirements with respect to emission limitations and standards:

1. The permit shall specify and reference applicable emission limitations and standards, including those operational requirements and limitations that assure compliance with all applicable requirements at the time of permit issuance.

2. The permit shall specify and reference the origin of and authority for each term or condition and shall identify any difference in form as compared to the applicable requirement upon which the term or condition is based.

3. If applicable requirements contained in these regulations allow a determination of an alternative emission limit at a source, equivalent to that contained in these regulations, to be made in the permit issuance, renewal, or significant modification process, any permit containing such equivalency determination shall contain provisions to ensure that any resulting emissions limit has been demonstrated to be quantifiable, accountable, enforceable, and based on replicable procedures.

### C. Equipment specifications and operating parameters.

Each permit shall contain terms and conditions setting out the following elements identifying equipment specifications and operating parameters:

1. Specifications for permitted equipment, identified as thoroughly as possible. The identification shall include, but not be limited to, type, rated capacity, and size.

2. Specifications for air pollution control equipment installed or to be installed and the circumstances under which such equipment shall be operated.

3. Specifications for air pollution control equipment operating parameters, where necessary to ensure that the required overall control efficiency is achieved.

#### D. Duration.

Each permit shall contain a condition setting out the expiration date, reflecting a fixed term of five years.

#### E. Monitoring.

Each permit shall contain terms and conditions setting out the following requirements with respect to monitoring:

1. All emissions monitoring and analysis procedures or test methods required under the applicable requirements, including any procedures and methods promulgated pursuant to § 504(b) or § 114(a)(3) of the federal Clean Air Act concerning compliance monitoring, including enhanced compliance monitoring.

2. Where the applicable requirement does not require periodic testing or instrumental or noninstrumental monitoring (which may consist of recordkeeping designed to serve as monitoring), periodic monitoring sufficient to yield reliable data from the relevant time period that are representative of the source's compliance with the permit, as reported pursuant to subsection F 1 a of this section. Such monitoring requirements shall assure use of terms, test methods, units, averaging periods, and other statistical conventions consistent with the applicable requirement. Recordkeeping provisions may be sufficient to meet the requirements of subsection E 2 of this section.

3. As necessary, requirements concerning the use, maintenance, and, where appropriate, installation of monitoring equipment or methods.

#### F. Recordkeeping and reporting.

1. To meet the requirements of subsection E of this section with respect to recordkeeping, the permit shall contain terms and conditions setting out all applicable recordkeeping requirements and requiring, where applicable, the following:

a. Records of monitoring information that include the following:

- (1) The date, place as defined in the permit, and time of sampling or measurements.
- (2) The date(s) analyses were performed.
- (3) The company or entity that performed the analyses.
- (4) The analytical techniques or methods used.
- (5) The results of such analyses.
- (6) The operating conditions existing at the time of sampling or measurement.

b. Retention of records of all monitoring data and support information for at least five years from the date of the monitoring sample, measurement, report, or application. Support information includes all calibration and maintenance records and all original strip-chart recordings for continuous monitoring instrumentation, and copies of all reports required by the permit.

2. To meet the requirements of subsection E of this section with respect to reporting, the permit shall contain terms and conditions setting out all applicable reporting requirements and requiring the following:

a. Submittal of reports of any required monitoring at least every six months. All instances of deviations from permit requirements must be clearly identified in such reports. All required reports must be certified by a responsible official consistent with § 120-08-0504 G.

b. Prompt reporting of deviations from permit requirements, including those attributable to upset conditions as defined in the permit, the probable cause of such deviations, and any corrective actions or preventive measures taken. The board shall define "prompt" in the permit condition in relation to (i) the degree and type of deviation likely to occur and (ii) the applicable requirements.

#### G. Enforcement.

Each permit shall contain terms and conditions with respect to enforcement that state the following:

1. If any condition, requirement or portion of the permit is held invalid or inapplicable under any circumstance, such invalidity or inapplicability shall not affect or impair the remaining conditions, requirements, or portions of the permit.

2. The permittee shall comply with all conditions of the permit. Any permit noncompliance constitutes a violation of the federal Clean Air Act or the Virginia Air Pollution Control Law or both and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application.

3. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

4. The permit may be modified, revoked, reopened, and reissued, or terminated for cause as specified in § 120-08-0507 L, § 120-08-0520 and § 120-08-0522. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or of a notification of planned changes or anticipated noncompliance does not stay any permit condition.

5. The permit does not convey any property rights of any sort, or any exclusive privilege.

6. The permittee shall furnish to the board, within a reasonable time, any information that the board may request in writing to determine whether cause exists for

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modifying, revoking and reissuing, or terminating the permit or to determine compliance with the permit. Upon request, the permittee shall also furnish to the board copies of records required to be kept by the permit and, for information claimed to be confidential, the permittee shall furnish such records to the board along with a claim of confidentiality.

## H. Permit fees.

Each permit shall contain a condition setting out the requirement to pay permit fees consistent with the fee schedule approved pursuant to Rule 8-6.

## I. Emissions trading.

1. Each permit shall contain a condition with respect to emissions trading that states the following:

No permit revision shall be required, under any federally approved economic incentives, marketable permits, emissions trading and other similar programs or processes for changes that are provided for in the permit.

2. Each permit shall contain the following terms and conditions, if the permit applicant requests them, for the trading of emissions increases and decreases within the permitted facility, to the extent that these regulations provide for trading such increases and decreases without a case-by-case approval of each emissions trade:

a. All terms and conditions required under this section except subsection N shall be included to determine compliance.

b. The permit shield described in § 120-08-0510 shall extend to all terms and conditions that allow such increases and decreases in emissions.

c. The owner shall meet all applicable requirements including the requirements of this rule.

## J. Alternative operating scenarios.

Each permit shall contain terms and conditions setting out requirements with respect to reasonably anticipated operating scenarios when identified by the source in its application and approved by the board. Such requirements shall include but not be limited to the following:

1. Contemporaneously with making a change from one operating scenario to another, the source shall record in a log at the permitted facility a record of the scenario under which it is operating.

2. The permit shield described in § 120-08-0510 shall extend to all terms and conditions under each such operating scenario.

3. The terms and conditions of each such alternative scenario shall meet all applicable requirements including the requirements of this rule.

## K. Compliance.

Consistent with subsections E and F of this section, each permit shall contain terms and conditions setting out the following requirements with respect to compliance:

1. Compliance certification, testing, monitoring, reporting, and recordkeeping requirements sufficient to assure compliance with the terms and conditions of the permit. Any document (including reports) required in a permit condition to be submitted to the board shall contain a certification by a responsible official that meets the requirements of § 120-08-0504 G.

2. Inspection and entry requirements that require that, upon presentation of credentials and other documents as may be required by law, the owner shall allow the board to perform the following:

a. Enter upon the premises where the source is located or emissions-related activity is conducted, or where records must be kept under the terms and conditions of the permit.

b. Have access to and copy, at reasonable times, any records that must be kept under the terms and conditions of the permit.

c. Inspect at reasonable times any facilities, equipment (including monitoring and air pollution control equipment), practices, or operations regulated or required under the permit.

d. Sample or monitor at reasonable times substances or parameters for the purpose of assuring compliance with the permit or applicable requirements.

3. A schedule of compliance consistent with § 120-08-0505 I.

4. Progress reports consistent with an applicable schedule of compliance and § 120-08-0505 I to be submitted at least semiannually, or at a more frequent period if specified in the applicable requirement or by the board. Such progress reports shall contain the following:

a. Dates for achieving the activities, milestones, or compliance required in the schedule of compliance, and dates when such activities, milestones or compliance were achieved.

b. An explanation of why any dates in the schedule of compliance were not or will not be met, and any preventive or corrective measures adopted.

5. Requirements for compliance certification with terms and conditions contained in the permit, including emission limitations, standards, or work practices. Permits shall include each of the following:

a. The frequency (not less than annually or such more frequent periods as specified in the applicable requirement or by the board) of submissions of compliance certifications.

b. In accordance with subsection E of this section, a means for assessing or monitoring the compliance of the source with its emissions limitations, standards, and work practices.

c. A requirement that the compliance certification include the following:

(1) The identification of each term or condition of the permit that is the basis of the certification.

(2) The compliance status.

(3) Whether compliance was continuous or intermittent.

(4) Consistent with subsection E of this section, the method or methods used for determining the compliance status of the source at the time of certification and over the reporting period.

(5) Such other facts as the board may require to determine the compliance status of the source.

d. All compliance certifications shall be submitted by the permittee to the administrator as well as to the board.

e. Such additional requirements as may be specified pursuant to § 114(a)(3) and § 504(b) of the federal Clean Air Act.

6. Such other provisions as the board may require.

## L. Reopening.

Each permit shall contain terms and conditions setting out the following requirements with respect to reopening the permit prior to expiration:

1. The permit shall be reopened by the board if additional applicable federal requirements become applicable to a major source with a remaining permit term of three or more years. Such a reopening shall be completed not later than 18 months after promulgation of the applicable requirement. No such reopening is required if the effective date of the requirement is later than the date on which the permit is due to expire, unless the original permit or any of its terms and conditions has been extended pursuant to § 120-08-0504 F.

2. The permit shall be reopened if the board or the administrator determines that the permit contains a material mistake or that inaccurate statements were made in establishing the emissions standards or other terms or conditions of the permit.

3. The permit shall be reopened if the administrator or the board determines that the permit must be revised or revoked to assure compliance with the applicable requirements.

4. The permit shall not be reopened by the board if additional applicable state requirements become applicable to a major source prior to the expiration date established under subsection D of this section.

## M. Miscellaneous.

The permit shall contain terms and conditions pertaining to other requirements as may be necessary to ensure compliance with these regulations, the Virginia Air Pollution Control Law and the federal Clean Air Act.

## N. Federal enforceability.

1. All terms and conditions in a permit, including any provisions designed to limit a source's potential to emit,

are enforceable by the administrator and citizens under the federal Clean Air Act, except as provided in subsection N 2 of this section.

2. The board shall specifically designate as being only state-enforceable any terms and conditions included in the permit that are not required under the federal Clean Air Act or under any of its applicable federal requirements. Terms and conditions so designated are not subject to the requirements of § 120-08-0525 concerning review of proposed permits by EPA and draft permits by affected states.

3. The board shall specifically designate as state enforceable any applicable state requirement that has been submitted to the administrator for review to be approved as part of the State Implementation Plan and that has not yet been approved. The permit shall specify that the provision will become federally enforceable upon approval of the provision by the administrator and through an administrative permit amendment.

## § 120-08-0508. General permits.

### A. Requirements for board issuance of a general permit.

1. The board may issue a general permit covering a source category containing numerous similar sources that meet the following criteria:

a. All sources in the category shall be essentially the same in terms of operations and processes and emit either the same pollutants or those with similar characteristics.

b. Sources shall not be subject to case-by-case standards or requirements.

c. Sources shall be subject to the same or substantially similar requirements governing operation, emissions, monitoring, reporting, or recordkeeping.

2. Sources subject to a general permit shall comply with all requirements applicable to other permits issued under this rule.

3. General permits shall (i) identify the criteria by which sources may qualify for the general permit and (ii) describe the process to use in applying for the general permit.

4. The board shall not issue a general permit until the requirements concerning notice and opportunity for public participation under § 120-08-0523 and affected state and EPA review under § 120-08-0525 have been met. However, requirements concerning content of the notice shall replace those specified in § 120-08-0523 C and shall include, but not be limited to, the following:

a. The name, address and telephone number of a department contact from whom interested persons may obtain additional information including copies of the draft general permit.

b. The criteria to be used in determining which sources qualify for the general permit.

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c. A brief description of the source category that the department believes qualifies for the general permit including, but not limited to, an estimate of the number of individual sources in the category.

d. A narrative statement of the estimated air quality impact contributed by the source category covered by the general permit including information regarding specific pollutants and the total quantity of each emitted pollutant and the type and quantity of fuels used, if applicable.

e. A brief description of the application process to be used by sources to request coverage under the general permit.

f. A brief description of the comment procedures required by § 120-08-0523.

g. A brief description of the procedures to be used to request a hearing as required by § 120-08-0523 or the time and place of the public hearing if the board determines to hold a hearing under § 120-08-0523 E 9.

## B. Application for a general permit.

1. Sources that would qualify for a general permit shall apply to the board for coverage under the terms of the general permit. Sources that do not qualify for a general permit shall apply for coverage under a permit issued under the other provisions of this rule.

2. The application shall meet the requirements of this rule and include all information necessary to determine qualification for and to assure compliance with the general permit.

3. Sources that become subject to the general permit after it is issued to other sources in the category addressed by the general permit shall file an application with the board using the application process described in the general permit. The board shall issue the general permit to the source if it determines that the source meets the criteria set out in the general permit.

## C. Issuance of a general permit.

1. The board shall grant the conditions and terms of the general permit to sources that meet the criteria set out in the general permit covering the specific source category.

2. The issuance of a permit to a source covered by a general permit shall not require compliance with the public participation procedures under § 120-08-0523 and affected state and EPA review under § 120-08-0525.

3. A response to each general permit application may not be provided. The general permit may specify a reasonable time period after which a source that has submitted an application shall be deemed to be authorized to operate under the general permit.

4. Sources covered under a general permit may be issued a letter, a certificate, or a summary of the general permit provisions, limits, and requirements, or any other document which would attest that the source is covered by the general permit.

5. Provided the letter, certificate, summary or other document is located at the source, the source may not be required to have a copy of the general permit. In this case, a copy of the general permit shall be retained by the board or at the source's corporate headquarters in the case of franchise operations.

## D. Enforcement

1. Regardless of the permit shield provisions in § 120-08-0510, the source shall be subject to enforcement action under § 120-08-0522 for operation without a permit issued under this rule if the source is later determined by the board or the administrator not to qualify for the conditions and terms of the general permit.

2. The act of granting or denying a request for authorization to operate under a general permit shall not be subject to judicial review.

## § 120-08-0509. Temporary sources.

A. The board may issue a single permit authorizing emissions from similar operations by the same owner at multiple temporary locations.

B. The operation shall be temporary and involve at least one change of location during the term of the permit.

C. Permits for temporary sources shall include the following:

1. Conditions that assure compliance with all applicable requirements at all authorized locations.

2. A condition that the owner shall notify the board not less than 15 days in advance of each change in location.

3. Conditions that ensure compliance with all other provisions of this rule.

## § 120-08-0510. Permit shield.

A. The board shall expressly include in a permit a provision stating that compliance with the conditions of the permit shall be deemed compliance with all applicable requirements in effect as of the date of permit issuance and as specifically identified in the permit.

B. The permit shield shall cover only the following:

1. Applicable requirements that are covered by terms and conditions of the permit.

2. Any other applicable requirement specifically identified as being not applicable to the source, provided that the permit includes that determination.

C. Nothing in this section or in any permit issued under this rule shall alter or affect the following:

1. The provisions of § 303 of the federal Clean Air Act (emergency orders), including the authority of the administrator under that section.

2. The liability of an owner for any violation of applicable requirements prior to or at the time of permit issuance.

3. The ability to obtain information from a source by the (i) administrator pursuant to § 114 of the federal Clean

Air Act (inspections, monitoring, and entry); (ii) board pursuant to § 10.1-1314 or § 10.1-1315 of the Virginia Air Pollution Control Law or (iii) department pursuant to § 10.1-1307.3 of the Virginia Air Pollution Control Law.

## § 120-08-0511. Action on permit application.

A. A permit, permit modification, or renewal may be issued only if all of the following conditions have been met:

1. The board has received a complete application for a permit, permit modification, or permit renewal, except that a complete application need not be received before issuance of a general permit under § 120-08-0508.

2. Except for modifications qualifying for minor permit modification procedures under § 120-08-0517 or § 120-08-0518, the board has complied with the requirements for public participation under § 120-08-0523.

3. The board has complied with the requirements for notifying and responding to affected states under § 120-08-0525.

4. The conditions of the permit provide for compliance with all applicable requirements, the requirements of Rule 8-6, and the requirements of this rule.

5. The administrator has received a copy of the proposed permit and any notices required under §§ 120-08-0525 A and 120-08-0525 B and has not objected to issuance of the permit under § 120-08-0525 C within the time period specified therein.

B. The board shall take final action on each permit application (including a request for permit modification or renewal) no later than 18 months after a complete application is received by the board, with the following exceptions:

1. For sources not deferred under § 120-08-0501 D, one-third of the initial permits shall be issued in each of the three years following the administrator's approval of this rule.

2. For permit revisions, as required by the provisions of §§ 120-08-0516, 120-08-0517, 120-08-0518 or 120-08-0519.

C. Issuance of permits under this rule shall not take precedence over or interfere with the issuance of preconstruction permits under §§ 120-08-01, 120-08-02, or 120-08-03.

D. The board shall provide a statement that sets forth the legal and factual basis for the draft permit conditions (including references to the applicable statutory or regulatory provisions). The board shall send this statement to the administrator and to any other person who requests it.

E. Within five days after receipt of the issued permit, the applicant shall maintain the permit on the premises for which the permit has been issued and shall make the permit immediately available to the board upon request.

## § 120-08-0512. Transfer of permits.

A. No person shall transfer a permit from one location to another, unless authorized under § 120-08-0509, or from one piece of equipment to another.

B. In the case of a transfer of ownership of a stationary source, the new owner shall comply with any current permit issued to the previous owner. The new owner shall notify the board of the change in ownership within 30 days of the transfer and shall comply with the requirements of § 120-08-0516.

C. In the case of a name change of a stationary source, the owner shall comply with any current permit issued under the previous source name. The owner shall notify the board of the change in source name within 30 days of the name change and shall comply with the requirements of § 120-08-0516.

## § 120-08-0513. Permit renewal and expiration.

A. Permits being renewed shall be subject to the same procedural requirements, including those for public participation, affected state and EPA review, that apply to initial permit issuance under this rule.

B. Permit expiration terminates the source's right to operate unless a timely and complete renewal application has been submitted consistent with § 120-08-0504.

C. If the board fails to act in a timely way on a permit renewal, the administrator may invoke his authority under § 505(e) of the federal Clean Air Act to terminate or revoke and reissue the permit.

## § 120-08-0514. Permanent shutdown for emissions trading.

A. The shutdown of an emissions unit is not creditable for purposes of emissions trading or exempt under § 120-08-0501 C 4 unless a decision concerning shutdown has been made pursuant to the pertinent provisions of Part VIII, including subsections B through D of this section.

B. Upon a final decision by the board that an emissions unit is shut down permanently, the board shall revoke any applicable permit by written notification to the owner and remove the unit from the emission inventory or consider its emissions to be zero in any air quality analysis conducted; and the unit shall not commence operation without a permit being issued under the applicable new source review and operating permit provisions of Part VIII.

C. The final decision shall be rendered as follows:

1. Upon a determination that the emissions unit has not operated for a year or more, the board shall provide written notification to the owner (i) of its tentative decision that the unit is considered to be shut down permanently; (ii) that the decision shall become final if the owner fails to provide, within three months of the notice, written response to the board that the shutdown is not to be considered permanent; and (iii) that the owner has a right to a formal hearing on this issue before the board makes a final decision. The response from the owner shall include the basis for the assertion that the shutdown is not to be considered permanent, a projected date for restart-up of the emissions unit and a request for a formal hearing if the owner wishes to exercise that right.

2. If the board should find that the basis for the assertion is not sound or the projected restart-up date allows for an

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unreasonably long period of inoperation, the board shall hold a formal hearing on the issue if one is requested. If no hearing is requested, the decision to consider the shutdown permanent shall become final.

D. Nothing in these regulations shall be construed to prevent the board and the owner from making a mutual determination that an emissions unit is shutdown permanently prior to any final decision rendered under subsection C of this section.

## § 120-08-0515. Changes to permits.

### A. Applicability.

1. Changes to emissions units that pertain to applicable federal requirements at a source with a permit issued under this rule shall be made as specified under subsections B through D of this section and § 120-08-0516 through § 120-08-0520 of this rule.

2. Changes to emissions units that pertain to applicable state requirements at a source with a permit issued under this rule shall be made as specified under subsection E of this section.

3. Changes to a permit issued under this rule and during its five-year term that pertain to applicable federal requirements may be initiated by the permittee as specified in subsection B of this section or by the board or administrator as specified in subsection C of this section.

### B. Changes initiated by the permittee.

1. The permittee may initiate a change to a permit by requesting an administrative permit amendment, a minor permit modification or a significant permit modification. The requirements for these permit revisions can be found in §§ 120-08-0516 through 120-08-0519.

2. A request for a change by a permittee shall include a statement of the reason for the proposed change.

### C. Changes initiated by the administrator or the board.

The administrator or the board may initiate a change to a permit through the use of permit reopenings as specified in § 120-08-0520.

### D. Permit term.

Changes to permits shall not be used to extend the term of the permit.

E. Changes at a source and applicable state requirements.

1. Exemption from permit revision and reopening requirements.

Changes at a source that pertain only to applicable state requirements shall be exempt from the requirements of § 120-08-0516 through § 120-08-0520.

2. Criteria for making the change.

The permittee may initiate a change pertaining only to applicable state requirements (i) if the change does not violate applicable requirements and (ii) if applicable, the

requirements of §§ 120-08-01, 120-08-02 or 120-08-03 have been met.

3. Incorporation of permit terms and conditions into a permit issued under this rule.

a. Permit terms and conditions pertaining only to applicable state requirements and issued under §§ 120-08-01, 120-08-02 or 120-08-03 shall be incorporated into a permit issued under this rule at the time of permit renewal or at an earlier time, if the applicant requests it.

b. Permit terms and conditions for changes to emissions units pertaining only to applicable state requirements and exempt from the requirements of §§ 120-08-01, 120-08-02 or 120-08-03 shall be incorporated into a permit issued under this rule at the time of permit renewal or at an earlier time, if the applicant requests it.

### 4. Notification.

The source shall provide contemporaneous written notice to the board of the change. Such written notice shall describe each change, including the date, any change in emissions, pollutants emitted, and any applicable state requirement that would apply as a result of the change.

### 5. Permit shield.

The change shall not qualify for the permit shield under § 120-08-0510.

## § 120-08-0516. Administrative permit amendments.

A. Administrative permit amendments shall be required for and limited to the following:

1. Correction of typographical or any error, defect or irregularity which does not substantially affect the permit.

2. Identification of a change in the name, address, or phone number of any person identified in the permit, or of a similar minor administrative change at the source.

3. Requirement for more frequent monitoring or reporting by the permittee.

4. Change in ownership or operational control of a source where the board determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittee has been submitted to the board and the requirements of § 120-08-0512 have been fulfilled.

5. Incorporation into the permit of the requirements of permits issued under §§ 120-08-01, 120-08-02, and 120-08-03 when §§ 120-08-01, 120-08-02, and 120-08-03 meet (i) procedural requirements substantially equivalent to the requirements of § 120-08-0523 and § 120-08-0525 that would be applicable to the change if it were subject to review as a permit modification, and (ii) compliance requirements substantially equivalent to those contained in § 120-08-0507.

6. Change in the enforceability status from state-only requirements to federally enforceable requirements for provisions that have been approved through rulemaking by the administrator to be a part of the State Implementation Plan.

## B. Administrative permit amendment procedures.

1. The board shall take final action on a request for an administrative permit amendment no more than 60 days from receipt of the request.

2. The board shall incorporate the changes without providing notice to the public or affected states under §§ 120-08-0523 and 120-08-0525. However, any such permit revisions shall be designated in the permit amendment as having been made pursuant to this section.

3. The board shall submit a copy of the revised permit to the administrator.

4. The owner may implement the changes addressed in the request for an administrative amendment immediately upon submittal of the request.

C. The board shall, upon taking final action granting a request for an administrative permit amendment, allow coverage by the permit shield provisions of § 120-08-0510 for amendments made pursuant to subsection A 5 of this section.

## § 120-08-0517. Minor permit modifications.

A. Minor permit modification procedures shall be used only for those permit modifications that:

1. Do not violate any applicable requirement;
2. Do not involve significant changes to existing monitoring, reporting, or recordkeeping requirements in the permit such as a change to the method of monitoring to be used, a change to the method of demonstrating compliance or a relaxation of reporting or recordkeeping requirements;
3. Do not require or change a case-by-case determination of an emission limitation or other standard, or a source-specific determination for temporary sources of ambient impacts, or a visibility or increment analysis;
4. Do not seek to establish or change a permit term or condition for which there is no corresponding underlying applicable federal requirement and that the source has assumed to avoid an applicable federal requirement to which the source would otherwise be subject. Such terms and conditions include:
  - a. A federally enforceable emissions cap assumed to avoid classification as a ~~modification under §§ 120-08-01, 120-08-02, 120-08-03 or § 112 of the federal Clean Air Act Title I modification~~; and
  - b. An alternative emissions limit approved pursuant to regulations promulgated under § 112(i)(5) of the federal Clean Air Act;

5. Are not ~~modifications under §§ 120-08-01, 120-08-02, 120-08-03 or § 112 of the federal Clean Air Act Title I modifications~~; and

6. Are not required to be processed as a significant modification under § 120-08-0519 or as an administrative permit amendment under § 120-08-0516.

B. Notwithstanding subsection A of this section and § 120-08-0518 A, minor permit modification procedures may be used for permit modifications involving the use of economic incentives, marketable permits, emissions trading, and other similar approaches, to the extent that such minor permit modification procedures are explicitly provided for in these regulations or a federally-approved program.

## C. Application.

An application requesting the use of minor permit modification procedures shall meet the requirements of § 120-08-0505 for the modification proposed and shall include all of the following:

1. A description of the change, the emissions resulting from the change, and any new applicable federal requirements that will apply if the change occurs.
2. A suggested draft permit prepared by the applicant.
3. Certification by a responsible official, consistent with § 120-08-0504 G, that the proposed modification meets the criteria for use of minor permit modification procedures and a request that such procedures be used.

## D. Public participation and EPA and affected state notification.

1. Within five working days of receipt of a permit modification application that meets the requirements of § 120-08-0517 C of this section, the board shall meet its obligation under §§ 120-08-0525 A 1 and B 1 to notify the administrator and affected states of the requested permit modification. The board shall promptly send any notice required under § 120-08-0525 B 2 to the administrator.
2. The public participation requirements of § 120-08-0523 shall not extend to minor permit modifications.

## E. Timetable for issuance.

1. The board may not issue a final permit modification until after the administrator's 45-day review period or until the administrator has notified the board that he will not object to issuance of the permit modification, whichever occurs first, although the board can approve the permit modification prior to that time.
2. Within 90 days of receipt by the board of an application under minor permit modification procedures or 15 days after the end of the 45-day review period under § 120-08-0525 C, whichever is later, the board shall do one of the following:
  - a. Issue the permit modification as proposed.
  - b. Deny the permit modification application.

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c. Determine that the requested modification does not meet the minor permit modification criteria and should be reviewed under the significant modification procedures.

d. Revise the draft permit modification and transmit to the administrator the new proposed permit modification as required by § 120-08-0525 A.

## F. Ability of owner to make change.

1. The owner may make the change proposed in the minor permit modification application immediately after the application is filed.

2. After the change under subsection F 1 of this section is made, and until the board takes any of the actions specified in subsection E of this section, the source shall comply with both the applicable federal requirements governing the change and the proposed permit terms and conditions.

3. During the time period specified in subsection F 2 of this section, the owner need not comply with the existing permit terms and conditions he seeks to modify. However, if the owner fails to comply with the proposed permit terms and conditions during this time period, the existing permit terms and conditions he seeks to modify may be enforced against him.

## G. Permit shield.

The permit shield under § 120-08-0510 shall not extend to minor permit modifications.

§ 120-08-0518. Group processing of minor permit modifications.

### A. Criteria.

Group processing of modifications may be used only for those permit modifications that meet both of the following:

1. Permit modifications that meet the criteria for minor permit modification procedures under § 120-08-0517 A.

2. Permit modifications that collectively are below the threshold level as follows: 10% of the emissions allowed by the permit for the emissions unit for which the change is requested, 20% of the applicable definition of major source in § 120-08-0502, or five tons per year, whichever is least.

### B. Application.

An application requesting the use of group processing procedures shall meet the requirements of § 120-08-0505 for the proposed modifications and shall include all of the following:

1. A description of the change, the emissions resulting from the change, and any new applicable federal requirements that will apply if the change occurs.

2. A suggested draft permit prepared by the applicant.

3. Certification by a responsible official, consistent with § 120-08-0504 G, that the proposed modification meets the criteria for use of group processing procedures and a request that such procedures be used.

4. A list of the source's other pending applications awaiting group processing and a determination of whether the requested modification, aggregated with these other applications, equals or exceeds the threshold set under subsection A 2 of this section.

5. Certification, consistent with § 120-08-0504 G, that the source has notified the administrator of the proposed modification. Such notification need contain only a brief description of the requested modification.

6. Completed forms for the board to use to notify the administrator and affected states as required under § 120-08-0525.

## C. Public participation and EPA and affected state notification.

1. On a quarterly basis or within five business days of receipt of an application demonstrating that the aggregate of the pending applications for the source equals or exceeds the threshold level set under subsection A 2 of this section, whichever is earlier, the board promptly shall meet its obligation under § 120-08-0525 A 1 and B 1 to notify the administrator and affected states of the requested permit modifications. The board shall send any notice required under § 120-08-0525 B 2 to the administrator.

2. The public participation requirements of § 120-08-0523 shall not extend to group processing of minor permit modifications.

## D. Timetable for issuance.

The provisions of § 120-08-0517 E shall apply to modifications eligible for group processing, except that the board shall take one of the actions specified in § 120-08-0517 E 1 through E 4 within 180 days of receipt of the application or 15 days after the end of the 45-day review period under § 120-08-0525 C, whichever is later.

## E. Ability of owner to make change.

The provisions of § 120-08-0517 F shall apply to modifications eligible for group processing.

## F. Permit shield.

The permit shield under § 120-08-0510 shall not extend to minor permit modifications.

§ 120-08-0519. Significant modification procedures.

### A. Criteria.

1. Significant modification procedures shall be used for applications requesting permit modifications that do not qualify as minor permit modifications under § 120-08-0517 or § 120-08-0518 or as administrative amendments under § 120-08-0516.

2. Significant modification procedures shall be used for those permit modifications that:

a. Involve significant changes to existing monitoring, reporting, or recordkeeping requirements in the permit, such as a change to the method of monitoring to be used, a change to the method of demonstrating

compliance or a relaxation of reporting or recordkeeping requirements.

b. Require or change a case-by-case determination of an emission limitation or other standard, or a source-specific determination for temporary sources of ambient impacts made under Parts IV, V or VI, or a visibility or increment analysis carried out under Part VIII of these regulations.

c. Seek to establish or change a permit term or condition for which there is no corresponding underlying applicable federal requirement and that the source has assumed to avoid an applicable federal requirement to which the source would otherwise be subject. Such terms and conditions include:

(1) A federally enforceable emissions cap assumed to avoid classification as a ~~modification under §§ 120-08-01, 120-08-02, 120-08-03 or § 112 of the federal Clean Air Act Title I modification.~~

(2) An alternative emissions limit approved pursuant to regulations promulgated under § 112(i)(5) of the federal Clean Air Act (early reduction of hazardous air pollutants).

## B. Application.

An application for a significant permit modification shall meet the requirements of §§ 120-08-0504 and 120-08-0505 for permit issuance and renewal for the modification proposed and shall include the following:

1. A description of the change, the emissions resulting from the change, and any new applicable federal requirements that will apply if the change occurs.
2. A suggested draft permit prepared by the applicant.
3. Completed forms for the board to use to notify the administrator and affected states as required under § 120-08-0525.

## C. EPA and affected state notification.

The provisions of § 120-08-0525 shall be carried out for significant permit modifications in the same manner as they would be for initial permit issuance and renewal.

## D. Public participation.

The provisions of § 120-08-0523 shall apply to applications made under this section.

## E. Timetable for issuance.

The board shall take final action on significant permit modifications within nine months after receipt of a complete application.

## F. Ability of owner to make change.

The owner shall not make the change applied for in the significant modification application until the modification is approved by the board under subsection E of this section.

## G. Permit shield.

The provisions of § 120-08-0510 shall apply to changes made under this section.

## § 120-08-0520. Reopening for cause.

A. A permit shall be reopened and revised under any of the conditions stated in § 120-08-0507 L.

B. Proceedings to reopen and reissue a permit shall follow the same procedures as apply to initial permit issuance and shall affect only those parts of the permit for which cause to reopen exists. Such reopening shall be made as expeditiously as practicable.

C. Reopenings shall not be initiated before a notice of such intent is provided to the source by the board at least 30 days in advance of the date that the permit is to be reopened, except that the board may provide a shorter time period in the case of an emergency.

## D. Reopenings for cause by EPA.

1. If the administrator finds that cause exists to terminate, modify, or revoke and reissue a permit pursuant to subsection A of this section, the administrator shall notify the board and the permittee of such finding in writing.

2. The board shall, within 90 days after receipt of such notification, forward to the administrator a proposed determination of termination, modification, or revocation and reissuance, as appropriate. The administrator may extend this 90-day period for an additional 90 days if he finds that a new or revised permit application is necessary or that the board must require the permittee to submit additional information.

3. The administrator shall review the proposed determination from the board within 90 days of receipt.

4. The board shall have 90 days from receipt of an objection by the administrator to resolve any objection that he makes and to terminate, modify, or revoke and reissue the permit in accordance with the objection.

5. If the board fails to submit a proposed determination pursuant to subsection D 2 of this section or fails to resolve any objection pursuant to subsection D 4 of this section, the administrator shall terminate, modify, or revoke and reissue the permit after taking the following actions:

a. Providing at least 30 days' notice to the permittee in writing of the reasons for any such action. This notice may be given during the procedures in subsections D 1 through D 4 of this section.

b. Providing the permittee an opportunity for comment on the administrator's proposed action and an opportunity for a hearing.

## § 120-08-0521. Malfunction.

### A. Effect of a malfunction.

A malfunction constitutes an affirmative defense to an action brought for noncompliance with technology-based emission limitations if the conditions of subsection B of this section are met.

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## B. Affirmative defense of malfunction.

The affirmative defense of malfunction shall be demonstrated by the permittee through properly signed, contemporaneous operating logs, or other relevant evidence that show the following:

1. A malfunction occurred and the permittee can identify the cause or causes of the malfunction.
2. The permitted facility was at the time being properly operated.
3. During the period of the malfunction the permittee took all reasonable steps to minimize levels of emissions that exceeded the emission standards, or other requirements in the permit.
4. For malfunctions that occurred for one hour or more, the permittee submitted to the board by the deadlines established in subsections B 4 a and B 4 b of this section a notice and written statement containing a description of the malfunction, any steps taken to mitigate emissions, and corrective actions taken. The notice fulfills the requirement of § 120-08-0507 F 2 b to report promptly deviations from permit requirements.
  - a. A notice of the malfunction by facsimile transmission, telephone or telegraph as soon as practicable but no later than four daytime business hours of the time when the emission limitations were exceeded due to the malfunction.
  - b. A written statement describing the malfunction no later than two weeks following the day the malfunction occurred.

C. In any enforcement proceeding, the permittee seeking to establish the occurrence of a malfunction shall have the burden of proof.

D. The provisions of this section are in addition to any malfunction, emergency or upset provision contained in any applicable requirement.

## § 120-08-0522. Enforcement.

### A. General.

1. Pursuant to § 10.1-1322, failure to comply with any condition of a permit shall be considered a violation of the Virginia Air Pollution Control Law.
2. A permit may be revoked or terminated prior to its expiration date if the owner does any of the following:
  - a. Knowingly makes material misstatements in the permit application or any amendments thereto.
  - b. Violates, fails, neglects or refuses to comply with (i) the terms or conditions of the permit, (ii) any applicable requirements, or (iii) the applicable provisions of this rule.
3. The board may suspend, under such conditions and for such period of time as the board may prescribe, any permit for any of the grounds for revocation or termination contained in subsection A 2 of this section or for any other violations of these regulations.

## B. Penalties.

1. An owner who violates, fails, neglects or refuses to obey any provision of this rule or the Virginia Air Pollution Control Law, any applicable requirement, or any permit condition shall be subject to the provisions of § 10.1-1316 of the Virginia Air Pollution Control Law.
2. Any owner who knowingly violates, fails, neglects or refuses to obey any provision of this rule or the Virginia Air Pollution Control Law, any applicable requirement, or any permit condition shall be subject to the provisions of § 10.1-1320 of the Virginia Air Pollution Control Law.
3. Any owner who knowingly makes any false statement, representation or certification in any form, in any notice or report required by a permit, or who knowingly renders inaccurate any required monitoring device or method shall be subject to the provisions of § 10.1-1320 of the Virginia Air Pollution Control Law.

## C. Appeals.

1. The board shall notify the applicant in writing of its decision, with its reasons, to suspend, revoke or terminate a permit.
2. Appeal from any decision of the board under subsection C 1 of this section may be taken pursuant to § 120-02-09, § 10.1-1318 of the Virginia Air Pollution Control Law, and the Administrative Process Act.

D. The existence of a permit under this rule shall constitute a defense to a violation of any applicable requirement if the permit contains a condition providing the permit shield as specified in § 120-08-0510 and if the requirements of § 120-08-0510 have been met. The existence of a permit shield condition shall not relieve any owner of the responsibility to comply with any applicable regulations, laws, ordinances and orders of other governmental entities having jurisdiction. Otherwise, the existence of a permit under this rule shall not constitute a defense of a violation of the Virginia Air Pollution Control Law or these regulations and shall not relieve any owner of the responsibility to comply with any applicable regulations, laws, ordinances and orders of the governmental entities having jurisdiction.

## E. Inspections and right of entry.

1. The director, as authorized under § 10.1-1307.3 of the Virginia Air Pollution Control Law and § 120-02-30, has the authority to require that air pollution records and reports be made available upon request and to require owners to develop, maintain, and make available such other records and information as are deemed necessary for the proper enforcement of the permits issued under this rule.
2. The director, as authorized under § 10.1-1307.3 of the Virginia Air Pollution Control Law, has the authority, upon presenting appropriate credentials to the owner, to do the following:
  - a. Enter without delay and at reasonable times any business establishment, construction site, or other

area, workplace, or environment in the Commonwealth; and

b. Inspect and investigate during regular working hours and at other reasonable times, and within reasonable limits and in a reasonable manner, without prior notice, unless such notice is authorized by the board or its representative, any such business establishment or place of employment and all pertinent conditions, structures, machines, apparatus, devices, equipment, and materials therein, and question privately any such employer, officer, owner, operator, agent, or employee. If such entry or inspection is refused, prohibited, or otherwise interfered with, the board shall have the power to seek from a court having equity jurisdiction an order compelling such entry or inspection.

#### F. Other enforcement mechanisms.

The board may enforce permits issued under this rule through the use of other enforcement mechanisms such as consent orders and special orders. The procedures for using these mechanisms are contained in §§ 120-02-02 and 120-02-03 and in §§ 10.1-1307 D, 10.1-1309, and 10.1-1309.1 of the Virginia Air Pollution Control Law.

#### § 120-08-0523. Public participation.

##### A. Required public comment and public notice.

Except for modifications qualifying for minor permit modification procedures and administrative permit amendments, draft permits for initial permit issuance, significant modifications, and renewals shall be subject to a public comment period of at least 30 days. The board shall notify the public using the procedures in subsection B of this section.

##### B. Notification.

1. The board shall notify the public of the draft permit or draft permit modification (i) by advertisement in a local newspaper of general circulation in the locality particularly affected and in a newspaper of general circulation in the affected air quality control region and (ii) through a notice to persons on a permit mailing list who have requested such information of the opportunity for public comment on the information available for public inspection under the provisions of subsection C of this section.

2. For major sources subject to this rule, the notice shall be mailed to the chief elected official and chief administrative officer and the planning district commission for the locality particularly affected.

##### C. Content of the public notice and availability of information.

1. The notice shall include but not be limited to the following:

- a. The source name, address and description of specific location.
- b. The name and address of the permittee.

c. The name and address of the regional office processing the permit.

d. The activity or activities for which the permit action is sought.

e. The emissions change that would result from the permit issuance or modification.

f. A statement of estimated local impact of the activity for which the permit is sought, including information regarding specific pollutants and the total quantity of each emitted pollutant and the type and quantity of fuels used.

g. The name, address, and telephone number of a department contact from whom interested persons may obtain additional information, including copies of the draft permit or draft permit modification, the application, air quality impact information if an ambient air dispersion analysis was performed and all relevant supporting materials, including the compliance plan.

h. A brief description of the comment procedures required by this section.

i. A brief description of the procedures to be used to request a hearing or the time and place of the public hearing if the board determines to hold a hearing under subsection E 3 of this section.

2. Information on the permit application (exclusive of confidential information under § 120-02-30), as well as the draft permit or draft permit modification, shall be available for public inspection during the entire public comment period at the regional office.

##### D. Affected states review.

The board shall provide such notice and opportunity for participation by affected states as is provided for by § 120-08-0525.

##### E. Opportunity for public hearing.

1. The board shall provide an opportunity for a public hearing as described in subsections E 2 through E 6 of this section.

2. Following the initial publication of notice of a public comment period, the board will receive written requests for a public hearing to consider the draft permit or draft permit modification. The request shall be submitted within 30 days of the appearance of the notice in the newspaper. Request for a public hearing shall contain the following information:

a. The name, mailing address and telephone number of the requester.

b. The names and addresses of all persons for whom the requester is acting as a representative.

c. The reason why a hearing is requested, including the air quality concern that forms the basis for the request.

d. A brief, informal statement setting forth the factual nature and the extent of the interest of the requester or

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of the persons for whom the requester is acting as representative, including information on how the operation of the facility under consideration affects the requester.

3. The board shall review all requests for public hearing filed as required under subsection E 2 of this section and, within 30 calendar days following the expiration of the public comment period, shall grant a public hearing if it finds both *either* of the following:

a. There is significant public interest in the air quality issues raised by the permit application in question.

b. There are ~~substantial~~, disputed air quality issues relevant to the permit application in question.

4. The board shall notify by mail the applicant and each requester, at his last known address, of the decision to convene or deny a public hearing. The notice shall contain the basis for the decision to grant or deny a public hearing. If the public hearing is granted, the notice shall contain a description of procedures for the public hearing.

5. If the board decides to hold a public hearing, the hearing shall be scheduled at least 30 and no later than 60 days after mailing the notification required in subsection E 4 of this section.

6. The procedures for notification to the public and availability of information used for the public comment period as provided in subsection C of this section shall also be followed for the public hearing. The hearing shall be held in the affected air quality control region.

7. As an alternative to the requirements of subsections E 1 through E 6 of this section, the board may hold a public hearing if an applicant requests that a public hearing be held or if, prior to the public comment period, the board determines that the conditions in subsection E 3 a and b of this section pertain to the permit application in question.

8. The board may hold a public hearing for more than one draft permit or draft permit modification if the location for the public hearing is appropriate for the sources under consideration and if the public hearing time expected for each draft permit or draft permit modification will provide sufficient time for public concerns to be heard.

9. Written comments shall be accepted by the board for at least 15 days after the hearing.

## F. Public comment record.

1. The board shall keep two records of public participation as follows:

a. A record of the commenters.

b. A record of the issues raised during the public participation process so that the administrator may fulfill his obligation under § 505(b)(2) of the federal Clean Air Act to determine whether a citizen petition may be granted.

2. Such records shall be made available to the public upon request.

## § 120-08-0524. Operational flexibility.

A. The board shall allow, under conditions specified in this section, operational flexibility changes at a source that do not require a revision to be made to the permit in order for the changes to occur. Such changes shall be classified as follows: (i) those that contravene an express permit term, or (ii) those that are not addressed or prohibited by the permit. The conditions under which the board shall allow these changes to be made are specified in subsections B and C of this section, respectively.

### B. Changes that contravene an express permit term.

#### 1. General.

a. The board shall allow a change at a stationary source that changes a permit condition with the exception of the following:

~~(1) A modification under §§ 120-08-01, 120-08-02 or 120-08-03 A Title I modification.~~

~~(2) A modification under the provisions of or regulations promulgated pursuant to § 112 of the federal Clean Air Act.~~

~~(3) (2) A change that would exceed the emissions allowable under the permit.~~

~~(4) (3) A change that would violate applicable requirements.~~

~~(5) (4) A change that would contravene federally or state enforceable permit terms or conditions or both that are monitoring (including test methods), recordkeeping, reporting, compliance schedule dates, or compliance certification requirements.~~

b. The owner shall provide written notification to the administrator and the board at least seven days in advance of the proposed change. The written notification shall include a brief description of the change within the permitted facility, the date on which the change will occur, any change in emissions, and any permit term or condition that is no longer applicable as a result of the change.

c. The owner, board and the administrator shall attach the notice described in subsection B 1 b of this section to their copy of the relevant permit.

d. The permit shield under § 120-08-0510 shall not extend to any change made pursuant to subsection B 1 of this section.

#### 2. Emission trades within permitted facilities provided for in these regulations.

a. With the exception of the changes listed in subsection B 1 a of this section, the board shall allow permitted sources to trade increases and decreases in emissions within the permitted facility (i) where these regulations provide for such emissions trades without requiring a permit revision and (ii) where the permit does not already provide for such emissions trading.

b. The owner shall provide written notification to the administrator and the board at least seven days in advance of the proposed change. The written notification shall include such information as may be required by the provision in these regulations authorizing the emissions trade, including at a minimum the name and location of the facility, when the proposed change will occur, a description of the proposed change, any change in emissions, the permit requirements with which the source will comply using the emissions trading provisions of these regulations, and the pollutants emitted subject to the emissions trade. The notice shall also refer to the provisions with which the source will comply in these regulations and which provide for the emissions trade.

c. The permit shield described in § 120-08-0510 shall not extend to any change made under subsection B 2 of this section. Compliance with the permit requirements that the source will meet using the emissions trade shall be determined according to requirements of these regulations.

3. Emission trades within stationary sources to comply with an emissions cap in the permit.

a. If a permit applicant requests it, the board shall issue permits that contain terms and conditions, including all terms required under § 120-08-0507 to determine compliance, allowing for the trading of emissions increases and decreases within the permitted facility solely for the purpose of complying with a federally-enforceable emissions cap that is established in the permit independent of otherwise applicable federal requirements. The permit applicant shall include in the application proposed replicable procedures and permit terms that ensure that the emissions trades are quantifiable and enforceable. The board shall not include in the emissions trading provisions any emissions units for which emissions are not quantifiable or for which there are no replicable procedures to enforce the emissions trades. The permit shall also require compliance with all applicable requirements.

b. The board shall not allow a change to be made under subsection B 3 of this section if it is a change listed in subsection B 1 of this section.

c. The owner shall provide written notification to the administrator and the board at least seven days in advance of the proposed change. The written notification shall state when the change will occur and shall describe the changes in emissions that will result and how these increases and decreases in emissions will comply with the terms and conditions of the permit.

d. The permit shield under § 120-08-0510 shall extend to terms and conditions that allow such increases and decreases in emissions.

C. Changes that are not addressed or prohibited by the permit.

1. The board shall allow the owner to make changes that are not addressed or prohibited by the permit unless the changes are subject to the following requirements:

~~a. Modifications under §§ 120-08-01, 120-08-02 or 120-08-03.~~

~~b. Modifications under § 112 of the federal Clean Air Act or the regulations promulgated under § 112 Title I modifications.~~

2. Each change shall meet all applicable requirements and shall not violate any existing permit term or condition which is based on applicable federal requirements.

3. Sources shall provide contemporaneous written notice to the board and the administrator of each change, except for changes to emissions units deemed insignificant and listed in Section II A of Appendix W. Such written notice shall describe each change, including the date, any change in emissions, pollutants emitted, and any applicable federal requirement that would apply as a result of the change.

4. The change shall not qualify for the permit shield under § 120-08-0510.

5. The permittee shall keep a record describing changes made at the source that result in emissions of a regulated air pollutant subject to an applicable federal requirement but not otherwise regulated under the permit, and the emissions resulting from those changes.

§ 120-08-0525. Permit review by EPA and affected states.

A. Transmission of information to the administrator.

1. The board shall provide to the administrator a copy of each permit application (including any application for permit modification), each proposed permit, and each final permit issued under this rule.

2. The board shall keep for five years such records and submit to the administrator such information as the administrator may reasonably require to ascertain whether the Virginia program complies with the requirements of the federal Clean Air Act or of 40 CFR Part 70.

B. Review by affected states.

1. The board shall give notice of each draft permit to any affected state on or before the time that the board provides this notice to the public under § 120-08-0523, except to the extent that § 120-08-0517 or § 120-08-0518 requires the timing of the notice to be different.

2. The board, as part of the submittal of the proposed permit to the administrator (or as soon as possible after the submittal for minor permit modification procedures allowed under § 120-08-0517 or § 120-08-0518), shall notify the administrator and any affected state in writing of any refusal by the board to accept recommendations for the proposed permit that the affected state submitted during the public or affected state review period. The notice shall include the reasons the board will not accept a recommendation. The board shall not be obligated to

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accept recommendations that are not based on applicable federal requirements or the requirements of this rule.

## C. EPA objection.

1. No permit for which an application must be transmitted to the administrator under subsection A of this section shall be issued if the administrator objects to its issuance in writing within 45 days of receipt of the proposed permit and all necessary supporting information.

2. Any objection by the administrator under subsection C 1 of this section shall include a statement of the reasons for the objection and a description of the terms and conditions that the permit must include to respond to the objection. The administrator shall provide the permit applicant a copy of the objection.

3. Failure of the board to do any of the following also shall constitute grounds for an objection:

- a. Comply with subsection A or B of this section or both.
- b. Submit any information necessary to review adequately the proposed permit.
- c. Process the permit under the public comment procedures in § 120-08-0523 except for minor permit modifications.

4. If, within 90 days after the date of an objection under subsection C 1 of this section, the board fails to revise and submit a proposed permit in response to the objection, the administrator will issue or deny the permit in accordance with the requirements of 40 CFR Part 71.

## D. Public petitions to the administrator.

1. If the administrator does not object in writing under subsection C of this section, any person may petition the administrator within 60 days after the expiration of the 45-day review period for the administrator to make such objection.

2. Any such petition shall be based only on objections to the permit that were raised with reasonable specificity during the public comment period provided for in § 120-08-0523, unless the petitioner demonstrates that it was impracticable to raise such objections within such period, or unless the grounds for such objection arose after such period.

3. If the administrator objects to the permit as a result of a petition filed under subsection D 1 of this section, the board shall not issue the permit until the objection has been resolved, except that a petition for review does not stay the effectiveness of a permit or its requirements if the permit was issued after the end of the 45-day review period and prior to an objection by the administrator.

4. If the board has issued a permit prior to receipt of an objection by the administrator under subsection D 1 of this section, the administrator will modify, terminate, or revoke such permit, and shall do so consistent with the procedures in §§ 120-08-0520 D 4 or D 5 a and b except

in unusual circumstances, and the board may thereafter issue only a revised permit that satisfies the administrator's objection. In any case, the source will not be in violation of the requirement to have submitted a timely and complete application.

## E. Prohibition on default issuance.

No permit (including a permit renewal or modification) shall be issued by the board until affected states and the administrator have had an opportunity to review the proposed permit as required under this section.

§ 120-08-0526. Voluntary inclusions of additional state-only requirements as applicable state requirements in the permit.

A. Upon the request of an applicant, any requirement of these regulations not included in the definition of applicable requirement may be included as an applicable state requirement in a permit issued under this rule.

B. If the applicant chooses to make a request under subsection A of this section, the provisions of this rule pertaining to applicable state requirements shall apply.

C. The request under subsection A of this section shall be made by including the citation and description of any applicable requirement not defined as such in this rule in the permit application submitted to the board under § 120-08-0505 E.

## PART VIII PERMIT PROGRAM FEES FOR STATIONARY SOURCES (RULE 8-6)

§ 120-08-0601. Applicability.

A. Except as provided in subsection C of this section, the provisions of this rule apply to the following stationary sources:

1. Any major source.
2. Any source, including an area source, subject to the provisions of Parts IV and V adopted pursuant to a standard, limitation, or other requirement under § 111 of the federal Clean Air Act.
3. Any source, including an area source, subject to the provisions of Part VI adopted pursuant to a standard, limitation, or other requirement under § 112 of the federal Clean Air Act.
4. Any affected source.
5. Any other source subject to the permit requirements of Rule 8-5.
6. Any source that would be subject to the permit requirements of Rule 8-5 in the absence of a permit issued under § 120-08-04.

B. The provisions of this rule apply throughout the Commonwealth of Virginia.

C. The provisions of this rule shall not apply to the following:

1. All sources and source categories that would be subject to this rule solely because they are subject to the

provisions of 40 CFR Part 60, Subpart AAA (standards of performance for new residential wood heaters), as prescribed in Rule 5-5.

2. All sources and source categories that would be subject to this rule solely because they are subject to the provisions of 40 CFR Part 61, Subpart M, § 61.145 (national emission standard for hazardous air pollutants for asbestos, standard for demolition and renovation), as prescribed in Rule 6-1.

3. Any source issued a permit under § 120-08-01, § 120-08-02, or § 120-08-03 that began initial operation during the calendar year preceding the year in which the annual permit program fee is assessed.

4. That portion of emissions in excess of 4,000 tons per year of any regulated air pollutant emitted by any source otherwise subject to an annual permit program fee.

5. During the years 1995 through 1999 inclusive, any affected source under § 404 of the federal Clean Air Act (phase I sulfur dioxide requirements).

6. Any emissions unit within a stationary source subject to this rule that is identified as being an insignificant activity in Appendix W.

7. All sources and source categories that would be subject to this rule solely because they are subject to regulations or requirements under § 112(r) of the federal Clean Air Act.

## § 120-08-0602. Definitions.

A. For the purpose of this rule and subsequent amendments or any orders issued by the board, the words or phrases shall have the meaning given them in subsection C of this section.

B. All words and phrases not defined in subsection C of this section shall have the meaning given them in part I, unless otherwise required by context.

### C. Terms defined.

*"Actual emissions"* means the actual rate of emissions in tons per year of any regulated air pollutant emitted from a source subject to this rule over the preceding calendar year. Actual emissions may be calculated according to any method acceptable to the department provided such calculation takes into account the source's actual operating hours, production rates, in-place control equipment, and types of materials processed, stored, or combusted during the preceding calendar year. Any regulated pollutant which could be classed in more than one category shall be classed in only one category.

*"Affected source"* means a source that includes one or more affected units.

*"Affected unit"* means a unit that is subject to any federal acid rain emissions reduction requirement or acid rain emissions limitation under 40 CFR Parts 72, 73, 75, 77 or 78.

*"Area source"* means any stationary source that is not a major source. For purposes of this section, the phrase "area source" shall not include motor vehicles or nonroad vehicles.

*"Hazardous air pollutant"* means any pollutant listed in § 112(b)(1) of the federal Clean Air Act.

*"Major source"* means:

a. For hazardous air pollutants other than radionuclides, any stationary source that emits or has the potential to emit, in the aggregate, 10 tons per year or more of any hazardous air pollutant or 25 tons per year or more of any combination of hazardous air pollutants. Notwithstanding the preceding sentence, emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any pipeline compressor or pump station shall not be aggregated with emissions from other similar units, whether or not such units are in a contiguous area or under common control, to determine whether such units or stations are major sources.

b. For air pollutants other than hazardous air pollutants, any stationary source that directly emits or has the potential to emit 100 tons per year or more of any air pollutant (including any major source of fugitive emissions of any such pollutant). The fugitive emissions of a stationary source shall not be considered in determining whether it is a major stationary source, unless the source belongs to one of the following categories of stationary source:

- (1) Coal cleaning plants (with thermal dryers);
- (2) Kraft pulp mills;
- (3) Portland cement plants;
- (4) Primary zinc smelters;
- (5) Iron and steel mills;
- (6) Primary aluminum ore reduction plants;
- (7) Primary copper smelters;
- (8) Municipal incinerators capable of charging more than 250 tons of refuse per day;
- (9) Hydrofluoric, sulfuric, or nitric acid plants;
- (10) Petroleum refineries;
- (11) Lime plants;
- (12) Phosphate rock processing plants;
- (13) Coke oven batteries;
- (14) Sulfur recovery plants;
- (15) Carbon black plants (furnace process);
- (16) Primary lead smelters;
- (17) Fuel conversion plant;
- (18) Sintering plants;
- (19) Secondary metal production plants;
- (20) Chemical process plants;
- (21) Fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input;

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(22) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;

(23) Taconite ore processing plants;

(24) Glass fiber processing plants;

(25) Charcoal production plants;

(26) Fossil-fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input; or

(27) All other stationary source categories regulated by a standard promulgated under § 111 or § 112 of the federal Clean Air Act, but only with respect to those air pollutants that have been regulated for that category.

c. For ozone nonattainment areas, any stationary source with the potential to emit 100 tons per year or more of volatile organic compounds or nitrogen oxides in areas classified as "marginal" or "moderate," 50 tons per year or more in areas classified as "serious," 25 tons per year or more in areas classified as "severe," and 10 tons per year or more in areas classified as "extreme"; except that the references in this definition to 100, 50, 25, and 10 tons per year of nitrogen oxides shall not apply with respect to any source for which the administrator has made a finding that requirements under § 182(f) of the federal Clean Air Act (NO<sub>x</sub> requirements for ozone nonattainment areas) do not apply.

d. For attainment areas in ozone transport regions, any stationary source with the potential to emit 50 tons per year or more of volatile organic compounds.

"Permit program costs" means all reasonable (direct and indirect) costs required to develop, administer, and enforce the permit program; and to develop and administer the Small Business Technical and Environmental Compliance Assistance Program established pursuant to the provisions of § 10.1-1323 of the Code of Virginia.

"Potential to emit" means the maximum capacity of a stationary source to emit any air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of a source to emit an air pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation is state and federally enforceable.

"Regulated air pollutant" means any of the following:

- a. Nitrogen oxides or any volatile organic compound.
- b. Any pollutant for which an ambient air quality standard has been promulgated except carbon monoxide.
- c. Any pollutant subject to any standard promulgated under § 111 of the federal Clean Air Act.
- d. Any pollutant subject to a standard promulgated under § 112 (hazardous air pollutants) or other requirements established under § 112 of the federal

Clean Air Act, particularly §§ 112(b), 112(d), 112(g)(2), 112(j), and 112(r); except that any pollutant that is a regulated pollutant solely because it is subject to a standard or regulation under § 112(r) of the federal Clean Air Act shall be exempt from this rule.

"Research and development facility" means all the following as applied to any stationary source:

a. The primary purpose of the source is the conduct of either (i) research and development into new products or processes or into new uses for existing products or processes or (ii) basic research to provide for education or the general advancement of technology or knowledge.

b. The source is operated under the close supervision of technically trained personnel.

c. The source is not engaged in the manufacture of products for commercial sale in commerce.

An analytical laboratory that primarily supports a research and development facility is considered to be part of that facility.

"Stationary source" means any building, structure, facility or installation which emits or may emit any regulated air pollutant. A stationary source shall include all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same persons (or persons under common control). Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same "Major Group" (i.e., if they have the same two-digit code) as described in the Standard Industrial Classification Manual (see Appendix M). Any research and development facility shall be considered a separate stationary source from the manufacturing or other facility with which it is co-located.

§ 120-08-0603. General.

A. The owner of any source subject to this rule shall pay an annual permit program fee.

B. Permit program fees collected pursuant to this rule for sources subject to Rule 8-5 shall not be used for any purpose other than as provided in Title V of the federal Clean Air Act and associated regulations and policies.

C. The owner shall be exempt from paying the annual permit program fee in any year for which the fee is assessed at \$300 or less.

§ 120-08-0604. Annual permit program fee calculation.

A. The annual permit program fee shall not exceed the base year amount as specified in § 10.1-1322 B of the Virginia Air Pollution Control Law and shall be adjusted annually by the Consumer Price Index as provided in § 10.1-1322 B of the Virginia Air Pollution Control Law.

1. The annual permit program fee shall be increased (consistent with the need to cover reasonable costs) each year by the percentage, if any, by which the Consumer Price Index for the most recent calendar year ending before the beginning of such year exceeds the

Consumer Price Index for the calendar year 1989. The Consumer Price Index for any calendar year is the average of the Consumer Price Index for all-urban consumers published by the U.S. Department of Labor, as of the close of the 12-month period ending on August 31 of each calendar year.

2. The revision of the Consumer Price Index which is most consistent with the Consumer Price Index for the calendar year 1989 shall be used.

B. The annual permit program fee described in subsection A of this section and the amount billed to the owner as provided in subsection A of § 120-08-0605 for a given year shall be calculated in accordance with the following formulae:

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$$\begin{aligned}
 B &= (A)(F) \\
 F &= X (1 + \Delta \text{CPI}) \\
 \Delta \text{CPI} &= \frac{\text{CPI} - 122.15}{122.15}
 \end{aligned}$$

where:

B = the amount billed to the owner during the year after the year in which the actual emissions occurred, expressed in dollars

A = actual emissions covered by permit fees, expressed in tons

F = the maximum adjusted fee per ton for the calendar year in which the actual emissions occurred, expressed in dollars per ton

X = the base year amount specified in § 10.1-1322 B of the Virginia Air Pollution Control Law 25, expressed in dollars per ton

Δ CPI = the difference between the CPI and 122.15 (the average of the Consumer Price Index for all-urban consumers for the 12-month period ending on August 31, 1989)

CPI = the average of the Consumer Price Index for all-urban consumers for the 12-month period ending on August 31 of the year in which the emissions actually occurred, expressed as a percentage

C. The actual emissions covered by the permit program fees for the preceding year shall be calculated by the owner and submitted to the department by April 15 of each year. The calculations and final amount of emissions are subject to verification and final determination by the department.

D. If the assessment of the annual permit program fee calculated in accordance with subsections A, B, and C of this section results in a total amount of fee revenue in excess of the amount necessary to fund the permit program costs, a lesser annual permit program fee shall instead be calculated and assessed according to the formula specified in subsection E of this section. Any adjustments made to the annual permit program fee shall be within the constraints of 40 CFR § 70.9 and § 10.1-1322 of the Virginia Air Pollution Control Law.

E. The lesser annual permit program fee shall be calculated according to the following formula: estimated permit program costs ÷ estimated actual emissions = lesser annual permit program fee. The estimated permit program costs and estimated actual emissions shall be determined from the data specified in subsections E 1 and E 2 of this section, incorporating any anticipated adjustments to the data.

1. The current permit program costs shall be determined from the most recent available annual expenditure record of the amount spent by the department on permit program costs.

2. The current actual emissions shall be determined from the most recent available annual emissions inventory of the actual emissions for each regulated pollutant subject to fees from all sources subject to the annual permit program fee.

§ 120-08-0605. Annual permit program fee payment.

A. Upon determining that the owner owes an annual permit program fee, the department shall mail a bill for the fee to that owner no later than June 1, or in the case of the initial bill no later than 60 days after federal program approval, unless the governor determines that fees are needed earlier for Virginia to maintain primacy over the program, as provided for in § 10.1322 B of the State Air Pollution Control Law.

B. Within 30 days following the date of the postmark on the bill, the owner shall respond in one of the following ways:

1. The owner may pay the fee in full. The fee shall be paid by check or money order made payable to "Department of Environmental Quality" and mailed to the address specified by the department.

2. The owner may make a written request to the department to authorize an alternative payment schedule. The deadline for payment of the fee shall be held in abeyance pending the department's response.

C. Failure of the owner to respond within 90 days following the date of the postmark on the bill in one of the two ways specified in subsection B of this section shall be grounds to institute a collection action against the owner by the Attorney General or to initiate appropriate enforcement action, as provided in the Virginia Air Pollution Control Law.

## APPENDIX W

### INSIGNIFICANT ACTIVITIES

I. General.

A. For the purposes of Rules 8-5, 8-6 and 8-7, insignificant activities shall be those activities listed in Section II of this appendix. There are three categories of insignificant activities as follows:

1. Insignificant emissions units.

This category includes emissions units that are deemed insignificant because the emissions from these units are considered to be of minimal or no air quality concern for the purpose of identifying the emissions units in a permit

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application. Emissions units in this category are not required to be included in permit applications submitted pursuant to Rule 8-5 or Rule 8-7. Insignificant activities falling into this category are listed in Section II A of this appendix.

## 2. Emissions units with insignificant emissions levels.

This category includes emissions units, other than those in Section I A 1 of this appendix, that are deemed insignificant for a particular regulated pollutant because the emissions level of the regulated pollutant is sufficiently small so as to be considered of minimal or no air quality concern for the purpose of quantifying the emissions from the emissions units in a permit application. Emissions units emitting at these insignificant levels are required to be identified by listing them as insignificant emissions units in the permit application submitted pursuant to Rule 8-5 or Rule 8-7. The list of insignificant emissions units shall also specify the regulated pollutant or pollutants emitted at insignificant emissions levels for each emissions unit on the list. However, information on the amount of emissions from these units is not required to be provided. Insignificant activities in this category are listed in Section II B of this appendix.

## 3. Emissions units of an insignificant size or production rate.

This category includes emissions units, other than those in Section I A 1 or Section I A 2 of this appendix, that are deemed insignificant because the emissions from these units are considered to be of minimal or no air quality concern for the purpose of quantifying the emissions from the emissions units in a permit application. Emissions units in this category are required to be identified by listing them as insignificant emissions units in the permit application submitted pursuant to Rule 8-5 or Rule 8-7. The list of insignificant emissions units shall also specify the size or the production rate for each emissions unit on the list. Insignificant activities in this category are listed in Section II C of this appendix.

4. Regardless of the emissions units designated in Sections II A, II B, or II C of this appendix, the emissions from any emissions unit should be included in the permit application submitted pursuant to Rule 8-5 or Rule 8-7 if the omission of those emissions units would interfere with the determination of applicability of Rule 8-5 or 8-7, the determination of or imposition of any applicable requirement, or the calculation of permit fees.

## B. Definitions.

1. For the purpose of this appendix and subsequent amendments issued by the board, the words or terms shall have the meaning given them in subsection B 2 of this section. As used in this appendix, all terms not defined herein shall have the meaning given them in Part I, unless otherwise required by context.

## 2. Terms defined.

"Uncontrolled emissions" means the emissions from a source when operating at maximum capacity without air

pollution control equipment. Air pollution control equipment includes control equipment which is not vital to its operation, except that its use enables the source to conform to applicable air pollution control laws and regulations. Annual uncontrolled emissions shall be based on the maximum annual rated capacity (based on 8760 hours of operation per year) of the source, unless the source is subject to state and federally enforceable permit conditions which limit the annual hours of operation. Enforceable permit conditions on the type or amount of material combusted or processed may be used in determining the uncontrolled emissions of a source. Secondary emissions do not count in determining the uncontrolled emissions of a stationary source.

## II. Insignificant activities.

### A. Insignificant emissions units.

1. Gas flares or flares used solely to indicate danger to the public.

2. ~~Comfort air conditioning or ventilation~~ Ventilation systems not used to remove air contaminants generated by or released from specific units of equipment.

3. Portable heaters which can reasonably be relocated through the manual labor of one person.

4. Space heaters operating by direct heat or radiant heat transfer or both.

5. Office activities and the equipment and implements used to carry out these activities, such as typewriters, printers, and pens.

6. Interior maintenance activities and the equipment and supplies used to carry out these activities, such as janitorial cleaning products and air fresheners, but not cleaning of production equipment.

7. Architectural maintenance and repair activities conducted to take care of the buildings and structures at the facility, including repainting, reroofing and sandblasting, where no structural repairs are made in conjunction with the installation of new or permanent facilities.

8. Exterior maintenance activities conducted to take care of the grounds of the source, including lawn maintenance.

9. Bathroom and locker room ventilation and maintenance.

10. Copying and duplication activities for internal use and support of office activities at the source.

11. Blueprint copiers and photographic processes used as an auxiliary to the principal equipment at the source.

12. Equipment used solely for the purpose of preparing food to be eaten on the premises of industrial and manufacturing operations.

13. Safety devices.

14. Air contaminant detectors and test equipment.

15. Brazing, soldering or welding equipment used as an auxiliary to the principal equipment at the source.

16. The engine of any vehicle, including but not limited to any marine vessel, any vehicle running upon rails or tracks, any motor vehicle, any forklift, any tractor, or any mobile construction equipment, including any auxiliary engine that provides cooling or refrigeration of the vehicle.
  17. Firefighting equipment and the equipment used to train firefighters.
  18. Laboratories used solely for the purpose of quality control or environmental compliance testing that are associated with manufacturing, production or other industrial or commercial facilities.
  19. Laboratories in primary and secondary schools and in schools of higher education used for instructional purposes.
  20. Air compressors and pumps (engines for these emissions units are covered separately under subsection II C 1).
  21. Dumpster.
  22. Grinding or abrasive blasting for nondestructive testing of metals.
  23. Dryers and distribution systems for instrument air.
  24. Parts washer (water-based).
  25. Dispensing facilities for refueling diesel-powered vehicles or equipment, including any diesel fuel storage tank serving only such dispensing facility.
  26. Laboratory analytical equipment and vents except at stationary sources primarily engaged in research and development.
  27. Non-routine clean out of tanks and equipment for the purposes of worker entry or in preparation for maintenance or decommissioning.
  28. Sampling connections and systems used exclusively to withdraw materials for testing and analysis including air contaminant detectors and vent lines.
  29. Maintenance activities such as hand-held or manually-operated maintenance equipment, railroad track maintenance, repair and maintenance cleaning, and maintenance surface preparation activities.
  30. Solvent storage cabinet (containers covered).
  31. Cooling ponds.
  32. Coal pile run-off ponds.
  33. Mechanical drive or gear boxes.
  34. Equipment for steam cleaning or brushing dust off equipment.
  35. Repair of residential units.
  36. Farm equipment.
  37. Water tanks.
  38. Hydroblasting.
  39. Process raw water treatment (e.g., phosphate).
  40. Water cooling tower except for systems including contact process water or water treated with chromium-based chemicals.
  41. Spill collection tanks.
  42. Steam vents and leaks from boilers and steam distribution systems.
  43. Boiler water treatment operations, except those involving use of hydrazine.
  44. Herbicide mixing and application activities not involving herbicide manufacture.
  45. Internal combustion powered compressors and pumps used for emergency replacement or standby service.
  46. Portable or mobile containers.
  47. Vent or exhaust system for:
    - a. Transformer vaults and buildings;
    - b. Electric motor and control panel vents;
    - c. Deaerators and decarbonators.
  48. Vents or stacks for sewer lines or enclosed areas required for safety or by code.
  49. Pump seals.
  50. Rupture discs for gas handling systems.
  51. Molasses storage tanks.
  52. Storage of substances in closed drums, barrels or bottles.
  - ~~53. Refrigeration systems.~~
  - ~~54. 53. Purging of natural gas lines.~~
  - ~~55. 54. Blanking, chopping, trimming, perforating, repacking, and inspecting in connection with plastics manufacturing processes.~~
- B. Emissions units, other than those listed in Section II A of this appendix, with insignificant emissions levels.
1. Emissions units with uncontrolled emissions of less than 10 tons per year of nitrogen dioxide, sulfur dioxide, total suspended particulates or particulate matter (PM<sub>10</sub>).
  2. Emissions units with uncontrolled emissions of less than 7 tons per year of volatile organic compounds.
  3. Emissions units with uncontrolled emissions of less than 100 tons per year of carbon monoxide.
  4. Emissions units with uncontrolled emissions of less than 0.6 tons per year of lead.
  5. Emissions units with uncontrolled emissions of hazardous air pollutants at or below the de minimis emissions rates set out in the table in 40 CFR § 63.44.
  6. Emissions units with uncontrolled emissions of any pollutant regulated under Subpart C of 40 CFR Part 68 at

# Emergency Regulations

~~or below the de minimis emissions rates set out in the table in 40 CFR § 63.44 or, if the pollutant is not listed in the table in 40 CFR § 63.44, at or below the threshold quantity listed in the tables in 40 CFR § 68.130 if those emissions are below the threshold levels set forth at 40 CFR § 63.44, the accidental release threshold levels set forth at 40 CFR § 68.130, or 1000 pounds per year, whichever is least.~~

C. Emissions units, other than those listed in Section II A or Section II B of this appendix, of an insignificant size or production rate.

1. Internal combustion engines, including portable generators, as follows:

a. Engines burning diesel fuel (maximum 0.5% sulfur) with 51,800 Btu per hour input (20.3 horsepower) or less.

b. Engines burning gasoline with 36,413 Btu per hour input (14.3 horsepower) or less.

2. Fuel burning equipment or combustion units with heat input levels less than:

a. 10 million Btu per hour rated input, using natural gas.

b. 1 million Btu per hour rated input, using distillate oil (maximum 0.5% sulfur).

3. Reservoirs and storage tanks for lubricant or used oil with a capacity of less than 1,000 gallons.

VA.R. Doc. No. R96-66; Filed October 20, 1995, 10:12 a.m.

## DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Title of Regulation: VR 460-02-4.1910. **Methods and Standards for Establishing Payment Rates - Inpatient Hospital Care (Home Tomorrow Program).**

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

Effective Dates: October 16, 1995, through October 15, 1996.

REQUEST: The Governor is hereby requested to approve this agency's adoption of the emergency regulation entitled Reimbursement Rates for Home Tomorrow Services. This regulation will reduce Medicaid expenditures by reimbursing hospitals bundled services provided for uncomplicated deliveries.

RECOMMENDATION: Recommend approval of the Department's request to take an emergency adoption action regarding Reimbursement Rates for Home Tomorrow Services. The Department intends to initiate the public notice and comment requirements contained in the Code of Virginia § 9-6.14:7.1.

/s/ Robert C. Metcalf  
Director

Date: September 11, 1995

/s/ Kay C. James  
Secretary of Health and Human Resources  
Date: September 20, 1995

/s/ Robert W. Lauterberg  
Director  
Department of Planning and Budget  
Date: September 20, 1995

/s/ George Allen  
Governor  
Date: October 12, 1995

### FILED WITH:

/s/ Jane D. Chaffin for  
E. M. Miller, Jr.  
Acting Registrar of Regulations  
Date: October 16, 1995

### DISCUSSION

BACKGROUND: The section of the State Plan affected by this action is the Methods and Standards for Establishing Payment Rates - In-Patient Hospital Care (VR 460-02-4.1910).

Beginning in 1992, several hospitals in the Commonwealth, in cooperation with the Virginia Hospital Association, proposed a trial period of a special obstetric services program. These proposals basically provided for one day of inpatient hospital care (24 hours to 36 hours) to be followed by a home health visit for those women and their newborns who met certain standards. The referenced home health visit was provided either directly by the hospital's affiliated home health agency or was contracted out by the hospital to a non-affiliated home health agency. The women selected for the trial Home Tomorrow programs were those who were expected to have normal vaginal deliveries, at term, without significant medical, obstetric or peri- or post-natal complications, nor prolonged labor or difficult instrument delivery and who delivered a healthy term infant, and also who had good social support systems. The services which were required to be covered were the short inpatient stay followed by a home visit by registered nurses trained in mother and infant assessments. The nurses' home visit assessments contained required minimum components for both the new mother and newborn. The participating hospitals were required to report to DMAS their readmission experience for these populations of patients. Also, these participating hospitals were reimbursed one fee for these bundled services: inpatient hospital care for a normal, uncomplicated vaginal delivery, home visit post-delivery and any educational efforts provided at that time.

Based on the successes of the participating hospitals (which reported low re-admission rates), the decision was made to include this item as a budget proposal for 1995. This proposal was approved and became part of the 1995 Acts of Assembly. In order to make participation in this program available to all hospitals which are enrolled Medicaid providers and to obtain federal financial participation for these costs, the State Plan for Medical Assistance must be amended.

DMAS' existing policy pays hospitals a per diem rate for maternity services, but does not reimburse for home care for

healthy mothers and newborns. By creating a "package" rate (by bundling these services and paying one specified rate) including one day of inpatient care and one comprehensive home visit, this new policy will enable hospitals to discharge patients earlier and still provide the evaluation and patient education services (through a home visit) that frequently have kept patients in the hospital longer prior to this program.

**AUTHORITY TO ACT:** The Code of Virginia (1950) as amended, § 32.1-325, grants to the Board of Medical Assistance Services (BMAS) the authority to administer and amend the Plan for Medical Assistance. The Code of Virginia (1950) as amended, § 32.1-324, grants to the Director of the Department of Medical Assistance Services (DMAS) the authority to administer and amend the Plan for Medical Assistance in lieu of Board action pursuant to the Board's requirements. The Code also provides, in the Administrative Process Act (APA) § 9-6.14:4.1(C)(5), for an agency's adoption of emergency regulations subject to the Governor's prior approval. Subsequent to the emergency adoption action and filing with the Registrar of Regulations, this agency intends to initiate the public notice and comment process contained in Article 2 of the APA. Without an emergency regulation, this amendment to the State Plan cannot become effective until the publication and concurrent comment and review period requirements of the APA's Article 2 are met. Therefore, an emergency regulation is needed to meet the cost savings which have already been deducted from the agency's 1995 appropriations.

Section 1902(a)(13)(A) of the Social Security Act is implemented by Title 42 of the Code of Federal Regulations Part 447 Subpart C. This section "requires that the State Plan provide for payment for hospital and long-term care facility services through the use of rates that the state finds, and makes assurances satisfactory to the Secretary, are reasonable and adequate to meet the costs that must be incurred by efficiently and economically operated facilities to provide services in conformity with state and federal laws, regulations and quality and safety standards and assure that individuals eligible for medical assistance have reasonable access (taking into account geographic location and reasonable travel time) to ...[care]... of adequate quality."

**NEED FOR EMERGENCY ACTION:** The Code § 9-6.14:4.1(C)(5) provides for regulations which an agency finds are necessitated by an emergency situation. To enable the Director, in lieu of the Board of Medical Assistance Services, to comply with the required cost savings for SFY1996, the regulatory change must be effective October 1, 1995. This issue qualifies as an emergency regulation as provided for in § 9-6.14:4.1(C)(5)(ii), because the Acts of Assembly (state law) requires these savings be accomplished in SFY1996. As such, this regulation may be adopted by DMAS without public comment with the prior approval of the Governor. Since this emergency regulation will be effective for no more than 12 months and the Director wishes to continue regulating the subject entities, the Department is initiating the Administrative Process Act Article 2 procedures.

**FISCAL/BUDGETARY IMPACT:** Providers' participation in the Home Tomorrow program is voluntary. Therefore it is not expected to negatively affect any providers. However, reimbursement for such services is mandatory for DMAS.

This program is expected to provide benefits to both the providers and the Commonwealth. Recipients who are appropriate candidates for Home Tomorrow services will be able to return to their homes from the hospital sooner and also receive a comprehensive home health visit which would otherwise be unavailable. This action, in combination with a separate initiative to reduce lengths of stay of maternity services, is expected to save \$3 million General Funds and \$3 million Non-General Funds. There are no localities which are uniquely affected by these regulations as they apply statewide.

**RECOMMENDATION:** Recommend approval of this request to adopt this emergency regulation to become effective October 1, 1995. From its effective date, this regulation is to remain in force for one full year or until superseded by final regulations promulgated through the APA. Without an effective emergency regulation, the Department would lack the authority to implement this program statewide and achieve the required savings.

**APPROVAL SOUGHT FOR VR 460-02-4.1910.**

Approval of the Governor is sought for an emergency modification of the Medicaid State Plan in accordance with the Code of Virginia § 9-6.14:4.1(C)(5) to adopt the following regulation:

VR 460-02-4.1910. Methods and Standards for Establishing Payment Rates - Inpatient Hospital Care (Home Tomorrow Program).

V. The reimbursement system for hospitals includes the following components (continued):

(9) *All-inclusive rate for one-day maternity and newborn services.*

*a. Hospitals may voluntarily participate in a program (the "Home Tomorrow" program) wherein women who have uncomplicated vaginal deliveries may be discharged from the hospital within 24 hours of such deliveries. If providers choose to participate and the patients are determined to be medically appropriate to participate, coverage is provided for routine inpatient services plus a comprehensive home health visit, including a maternal assessment, a newborn assessment, and a home assessment. Reimbursement for the total package of inpatient and outpatient services will be a fixed per case rate. The Home Tomorrow package of services includes one day of inpatient services and one comprehensive home visit provided within 48 hours of discharge. Cases with longer lengths of stay or where a home visit does not occur within 48 hours of discharge shall not be reimbursed under the Home Tomorrow program. These cases will be reimbursed at the normal per diem reimbursement rate.*

*b. The Home Tomorrow total fixed per case rates in effect from October 1, 1995 through June 30, 1996, shall be:*

<i>Northern Virginia</i>	<i>\$1,200</i>
<i>Rest of State</i>	<i>\$1,100</i>

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## Emergency Regulations

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*State Teaching Hospitals*

**\$1,700**

*These amounts shall be considered to constitute reimbursement both for the services provided (both operating and fixed costs) and for disproportionate share hospital (DSH) payments associated with those services, if applicable.*

*c. These per case rates will be updated at the beginning of each state fiscal year using the same inflation factor used for hospitals with fiscal years ending at that time. (Refer to V(2) above)*

VA.R. Doc. No. R96-63; Filed October 16, 1995, 12:34 p.m.

# STATE CORPORATION COMMISSION

## FINAL REGULATION

Title of Regulation: 20 VAC 5-400-70. Regulation Governing Radio Common Carrier Services (REPEALED).

Statutory Authority: §§ 12.1-13, 56-508.5 (repealed), and 56-508.6 (repealed) of the Code of Virginia.

Effective Date: October 25, 1995.

Agency Contact: Wayne Smith, Office of General Counsel, State Corporation Commission, P.O. Box 1197, Richmond, Virginia 23218, telephone (804) 371-9671.

AT RICHMOND, OCTOBER 23, 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

## FINAL ORDER

On August 1, 1995, the Commission issued its Order Setting Hearing and Authorizing Comments in this proceeding in which we consider deregulation of radio common carriers and cellular mobile radio communications carriers. In that order, we noted the repeal of provisions of the Code of Virginia authorizing the Commission to grant certificates of convenience and necessity to radio common carriers and cellular carriers and to regulate their services. We also noted the amendment of the Communications Act of 1934 to preempt generally state regulation of mobile radio services. As set out in our order of August 1, 1995, the Commission tentatively concluded that it should cancel certificates of convenience and necessity previously issued to these carriers and cancel their tariffs on file with the Commission. In addition, we tentatively concluded that the Commission should repeal its Regulation Governing Radio Common Carrier Services, 20 VAC 5-400-70. Before taking these actions, however, the Commission authorized interested persons to file comments and set the matter for public hearing.

As authorized by our order of August 1, 1995, radio common carriers Paging Network, Inc., Paging Network of Virginia, Inc. and Metrocall of Virginia, Inc., filed comments in support of the proposed deregulatory measures. GTE Mobilnet, Bell Atlantic Nynex Mobile, and Sprint Cellular Company filed comments on behalf of their Virginia cellular carrier affiliates. In addition, cellular carriers Virginia RSA #4, Inc. and Virginia RSA #7, Inc. also filed comments. Like the radio common carriers, the cellular carriers expressed in their comments no objection to the proposed cancellation of certificates and tariffs and the repeal of the regulation. As ordered, the Commission conducted a public hearing in this matter on October 16, 1995, in Richmond, Virginia. No radio common carrier, cellular carrier, or any other interested person appeared at the hearing.

In this proceeding, the Commission afforded holders of certificates of convenience and necessity and interested

persons an opportunity to file written comments and to address the Commission at a hearing on issues arising from the proposed deregulation. No person used either avenue to address the Commission to oppose the proposed deregulatory measures. To the contrary, the commenters were unanimous in their support of the cancellation of certificates of convenience and necessity.

The General Assembly of Virginia has clearly established a public policy of deregulating radio common carriers and cellular carriers by repealing various provisions of law which authorized the Commission to regulate these services. The Commission has taken into consideration this policy as well as the comments of the carriers themselves supporting deregulatory measures. Accordingly, the Commission concludes that it should take the deregulatory measures identified in our order of August 1, 1995. By this order, we shall cancel all outstanding certificates of convenience and necessity issued to radio common carriers and cellular carriers and all tariffs filed by these carriers. In addition we will repeal the Commission's Regulation Governing Radio Common Carrier Services, 20 VAC 5-400-70.

Accordingly, IT IS ORDERED THAT:

(1) The following certificates of convenience and necessity issued to radio common carriers SHALL BE CANCELED as of the date Of this Order:

RCC No. 138 issued February 26, 1990, to Mid-Atlantic Paging Company, Inc.

RCC No. 141 issued February 26, 1990, to PJB Communications of Virginia, Inc.

RCC No. 142 issued February 26, 1990, to Paging Network of Washington, Inc.

RCC No. 143 issued February 26, 1990, to Paging, Inc.

RCC No. 145 issued February 26, 1990, to Rule Communications

RCC No. 146 issued February 26, 1990, to Shenandoah Mobile Company

RCC No. 147 issued February 26, 1990, to Southwest Virginia Professional Services

RCC No. 148 issued February 26, 1990, to The Beeper Company

RCC No. 149 issued February 26, 1990, to U.S. Central of Virginia, Inc.

RCC No. 150 issued February 26, 1990, to Afton Communications Corporation

RCC No. 151 issued February 26, 1990, to Always Answering Service, Inc.

RCC No. 152 issued February 26, 1990, to American Paging, Inc.

RCC No. 154 issued February 26, 1990, to Executive Services Paging Company

RCC No. 155 issued February 26, 1990, to Great Eastern Communications Company

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## State Corporation Commission

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RCC No. 157 issued February 26, 1990, to Hello Pager Company

RCC No. 158 issued February 26, 1990, to McMillen Communications Corp. of Va., Inc.

RCC No. 159 issued February 26, 1990, to Metro-Tones, Inc. of Virginia

RCC No. 161 issued February 26, 1990, to Dial Page, L.P.

RCC No. 163 issued June 26, 1990, to Salisbury Mobile Telephone of Va., Inc.

RCC No. 164 issued June 29, 1990, to Denton II, Inc.

RCC No. 166 issued February 20, 1991, to Redi-Call

RCC No. 167 issued January 21, 1992, to Dover Radio Page of Virginia, Inc.

RCC No. 168 issued April 22, 1993, to TNI Associates

RCC No. 169 issued January 19, 1993, to K. J. Paging, Inc.

RCC No. 170 issued September 4, 1992, to Paging Network of Virginia, Inc.

RCC No. 144b issued December 16, 1993, to MobileMedia Communications, Inc.

RCC No. 171 issued April 28, 1993, to Carson Partnership

RCC No. 140a issued August 9, 1993, to MobileComm of the Southeast, Inc.

RCC No. 162a issued June 18, 1993, to Metrocall of Virginia

RCC No. 172 issued January 10, 1994, to PageMart Operations, Inc. of Virginia

RCC No. 138a issued May 9, 1994, to FirstPAGE USA of Virginia, Inc.

RCC No. 165a issued May 16, 1994, to AirTouch Paging of Virginia Inc.

(2) All tariffs issued by radio common carriers listed in (1) above and now on file with the Commission SHALL BE CANCELED as of the date of this Order.

(3) The following certificates of convenience and necessity issued to cellular mobile radio communications carriers SHALL BE CANCELED as of the date of this Order:

Cellular No. C-2a issued July 1, 1985, to Washington D.C. SMSA Limited Partnership

Cellular No. C-17 issued April 6, 1988, to Virginia Metronet, Inc.

Cellular No. C-18 issued April 29, 1988, to Centel Cellular Company of Lynchburg

Cellular No. C-19 issued June 17, 1988, to Centel Cellular Company of Charlottesville

Cellular No. C-21 issued June 30, 1988, to Centel Cellular of Danville Limited Partnership

Cellular No. C-22 issued August 1, 1988, to Danville Cellular Telephone Co. Limited Partnership

Cellular No. C-24 issued April 25, 1989, to Petersburg Cellular Partnership

Cellular No. C-16a issued April 28, 1989, to Telespectrum of Virginia, Inc.

Cellular No. C-25 issued January 11, 1991, to Virginia RSA-6 Cellular Limited Partnership

Cellular No. C-26 issued November 19, 1990, to Virginia 10 RSA Limited Partnership

Cellular No. C-39 issued April 22, 1991, to Centel Cellular Company of Virginia

Cellular No. C-41 issued January 12, 1991, to Washington D.C. SMSA Limited Partnership RSA-11 B3

Cellular No. C-42 issued May 7, 1991, to Blue Ridge Cellular, Inc.

Cellular No. C-43 issued May 31, 1991, to Washington D.C. SMSA Limited Partnership

Cellular No. C-44 issued June 18, 1991, to Virginia Cellular, Inc.

Cellular No. C-46 issued August 28, 1991, to Centel Cellular Company of Virginia

Cellular No. C-47 issued August 28, 1991, to Centel Cellular Company of Virginia

Cellular No. C-48 issued August 28, 1991, to Centel Cellular Company of Virginia

Cellular No. C-49 issued August 28, 1991, to Centel Cellular Company of Virginia

Cellular No. C-51 issued September 13, 1991, to Virginia RSA #7, Inc.

Cellular No. C-33a issued September 12, 1991, to Virginia RSA 4 Limited Partnership

Cellular No. C-52 issued September 20, 1991, to Washington D.C. SMSA Limited Partnership

Cellular No. C-54 issued December 23, 1991, to Virginia RSA-1 Limited Partnership

Cellular No. C-29a issued February 21, 1992, to Charlottesville Cellular Partnership

Cellular No. C-57a issued July 16, 1992, to Centel Cellular of Richmond, Inc.

Cellular No. C-59a issued July 16, 1992, to Virginia Cellular Limited Partnership

Cellular No. C-45a issued May 7, 1992, to Centel Cellular Company of Virginia

Cellular No. C-20b issued September 22, 1992, to Century Roanoke Cellular Corp.

Cellular No. C-60b issued November 24, 1992, to Virginia Cellular Limited Partnership

# State Corporation Commission

Cellular No. C-9b issued December 22, 1992, to Contel Cellular of Tennessee, Inc.

Cellular No. C-55a issued February 17, 1993, to Virginia RSA 2 Limited Partnership

Cellular No. C-61 issued December 7, 1993, to Metro Mobile of Charlotte, Inc.

Cellular No. C-30d issued October 6, 1993, to Virginia Cellular Limited Partnership

Cellular No. C-32d issued October 6, 1993, to Virginia Cellular Limited Partnership

Cellular No. C-56c issued November 24, 1992, to J.M.W. Inc.

Cellular No. C-28b issued January 29, 1994, to Virginia RSA 3 Limited Partnership

Cellular No. C-36a issued May 13, 1994, to Century Lynchburg Cellular Corporation

Cellular No. C-6b issued May 31, 1994, to RCTC Wholesale Corporation

Cellular No. C-58a issued June 10, 1994, to Virginia RSA No. 4 Inc.

Cellular No. C-38a issued October 28, 1994, to Virginia Cellular Limited Partnership

Cellular No. C-31a issued October 28, 1994, to Virginia RSA (5) Limited Partnership

Cellular No. C-10a issued October 28, 1994, to Contel Cellular of Richmond, Inc.

Cellular No. C-40f issued October 28, 1994, to Virginia Cellular Limited Partnership

Cellular No. C-62 issued November 21, 1994, to Washington/Baltimore Cellular Limited Partnership

Cellular No. C-63 issued November 21, 1994, to Washington/Baltimore Cellular Limited Partnership

Cellular No. C-64 issued November 21, 1994, to Washington/Baltimore Cellular Limited Partnership

Cellular No. C-65 issued November 21, 1994, to Washington/Baltimore Cellular Limited Partnership

(4) All tariffs issued by cellular mobile radio communications carriers listed in (3) above and now on file with the Commission SHALL BE CANCELED as of the date of this Order.

(5) The Commission's Regulation Governing Radio Common Carrier Services, 20 VAC 5-400-70, SHALL BE REPEALED as of the date of this Order.

(6) This case be dismissed from the Commission's docket; the papers herein be transferred to the files for ended proceedings; and all certificates and tariffs canceled by this Order, as well as all records and papers associated with those certificates and tariffs, be disposed of as provided by law.

ATTESTED COPIES of this Order shall be sent by the Clerk of the Commission to the Commission's Communications Division and to the carriers listed in the appendix.

## 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

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

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# State Corporation Commission

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MobileMedia Communications, Inc.  
Steve W. Pearson, Esquire  
Hazel & Thomas  
411 East Main Street, Suite 600  
Richmond, Virginia 23206

Metrocall of Virginia  
Mr. Harry L. Brock, Jr., President  
6677 Richmond Highway  
Alexandria, Virginia 22306

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

Paging Network of Washington, 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

Rule Communications  
Mr. Robert R. Rule, President  
2232 Dell Range Blvd.  
Cheyenne, Wyoming 82009

Salisbury Mobile Telephone of Va. Inc.  
Mr. Steven W. Pearson  
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 TELEPHONE COMPANIES

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

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

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# State Corporation Commission

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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  
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**SJR 313: Joint Subcommittee Studying Informed Consent to Medical Procedures and Treatment**

*September 27, 1995, Richmond*

At the joint subcommittee's organizational meeting, staff briefed the members on perceptions held by the medical and legal communities concerning the doctrine of informed consent and how Virginia law has developed in response to those perceptions. The subcommittee also heard what guidelines one out-of-state hospital ethics review committee used in revising its informed consent forms.

**Perceptions of Informed Consent**

Currently, most experts in biomedical ethics agree that informed consent involves the following basic elements: disclosure by the health care professional of the benefits, risks, and alternatives of a recommended course of treatment; comprehension by the patient of the information conveyed by the health care professional; and a voluntary decision made by a patient who has the capacity to weigh and judge alternative treatments. Three different perceptions emphasizing different components of informed consent have taken prominence. First, the medical community generally views informed consent as an informational process to assist patients in comprehending their health care choices so that they are able to reach autonomous and informed decisions. In contrast, the legal profession places importance on disclosure and getting the patient's signature on an informed consent form to minimize the health care professional's risk of civil liability. The third perception, espoused by consumer advocates, emphasizes the decision-making component of informed con-

sent and stresses the need for enhanced disclosure and protection of certain persons not capable of giving consent (e.g., minors and persons suffering from mental and physical deficiencies).

**Virginia's Informed Consent Provisions**

Virginia's informed consent provisions are scattered throughout the Code and require varying degrees of disclosure depending on the medical procedure, treatment, or testing involved. However, only a small fraction of the medical procedures or treatments are specifically addressed by statute, and informed consent in Virginia is therefore governed by the practices and protocols of the medical

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community. Two leading influences on these practices and protocols are the outcomes of malpractice litigation and case studies brought to the attention of in-house medical ethics review committees.

### Informed Consent Forms

The subcommittee heard from a former member of the medical ethics committee at Saint Jude Children's Hospital in Tennessee, who discussed his experiences in reviewing the content and format of that hospital's informed consent forms. He recommended that all informed consent forms be written at a basic reading level so that patients can better understand the medical procedures and courses of treatment. He also favored using pictures on the informed consent form to increase the understanding of non-English-speaking and illiterate patients.

### Next Meeting

At its next meeting, the joint subcommittee will hear from a number of clinicians to determine how informed consent is obtained in practice and to determine if variations in practices may have important consequences in the decision-making process of patients. Also, the subcommittee will examine in more detail Virginia's and other states' provisions on informed consent. The next meeting is scheduled for November 28 in Richmond.



The Honorable Jane H. Woods, *Chairman*  
Legislative Services contact: Ginny Edwards

## HJR 640: Joint Subcommittee Studying the Virginia Geographic Information Network (VGIN)

*October 5, 1995, Reston*

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The third meeting of the joint subcommittee opened with an address by a representative of the U.S. Geological Survey, which served as the host of the meeting. The address focused on federal-state and interstate cooperation in GIS matters, especially the issue of establishing and maintaining standards in geographic information system (GIS) data collection.

### Technical Advisory Committee

Delegate John Watkins reported on the joint subcommittee's technical advisory committee meeting on September 28 in Roanoke. At this well-attended session, the committee heard a detailed discussion of five possible organizational models for managing and maintaining VGIN:

- state agency,
- authority,
- private/public partnership,
- government-sponsored enterprise, and
- public utility.

Each of the five possible "entities" was discussed by staff from the Division of Legislative Services, the Department of Planning and Budget, and the Office of the Attorney General. As part of the discussion, four key ancillary issues were identified:

- copyright and intellectual property ownership,
- Freedom of Information Act responsibilities,
- privacy and Privacy Act implications, and
- state constitutional prohibition of state investment in certain corporations.

The technical advisory committee also reported two motions, approved at its last meeting, recommending to the joint subcommittee (i) that VGIN include digital infrared orthophoto (aerial photography) images at a scale of 1:12,000 as base data and data layers initially consisting of political boundaries, transportation, hydrography, geodetic survey control, and topography; and (ii) that VGIN be developed through a cooperative effort between the Commonwealth, the regional planning district commissions, the counties, cities, and towns, and the private sector.

## Consultant's Study

It was reported to the joint subcommittee that the study being conducted by a consultant from George Mason University is on schedule and that a report on the first two phases of the study, market research and analysis and financial feasibility, will be provided at the subcommittee's November meeting. The study's final phase, designed to recommend an organizational structure for VGIN, dovetails with the deliberations of the technical advisory committee and will likely form the basis of joint subcommittee recommendations to the 1996 General Assembly.

## Presentations

To conclude the meeting, the joint subcommittee heard two presentations, the first a suggested organizational chart and financing model for VGIN, presented by Dewberry and Davis, and the second an overview of the potential applications and benefits of a well-designed and integrated GIS system, presented by two members of the technical advisory committee.



The Honorable W. Tayloe Murphy, Jr., *Chairman*  
Legislative Services contact: Ken Patterson

## Chesapeake Bay Restoration Fund Advisory Committee

*September 25, 1995, Richmond*

### Background

In 1992, the General Assembly enacted legislation that authorized the Department of Motor Vehicles (DMV) to issue special Chesapeake Bay preservation license plates (§ 46.2-749.2). The annual fee for this state license plate is \$25 in addition to DMV's annual registration fee of \$26.50. After the first 1,000 sets of plates were sold, \$15 from the sale of each additional set was deposited into the Chesapeake Bay Restoration Fund. The fund was established within the Department of Accounts for use by the Council on the Environment or its successor agency for environmental education and restoration projects related to the Chesapeake Bay and its tributaries.

Initially offered for sale in December 1992, 7,959 sets of these special plates were issued by the end of FY 1993, generating \$119,305 for the fund. In FY 1994, the proceeds from the sale of 17,712 sets of plates totaled \$265,680, bringing the fund's two-year balance to approximately \$385,000. As of January 1995, no money had been expended from the fund.

### 1995 Actions

The 1995 General Assembly made several policy changes in the administration of the fund. The state's FY 1994-1995 budget was amended to require the Department of Environmental Quality (DEQ), the administrator of the fund, to transfer the \$385,000 in the fund to three agencies for use in specific Bay-related projects. The Department of Conservation and Recreation was allocated \$50,000 for cost-share shoreline erosion control demonstration projects, \$50,000 to improve public access to Bay waters in the state parks, and \$135,000 for competitive grants to urban and rural soil and water conservation districts to be used for Chesapeake Bay restoration and education activities. The Department of Game and Inland Fisheries received \$50,000 to improve public access to the Chesapeake Bay and its tributaries and \$75,000 to match other public and private moneys to construct fish passageways in the James and Rappahannock Rivers. The remaining \$25,000 of the fund was appropriated to the Virginia Institute of Marine Science for demonstration projects to promote oyster aquaculture in the private sector.

The Chesapeake Bay Restoration Fund Advisory Committee was established by Chapters 749 and 823 of the 1995 Acts of Assembly. The committee is charged with developing goals and guidelines for the future expenditure of moneys deposited into the fund. Based on DMV figures, this year the committee will be responsible for recommending how \$306,945 (20,463 plates) should be used. This amount represents approximately 62 percent of the total revenue received for FY 1995 from the sale of

all Virginia plates for which \$15 is dedicated to a special fund or purpose.

## Maryland Program

At its September 25, 1995, meeting, the advisory committee received a briefing on the operation of a similar Bay license plate program in Maryland. The executive director of the Chesapeake Bay Trust discussed the trust's guidelines for use of Maryland Chesapeake Bay license plate moneys. The trust is a nonprofit organization created by statute in 1985 to promote public awareness and participation in the restoration and protection of the Chesapeake Bay. It is an instrumentality of the state, with independent financial and policy-making status. It is not subject to the legislative appropriation process. During the past 10 years, the trust has awarded \$6 million in grants to nearly 1,000 community organizations.

Since 1991, the trust has received \$6.1 million from the sale of the special Bay plates. However, the special plate program is due to expire in June 1996. The trustees are asking the Governor and General Assembly to extend the program, as has been done twice previously. The trust also is supported by donations from an income tax check-off of about \$500,000 a year and receives gifts from private citizens and the business community. Last year the trust's revenue totaled \$1.6 million with expenses of \$1.2 million, which included \$933,000 for grants and \$320,000 for administrative and program expenses. For the year 86.2 percent of expenditures went to program activities. The trust has a staff of five.

Because the trust's mission is to encourage involvement, over 70 percent of requests are funded at some level. Most grants are for less than \$5,000, and nearly all involve matching support. This year it is expected that 500 projects will be funded in an amount totaling \$1 million. Recipients include nonprofit groups, civic and community organizations, schools, and public agencies. The grant program is two-tiered: grants of \$1,000 or less are accepted at any time, and a decision is made within three weeks; proposals for more than \$1,000 are reviewed quarterly by the board.

## Guidelines Developed

The advisory committee developed guidelines for the use of the Chesapeake Bay license plate moneys. The advisory committee will request that proposals from state agencies, local governments, and public or private not-for-profit agencies, institutions, or organizations be submitted no later than November 15, 1995. Preference will be given to environmental education and action-oriented conservation and restoration projects within Virginia's Bay watershed. Proposals will be judged on whether the project:

- Will have a positive, tangible benefit to the Bay and the Bay program;
- Reflects priorities established by the advisory committee;
- Presents clear objectives;

- Includes a plan for achieving objectives (presents a specific, feasible plan of action to accomplish well-defined results);
- Demonstrates qualifications necessary to carry out the project;
- Is technically and financially feasible;
- Results from an assessment of community needs and addresses local Bay-related environmental problems;
- Provides an opportunity for cooperation among diverse organizations;
- Utilizes existing resources and expertise from local businesses, industries, public agencies, academic institutions, and conservation and environmental organizations;
- Emphasizes the service of volunteers to minimize administrative overhead;
- Provides a practical model for use by other organizations and communities and includes a plan for dissemination; and
- Demonstrates the realistic prospect of successfully completing the project.

## Next Meeting

The next meeting of the advisory committee will be after the November 15, 1995, deadline for the submission of grant proposals, at which time the advisory committee will review the submissions and select those projects it will recommend for funding.



The Honorable Frederick M. Quayle, *Chairman*  
Legislative Services contact: Martin G. Farber

## HJR 601: Joint Subcommittee Studying Automobile Insurance Coverages

*October 6, 1995, Richmond*

The joint subcommittee is studying the appropriate minimum levels of motor vehicle liability and property insurance coverage and will consider (i) whether the required minimum levels of coverage should be increased or decreased, (ii) whether comprehensive coverage should be required, and (iii) whether exemptions from the required minimum levels of motor vehicle liability and property insurance coverage should be permitted.

### Overview of Virginia's Automobile Insurance Program

Automobile insurance in Virginia is not mandatory. Drivers who wish to drive without insurance may do so by paying an annual \$400 uninsured motorist fee upon registration of a motor vehicle at the Department of Motor Vehicles (DMV). Part of the fee is used by the department to defray the expense of its \$3.9 million insurance audit program. The remainder (currently \$5 million) is distributed by the State Corporation Commission (SCC) to liability insurers, offsetting their costs in providing mandatory uninsured motorist coverage.

The DMV estimates that approximately 200,000 to 300,000 Virginia-registered motor vehicles are uninsured, exclusive of those vehicles for which uninsured motorist fees have been paid. A DMV representative told the joint subcommittee that in 1994, the department issued 231,000 insurance audit notices and determined that six percent of that sample was without insurance. Its uninsured vehicle calculation is extrapolated from that sample. The department also monitors motor vehicle insurance coverage through information gathered from traffic-law-related convictions, accident report data, vehicle stops by law-enforcement officers, and information from insurance agents.

Those Virginians who do insure their motor vehicles must purchase a minimum of \$25,000 coverage for personal injury liability with a \$50,000 limit, and \$20,000 for property damage liability (expressed as 25/50/20). They must also purchase uninsured motorist coverage with identical minimum coverages. Uninsured motorist coverage provides insurance coverage for bodily injury and property damage incurred by insured individuals who are injured by drivers who have no insurance coverage, or coverage that is insufficient to cover the insured's damages.

Virginia's minimum liability levels have increased slowly over the years since 1950 when they were at 5/10/1. By 1972 they had been increased to 20/40/5, and in 1989, the minimum liability coverage for property damage was increased from \$10,000 to \$20,000, culminating in the current 25/50/20 levels. No changes to these levels have been proposed by any legislative committee

or subcommittee subsequently, and no legislation proposing to amend these levels has been introduced in recent legislative sessions.

### Minimum Coverages in Other Eastern States

Three states adjoining Virginia have minimum liability requirements within the range of those in the Commonwealth. North Carolina has compulsory liability insurance requirements of 25/50/15, and Maryland and West Virginia require 20/40/10. All three states require uninsured motorist coverage at levels at least equal to their minimum liability levels. Tennessee, while not requiring insurance, establishes minimum liability coverages for those purchasing insurance at 25/50/10; Pennsylvania sets its minimums at 15/30/5; and New York requirements are 10/20/5.

### "Choice" Legislative Proposal

A professor at the University of Virginia Law School urged the joint subcommittee to propose legislation eliminating the mandatory choice between the uninsured motorist fee and liability insurance. Noting that even the \$400 uninsured motorist fee may be beyond the means of many of Virginia's poor, he proposed that Virginians be permitted to drive uninsured. Under his plan, uninsured drivers would give up claims for noneconomic loss (such as "pain and suffering") in connection with injuries resulting from collisions with at-fault, insured drivers. Uninsured motorist coverage would be optional. Insured drivers, he noted, could elect to purchase uninsured motorist coverage or take the premium dollar savings and purchase additional medical expense, disability, or life insurance coverage.

This proposal is one component of a broader auto insurance system known as "choice." Under a choice system, drivers may choose either a traditional auto insurance plan (using the tort system to apportion fault and recovery) or a no-fault plan. Those choosing no-fault neither recover, nor are they liable to others for, noneconomic losses resulting from less-serious injuries incurred in auto accidents. According to a Rand research brief, Virginians would save nearly 35 percent in auto insurance premiums under a choice plan if 50 percent of insured motorists chose no-fault coverage. The subcommittee will examine a choice legislative model as part of its deliberations.

### Insurance Industry Perspective

Several representatives of Virginia's auto insurance industry told the subcommittee that the industry might support a proposal to make uninsured motorist property damage coverage optional. This proposal was the study's focus in the HJR 601 resolution as introduced. Its proponents believe that such coverage (currently at \$20,000 minimum) is excessive, since many insured vehicles are worth substantially less than the minimum amount. However, insurers' representatives pointed out, the premium savings would be modest for most insureds. The insurance industry opposes any increases in the minimum insurance levels, suggesting that the uninsured population would

probably increase if this occurred. Insofar as the choice proposal is concerned, the industry took no unified position.

The joint subcommittee will use its next meeting to continue its examination of the choice proposal and other related issues.



The Honorable Gladys B. Keating, *Chairman*  
Legislative Services contact: Arlen Bolstad

## HJR 551/SJR 334: Joint Subcommittee Studying Charter Schools

*September 12, 1995, Richmond*

### Status of Charter Schools

A policy analyst with the Education Commission of the States (ECS) provided an overview of charter schools statutes and operations in other states. Because only 240 charter schools have been approved nationwide, and as of last spring, approximately 110 were in operation, data on charter schools are necessarily sparse and preliminary. Even if every charter application were approved, charter schools would comprise less than two percent of the schools in any state, and in some states, less than 0.5 percent.

A recent ECS survey of about 165 charter schools—or about two-thirds of those in operation in seven states—revealed the following:

- Most charter schools are designed to serve a cross-section of students; at-risk pupils received the next greatest focus, followed by gifted/talented and learning disabled students.
- The most frequently cited reason for initiating a charter school was to provide improved instruction and learning opportunities.
- The average ethnic composition of the surveyed charter schools is about 60 percent Caucasian, nearly 20 percent Hispanic, about 10 percent African American, about 5 percent Pacific Rim, and nearly 5 percent Native American.
- Over 70 percent of the surveyed charter schools offer an integrated curriculum. Although the survey results may reflect some overlap in many of the curriculum categories, technology, civics, sciences, arts, and “back-to-basics” studies are also popular in curricula.
- Start-up funds for charter schools, which typically come from foundations or the business sector, average about \$20,000, with some schools receiving in excess of \$40,000.

- Difficulties in negotiations and internal conflicts prevent many approved charter schools from opening. Most frequently cited as barriers to the successful operation of charter schools were lack of start-up funds or facilities and financial problems.

- About half of the states with charter schools statutes offer an automatic exemption from education laws; the others provide waivers from compliance though the negotiated charter. Among the most sought-after waivers are administrator certification, teacher employment and compensation requirements, textbook adoption, and certain curriculum requirements.

### Waivers in Virginia

Virginia’s superintendent of public instruction expressed support for local authority to establish charter schools and noted potential concerns should teacher licensure requirements be waived for charter schools. He also reviewed requests for waivers from compliance with the Standards of Accreditation (SOA).

Currently, there are three forms of grants for flexibility under the SOA. The state board may grant school divisions flexibility (i) for “experimental and innovative programs,” which may deviate from the SOA, but not from the Standards of Quality (SOQ); (ii) for changes in the standard school year and school day; and (iii) for alternative staffing plans. Most requests for waivers for experimental programs address block scheduling. To seek a grant of flexibility from the state, the division superintendent must make a written request to the superintendent of public instruction. Following Department of Education review and recommendation, the superintendent will notify the local superintendent of the grant or denial of flexibility.

Local boards may approve flexibility under the five Standards of Accreditation that address standard units of credit, elective courses, standard school year and day, correspondence courses, and alternative programs for pupils failing the Literacy Passport Tests. Finally, flexibility without additional approvals exists within some current regulations, which may simply require certain initiatives without specifying a mode of implementation.

### Innovative Programs

Further presentations and discussion focused on current innovative programs in Virginia’s public schools, including the Southside Governor’s School for Global Economics and Technology, which serves 13 school divisions and 17 high schools by offering courses at various institutions of higher education; Roanoke City’s choice and magnet school programs, implemented in 1985 to counter the loss of pupils to other schools; and Franklin County Public Schools’ Collaborative School Improvement Planning Initiative, which focuses on student performance and accountability.



The Honorable J. Paul Council, Jr., *Chairman*  
Legislative Services contact: Kathleen G. Harris

## HJR 560: Joint Subcommittee Studying Access to Obstetrical and Gynecological Services

*September 22, 1995, Richmond*

The joint subcommittee held its first meeting to review the issues before it and to establish the study's overall focus. HJR 560 directs the subcommittee to "study women's access to obstetrical and gynecological services, particularly in managed care plans." The subcommittee is required to make recommendations on how duplicative costs and administrative snarls involving access to Ob/Gyn care can be avoided.

### Study Background

The issue of Ob/Gyn access in managed care plans is not new to the General Assembly. A related study resolution (HJR 52) was passed by the 1994 Session, requesting the Secretary of Health and Human Resources to consider whether legislative or administrative action should be taken to require health insurers and other health care coverage plans to designate obstetricians/gynecologists as "primary care physicians," or PCPs, within managed care plans. PCPs serve a "gatekeeper" role in health care coverage plans employing managed care structures, coordinating the medical care and treatment of designated patients.

The secretary concluded that no legislative or other action was warranted on the issue at that time, stating that the PCP issue is one "best addressed by market forces." The report went on to suggest, however, that (i) Ob/Gyns be surveyed on this general issue to obtain a consensus on the PCP issue and (ii) further study was indicated to determine the overall need for Ob/Gyn access. The current study builds on the secretary's work.

### Pertinent Law in Virginia and in Other States

The study's primary issue is PCP coordination of patient access to Ob/Gyns. Underlying this study is the issue of provider reimbursement by health care coverage plans utilizing managed care structures. Except to the extent Ob/Gyns are designated as PCPs within such plans, they are specialists. As such, some managed care plans require that Ob/Gyn patient visits, examinations, and treatments be coordinated by PCPs.

Currently, Virginia law is silent on the access issue. In some other states, however, Ob/Gyn access has been addressed by their legislatures—many of the enactments occurring within the past three years. In North Carolina, for example, a 1995 bill directs HMOs, PPOs (preferred provider organizations), and other managed-care-style plans to permit "direct access" to in-network Ob/Gyns. In Maryland, managed care plans may opt to (i) permit covered individuals to designate Ob/Gyns (presumably in-network) as PCPs or (ii) permit covered individuals one self-referred annual visit to in-network Ob/Gyns for routine gynecological care.

And Louisiana recently enacted legislation authorizing PCP designation for Ob/Gyns and permitting direct access for one annual visit, with a second direct access visit permitted if medically indicated.

Several other states have also legislated in this area. The key variables within all enactments are: (i) PCP designation, (ii) limited versus unlimited direct access, (iii) extent of service authorized where direct access permitted, (iv) whether consultation is required between PCP and Ob/Gyns, and (v) whether providers other than Ob/Gyns (e.g., nurse practitioners and other providers of obstetrical and gynecological care) are included in any direct access strategy.

### Information from Interested Parties

The joint subcommittee received testimony from representatives of the Ob/Gyn community expressing concern that Ob/Gyn patients in managed care plans may face duplicative costs, treatment delays, or administrative confusion when coordinating Ob/Gyn access through primary care physicians. Representatives of the insurance and HMO communities, however, told the subcommittee that PCPs have proven to be valuable in promoting quality care for Ob/Gyn patients while helping keep overall health care costs at manageable levels.

The Virginia HMO Association reported that a recent survey it conducted showed that a number of its HMO members currently permit covered individuals to access Ob/Gyns for routine annual exams (e.g., pap smears and breast examinations) without PCP referral. Nevertheless, a survey conducted by the Virginia Ob/Gyn Society showed that direct patient access is a concern and priority and that the society's members overwhelmingly favored legislation permitting direct access in managed care plans.

### Public Hearing

The joint subcommittee will convene its next meeting on November 13 in Richmond. Additional information amplifying the first meeting's presentations will be received at that time. Additionally, a public hearing is scheduled to afford Ob/Gyn patients with managed care plans, and other interested persons, an opportunity to express their views on the issues before the joint subcommittee.



The Honorable Gladys B. Keating, *Chairman*  
Legislative Services contact: Arlen K. Bolstad

## SJR 370/HJR 591: Joint Subcommittee Studying Capital Access and Business Financing

September 20, 1995, Richmond

### Virginia Retirement System

The director of the Virginia Retirement System (VRS) addressed the joint subcommittee at its second meeting of the interim on VRS' role in promoting venture capital. He presented demographic data about VRS' membership, which currently totals over 270,000 members, and discussed VRS' portfolio, currently valued at \$18.8 billion, which ranks VRS ninth among all public pension systems nationwide and 32nd among all U.S. pension systems, public or private.

"Asset allocation"—where VRS invests its money—is one of the most important decisions made by the VRS Board of Directors. VRS assets are allocated to the broad categories of domestic equity, international equity, emerging markets, alternative investments, global fixed income, and real estate, within which subcategories exist. Virginia Code § 51.1-124.30 establishes the board's duty of care with regard to its investment of VRS assets:

*The Board shall discharge its duties with respect to the Retirement System solely in the interest of the beneficiaries thereof and shall invest the assets of the Retirement System with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims. The Board shall also diversify such investments so as to minimize the risk of large losses unless under the circumstances it is clearly prudent not to do so.*

Venture capital is a subcategory of the alternative investments category. The VRS board has established a maximum target of 15 percent of total VRS assets allocated to alternative investments. The director reported that the current actual percentage invested in all alternative investments is 4.4 percent, of which 28 percent (or 1.2 percent of the total VRS portfolio) is used for venture capital. VRS typically selects venture capital funds based upon the experience of the partners; investment philosophy and focus; demonstrated investment discipline; quantity, quality, and sources of other money; and the compensation plan offered to fund managers, which typically is very high.

Upon questioning and discussion with the subcommittee, two issues emerged regarding VRS' role in venture capital. The first is whether Virginia companies have access to start-up financing through VRS investment in venture capital funds. The second issue is whether fund managers should be required or encouraged to locate in Virginia. The director agreed to examine

these two issues in greater detail with the task force on private sector initiatives, formed to examine ways to promote the development of private sector capital and to attract venture capital firms through the use of tax credits and other incentives.

### Additional Speakers

The subcommittee heard from representatives of three private companies who had received assistance from the Virginia Small Business Financing Authority (VSBFA) to obtain capital financing. Although their initial stories were successes, each speaker expressed concern that money for expansion, research, and development may not be available in the future from either government-supported or private sector sources.

The meeting concluded with presentations from a Maryland-based venture capitalist, the vice president of small business lending at Signet Bank who processes loan applications received from the VSBFA, and the president of the Virginia Economic Development Corporation (VEDCORP), a private, for-profit financing entity.

### Next Meeting

The subcommittee's next meeting is scheduled for Tuesday, November 14, 1995, at 1:30 p.m. in Senate Room A of the General Assembly Building in Richmond. The task force on private sector initiatives will meet on Friday, November 3, 1995, at the Department of Economic Development in Richmond. A second task force was created to examine existing state programs that promote capital access.



The Honorable Robert L. Calhoun, *Chairman*  
Agency contact: Christopher D. Lloyd,  
Office of the Secretary of Commerce and Trade

## SJR 383: Delivery of Governmental Services in the Greater Richmond Area

September 29, 1995, Richmond

### Task Force Reports

The Current Greater Richmond Regional Services Task Force was charged with examining the types and methods of cooperative effort currently in existence in the greater Richmond area. There are approximately 120 such efforts in the areas of economic development and tourism, education, extension services, fire and emergency, health/mental health, jails and detention, law enforcement, leadership, administration and management, planning and land use, recreation, social services, solid waste management, transportation, and utilities. The methods used to establish these regional efforts include informal agreements, formal agreements, and authorities. The task force also reviewed 1994 financial data for 13 of the regional services, which included the monetary contributions made by Chesterfield, Henrico, and Richmond.

The Other Regional Systems and Structures Task Force's goal was to identify existing systems and structures available that provide regional services within and outside the Commonwealth. According to a list compiled by the Department of Housing and Community Development and based on information provided by 14 of the 21 planning district commissions, there are 218 programs providing regional services in the same basic areas as those in the greater Richmond area. Information regarding regional services outside the Commonwealth will be provided by the Commission on Local Government in late October.

The Identification of Services to be Evaluated Task Force identified services to be evaluated for regionalism. The task force concluded that the services to be evaluated, in priority order, are public transportation, water and sewer, education, and social services. The joint subcommittee agreed.

### RFP Discussion

After hearing the task forces reports, the joint subcommittee discussed the possibility of entering into the request for proposal (RFP) process in order to engage a consultant to perform a cost/benefit analysis of the services the joint subcommittee identified for evaluation. It was determined that the Steering Committee would meet with a representative from the Department of General Services and work on the RFP within the next two weeks. A report will be presented at the next regularly scheduled meeting of the joint subcommittee on October 27, 1995.



The Honorable Henry L. Marsh III, *Chairman*  
Legislative Services contact: Joan E. Putney

## Subcommittee No. 3 of the House Committee on General Laws

September 25, 1995, Richmond

Subcommittee No. 3 of the House Committee on General Laws met to consider House Bills 1770 and 1771, introduced during the 1995 Session. The principal charge of the subcommittee is the consideration of bills relating to alcoholic beverage control (ABC).

HB 1770 requires hearings held by the ABC Board to be conducted by hearing officers as defined in the Administrative Process Act. Currently, the ABC Board is exempted under the Administrative Process Act from using hearing officers as contemplated in that act. Instead, the ABC Board has in-house hearing officers who conduct hearings on behalf of the board. HB 1771 transfers enforcement responsibilities for ABC violations from the ABC Board to the Department of the State Police. Both bills provide for the completion of hearings and investigations conducted by the board initiated before the effective date of the bills. During the 1995 Session, the House General Laws Committee agreed to study the issues raised by HBs 1770 and 1771 during the 1995 interim.

The subcommittee heard from the ABC Board and the Department of State Police. Although taking no position on the bills, both agencies pledged their cooperation with the subcommittee. A representative of the Virginia Fraternal Order of Police indicated that his association was opposed to HB 1771 because it would eliminate the jobs of 140 ABC special agents. He also claimed that current ABC enforcement in Virginia is effective. The subcommittee learned that the issues raised in HB 1771 were being examined by other public bodies. Specifically, the public safety task force of the Governor's Blue Ribbon Strike Force had recommended in its final report, dated November 1994, that in order to optimize deployment of law-enforcement powers, all law-enforcement personnel from the ABC Department, Department of Motor Vehicles, and State Corporation Commission should be brought into the Department of State Police. SJR 340 (1995) was an outgrowth of that recommendation and requests the Secretary of Public Safety, with the assistance of the Crime Commission, to conduct an analysis of the overlapping agencies with statewide police powers in the Commonwealth.

The joint subcommittee plans to examine issues relating to the costs associated with the transfer of functions from the ABC Board, qualifications and training differentials, and the impact on local law enforcement. Input from various associations, including the Virginia Restaurant Association, the Virginia Hospitality Association, the Sheriff's Association, and the ABC-licensed community, will also be solicited. The subcommittee's next meeting will be held in November.



The Honorable William P. Robinson, Jr., *Chairman*  
Legislative Services contact: Maria J.K. Everett

## HJR 487: State/Local Government Responsibility and Taxing Authority Commission

*October 9, 1995, Virginia Beach*

The commission's third meeting was a public hearing designed to hear from individuals wanting to comment on the commission's work, especially with regard to the services area, which was the topic during the August meeting in Charlottesville.

Speakers included representatives from the business sector as well as local government. In general, local government asked for flexibility with regard to taxes and revenue-raising measures. They also asked that the state not impose any unfunded mandates, as in requiring that more services be provided at the local level without some means to fund them.

Representatives from the business community focused on the business, professional and occupational license (BPOL) tax. The commission was encouraged to adopt the model ordinance legislation, which was proposed by the Brickley subcommittee during the 1995 General Assembly Session. The purpose of the model ordinance is to provide more uniformity between localities in the application and administration of the BPOL tax. Other business speakers emphasized the importance of less government and regulation of businesses.

Following the public hearing, the chairman outlined a work plan for the remainder of the year and appointed two task forces to examine the services and revenues issues and make recommendations. The next meeting of the commission will be another public hearing in mid-November in northern Virginia, followed by a meeting near the first of December, at which time the two task forces will present their reports to the full commission. The final meeting will be in mid-December in Richmond, where a public hearing will be held to receive comments on the two task force reports. During that same meeting, the commission will decide on any legislative recommendations.



The Honorable Donald S. Beyer, Jr., *Chairman*  
Legislative Services contact: Joan E. Putney

## HJR 410: Clean Fuels Study Subcommittee

*September 13, 1995, Richmond*

Chairman Giesen opened the meeting by calling the members' attention to the fact that during the recently concluded meeting of the National Conference of Motor Fuels Tax Administrators, hosted in Williamsburg by Virginia Department of Motor Vehicles (DMV), a key item on the conference agenda was a discussion of taxation of clean alternative fuels. The chairman also mentioned that electric vehicles were prominent among the displays at the recent second annual Electric Expo held at Innsbrook, west of Richmond. The chairman pointed to these two events as additional evidence of Virginia's place on the "cutting edge" of alternative fuel programs in the United States.

### SCC Regulations

The general counsel for the State Corporation Commission (SCC) addressed the panel briefly in response to questions raised at the subcommittee's last meeting concerning regulatory impediments to the opening of natural gas filling stations. He explained that he did not believe there were any regulatory impediments to the opening of these stations. The SCC regulates filling stations operated directly by a regulated utility. If the filling station is operated by an entity other than a regulated utility, SCC regulation extends only as far as the delivery of the gas to the filling station, and sales by the station to motorists are not subject to SCC regulation.

### I/M Programs

The director of the Office of Mobile Source Planning of the Virginia Department of Environmental Quality (DEQ) reported that negotiations with the federal Environmental Protection Agency are in the "last stages" of establishing a protocol for a test-and-repair enhanced motor vehicle emissions inspection and maintenance program (I/M program) for Northern Virginia. Similar discussions for the establishment of a basic I/M program for greater Richmond are also nearing completion. Good progress is being made on implementing the Virginia Clean Fuel Fleet Program (which sets requirements for purchase of minimum percentages of alternatively fueled vehicles by owners of vehicle fleets operating in Virginia's air quality nonattainment areas) and ensuring that Virginia's fleet of state-owned vehicles comply with the clean fuel requirements of the federal Clean Air Act Amendments and Energy Policy Act.

### Scrappage Program

DEQ and DMV are working to implement the Virginia Motor Vehicle Scrappage Program, established by the General Assembly in 1993. Interagency discussions have identified

certain design limitations of the 1993 program (such as the program's limitation to 1981 and older vehicles, its scrapping requirement, the "bounty" limitation of \$700 per vehicle, and the minimum \$1 million special fund balance requirement) that DMV and DEQ feel should be addressed by the legislature in order to make the program more effective. Specific legislative recommendations to address these issues will be presented to the subcommittee as soon as the agencies' internal review and approval process is completed.

### Alternative Fuels Fund

Following a staff summary of information presented at earlier meetings, the panel discussed the possibility of recommending to the 1996 General Assembly legislation to (i) make further changes in Virginia's taxation of alternative motor fuels and (ii) provide a permanent, stable, and reliable source of funding for the Virginia Alternative Fuels Revolving Fund. A consensus favored proposing no change in state taxes on alternative fuels at present and supported continued funding of the Virginia Alternative Fuels Revolving Fund through a combination of part of Northern Virginia's share of federal Congestion Mitigation and Air Quality (CMAQ) funds and appropriation of transportation funds received by DMV and the Virginia Department of Transportation (VDOT). Chairman Giesen appointed Senator Benedetti and Delegate Hall to join him in meeting with Secretary of Transportation Martinez and others to discuss inclusion of financing for the Virginia Alternative Fuels Revolving Fund in the Governor's proposed budget.



The Honorable Arthur R. Giesen, Jr., *Chairman*  
Legislative Services contact: Alan B. Wambold

## Deadlines

### Sales Tax Exemption

Chapter 222 of the 1994 Acts of Assembly made substantial changes to the process of obtaining exemptions from the Virginia retail sales and use tax.

First, if a legislator plans to submit any legislation involving an exemption or exclusion from the sales and use tax to the regular session of the General Assembly, he or she must first submit required information to the Department of Taxation by **November 1**.

Second, Chapter 222 states that "no bill providing for a retail sales and use tax exemption shall be drafted . . . by the Division of Legislative Services unless the drafting request is accompanied by the Department of Taxation's preliminary determination." This determination is based on the information that must be submitted by November 1.

The deadline for introduction of sales tax exemption bills—the **first day of the session**—remains the same.

By action of the 1995 General Assembly, two 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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(804) 786-3591



*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 SOCIAL SERVICES

### NOTICE OF REVIEW OF EXISTING REGULATIONS

Pursuant to Executive Order Number Fifteen (94), the Department of Social Services is publishing this notice to inform the public that the regulations listed below will be reviewed to determine if they should be continued, amended, or repealed.

#### Regulations

VR 615-43-3 - Nonagency Placement for Adoption - Consent

VR 615-43-10 - Nonagency Placement for Adoption - Adoptive Home Study

#### Procedures for Submitting Comments

Written comments on the above regulations must be received no later than December 13, 1995, to be considered in the regulation review. The regulations about which comments are being made should begin by identifying the regulation by VR number and regulation title.

Please mail comments to the Adoption Policy Consultant, Foster Care and Adoption Unit, Department of Social Services, 730 East Broad Street, Richmond, Virginia 23219-1849.

The department contact for any questions about this notice is Brenda Kerr, Adoption Policy Consultant, Foster Care and Adoption Unit, Department of Social Services, 730 East Broad Street, Richmond, Virginia 23219-1849, telephone (804) 692-1290.

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Pursuant to Executive Order Number Fifteen (94), the Department of Social Services is publishing this notice to inform the public that three Employment Services Program regulations are being reviewed to determine if they should be terminated, amended, or retained in their current form.

#### Regulations

1. no VR number - Employment Services Policy for Food Stamp Recipients
2. VR 615-48-01 - Grant Diversion
3. VR 615-48-02 - Employment Services Program Policy

#### Procedures for Submitting Comments

To be considered in the comprehensive review, written comments on the above regulations must be received no later than December 15, 1995.

Mail comments to Penelope Boyd Pellow, Employment Services Section, Division of Service Programs, Department of Social Services, 730 East Broad Street, Richmond, Virginia 23219. Comments may also be submitted by facsimile transmission to FAX number (804) 692-2209.

The department contact for any question about this notice is Penny Pellow who can be reached at (804) 692-1247.

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# GENERAL NOTICES/ERRATA

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## Symbol Key

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

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### CHESAPEAKE BAY ADVISORY COMMITTEE

#### Notice of Acceptance of Grant Proposals

The Chesapeake Bay Advisory Committee will be making recommendations for financial support grants for Chesapeake Bay related projects. The Advisory Committee was given the responsibility of developing guidelines for the use of the moneys collected from the sale of the special Chesapeake Bay license plates. Applications will be accepted from state agencies, local government, and public or private not-for-profit agencies, institutions or organizations. Applications may be obtained from Martin G. Farber, Division of Legislative Services, 910 Capitol Street, Richmond, Virginia 23219, telephone (804) 786-3591. The deadline for submission of grant proposals is November 15, 1995.

### DEPARTMENT OF ENVIRONMENTAL QUALITY

#### Public Notice of 303(d) TMDL Priority List

The Virginia Department of Environmental Quality (DEQ) seeks written comment from interested persons on Virginia rivers and streams identified in 1994 as not meeting water quality standards or not expected to meet water quality standards after the implementation of technology-based controls. This list includes approximately 882 miles of streams that did not fully support fishing, shellfishing, swimming, aquatic life, or drinking water uses. The assessment was based on monitoring for the Virginia Water Quality Assessment Report of 1994, also called the 305(b) Report to the Environmental Protection Agency and Congress.

DEQ monitored about 28,180 stream miles of Virginia's 45,000 stream miles in 1992-93 to conduct this statewide assessment, which is published every two years as required by the federal Clean Water Act. Approximately 27,298 stream miles, or 97%, fully met all water quality standards. The list includes stream segments failing to meet standards because of point and nonpoint source pollutants and those waters that are not expected to meet water quality standards after the implementation of technology-based controls.

Section 303(d) of the Clean Water Act and EPA's Water Quality Planning and Management Regulations (40 CFR Part 130) require the state to report and seek public comment on the waters on the list and to develop total maximum daily loads (TMDLs) for these waters. TMDLs establish allowable pollution loadings or other quantifiable parameters necessary to attain water quality standards. TMDLs will be developed in a separate regulatory process.

The list identifies waters not meeting one or more water quality standards, waters not expected to meet water quality standards after the implementation of technology-based controls, the pollutants responsible for the waters being on the list, and a

priority ranking of these waters for the development of TMDLs. Ultimately, state waters that fail to meet standards are to be included in a water quality management plan to be developed by DEQ and cover each of the state's nine major river basins. The plans will be developed with the help of state and local advisory panels and public and private interests. The plan will recommend control measures to attain water quality standards for the impaired waters identified on the 303(d) list.

The public comment period will end on November 15, 1995. A fact sheet and a copy of the 303(d) priority list are available upon request. Questions or information requests should be addressed to the person listed below. Written comments should include the name, address, and telephone number of the person presenting comments and should be sent to Mr. Charles Martin, Department of Environmental Quality, P.O. Box 10009, Richmond, Virginia 23240-0009, telephone (804) 762-4462, FAX (804) 762-4136.

### 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

# 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

### BOARD FOR ACCOUNTANCY

**December 4, 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 for Accountancy intends to amend regulations entitled: **VR 105-01-2. Board for Accountancy Regulations**. Current fees will be adjusted resulting in a decrease in renewal, application and late filing fees. Further, the proposal will eliminate specific examination fees, including language which will place a cap on examination fees, while permitting the Department of Professional and Occupational Regulation to adjust the fees in accordance with examination vendor contract changes.

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

**Contact:** Nancy Taylor Feldman, Assistant Director, Board for Accountancy, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590.

† **December 19, 1995 - 11 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Richmond, Virginia.♿

A specially called meeting to adopt final regulations for fee decrease and to review proposed regulations. A public comment period will be held 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, Board for Accountancy, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590, FAX (804) 367-2474 or (804) 367-9753/TDD ☎

### GOVERNOR'S ADVISORY BOARD ON AGING

† **November 13, 1995 - 8 a.m.** -- Open Meeting  
Holiday Inn Central, 3207 North Boulevard, Richmond, Virginia.♿ (Interpreter for the deaf provided upon request)

A quarterly business meeting.

**Contact:** M. T. Grund, Staff, Department for the Aging, 700 E. Franklin St., 10th Floor, Richmond, VA 23219, telephone (804) 225-2801, FAX (804) 371-8381 or (804) 225-2271/TDD ☎

### DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

#### Virginia Corn Board

† **December 12, 1995 - 9:30 a.m.** -- Open Meeting

Williamsburg Marriott, 50 Kingsmill Road, Williamsburg, Virginia.♿

The board will meet in regular session to discuss issues related to the Virginia Corn Industry. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs any accommodations in order to participate at the meeting should contact David Robishaw at least five days before the meeting date so that suitable arrangements can be made.

**Contact:** David Robishaw, Program Director, Virginia Corn Board, 116 Reservoir St., Harrisonburg, VA 22801, telephone (540) 434-2699.

#### Virginia Farmers' Market Board

† **November 21, 1995 - 1 p.m.** -- Open Meeting  
Department of Agriculture and Consumer Services, 1100 Bank Street, 2nd Floor Board Room, Richmond, Virginia.♿

A meeting to receive reports on operation and management of network wholesaler farmers' markets and to process routine business. The board will entertain

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## Calendar of Events

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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 Susan Simpson at least five days before the meeting date so that suitable arrangements can be made.

**Contact:** Susan Simpson, Program Director, Virginia Farmers' Market Board, 1100 Bank St., Suite 1002, Richmond, VA 23219, telephone (804) 786-2112.

### Virginia Horse Industry Board

**December 14, 1995 - 10 a.m.** -- Open Meeting  
Virginia Cooperative Extension, Charlottesville-Albemarle Unit, 168 Spotnap Road, Lower Level Meeting Room, Charlottesville, Virginia. ☎

† **January 19, 1996 - 1 p.m.** -- Open Meeting  
Embassy Suites Hotel, 2925 Emerywood Parkway, 1st Floor, Richmond, 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., Room 906, Richmond, VA 23219, telephone (804) 786-5842 or (804) 371-6344/TDD ☎

### STATE AIR POLLUTION CONTROL BOARD

**November 13, 1995 - 11 a.m.** -- Public Hearing  
James McCort Administration Building, One County Complex Court, Board Chamber Room, Prince William, Virginia.

**November 14, 1995 - 10 a.m.** -- Public Hearing  
State Capitol, Capitol Square, House Room 4, Richmond, Virginia.

**December 1, 1995** -- Written comments may be submitted until the close of business 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 adopt regulations entitled: **VR 120-99-05. Regulations for the Control of Emissions from Fleet Vehicles.** The proposed regulation requires that owners or operators of fleets with 10 or more vehicles make a percentage of annual vehicle purchases clean-fuel fleet (CCF) vehicles and applies to fleets which operate in the following localities in the program areas: (i) the Northern Virginia area: Arlington County, Fairfax County, Fauquier 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; (ii) the Richmond area: Caroline County, Charles City County, Chesterfield

County, Hanover County, Henrico County, the City of Colonial Heights, the City of Hopewell, and the City of Richmond; and (iii) 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.

**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 Region: Arlington County, Fairfax County, Fauquier 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 Region: Caroline County, 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 Region: 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.

**Additional Issues for Public Comment:** In addition to comments on the proposal, the department is particularly interested in any comments on the following:

1. Whether the regulation should provide that a credit generated by the purchase of an extra CFF vehicle stay with the vehicle or be traded and sold freely.
2. Whether the reporting requirements in this regulation are adequate, although they require less extensive documentation than the requirements detailed in the federal regulations.
3. Whether the regulation should provide for trading of credits between program areas, although the federal regulations prohibit the trading of credits generated in one nonattainment area with another nonattainment area except in the case of an interstate nonattainment area.
4. Whether the regulation should provide that (i) credits not depreciate over time, although it would be in conflict with provisions of most emissions and trading programs provided for in the Clean Air Act and under consideration by many other states and (ii) credits may be traded between mobile and stationary sources.
5. Whether the Commonwealth should change its vehicle registration process in order to be able to determine where fleet vehicles are primarily operated.

**Location of Proposal:** The proposal, an analysis conducted by the department (including a statement of purpose, a statement of estimated impact of the proposed regulation, an explanation of need for the proposed regulation, an estimate of the impact

of the proposed regulation upon small businesses, and a discussion of alternative approaches) and any other supporting documents may be examined at the Department's Office of Air Program Development (Eighth Floor), 629 East Main Street, Richmond, Virginia, and at 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.

Fredericksburg Satellite Office  
Department of Environmental Quality  
300 Central Road, Suite B  
Fredericksburg, Virginia  
Ph: (540) 899-4600

Piedmont Regional Office  
Department of Environmental Quality  
4900 Cox Road  
Innsbrook Corporate Center  
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

Northern Virginia Satellite Office  
Department of Environmental Quality  
Springfield Corporate Center, Suite 310  
6225 Brandon Avenue  
Springfield, Virginia  
Ph: (703) 644-0311

Statutory Authority: § 46.2-1179.1 of the Code of Virginia.

Written comments may be submitted until the close of business on December 1, 1995, to the Director, Office of Air Program Development, Department of Environmental Quality, P.O. Box 10009, Richmond, Virginia, 23240. The purpose of this notice is to provide the public the opportunity to comment on the proposed regulation and the costs and benefits of the proposal.

**Contact:** Mary E. Major, Senior Policy Analyst, Air Programs Section, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 762-4423.

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

### Board for Architects

† **November 13, 1995 - 9 a.m. -- Open Meeting**  
Department of Professional and Occupational Regulation,  
3600 West Broad Street, Richmond, Virginia. ☎

A meeting to conduct board business. 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:** 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 Landscape Architects

**November 30, 1995 - 9 a.m. -- Open Meeting**  
Department of Professional and Occupational Regulation,  
3600 West Broad Street, Richmond, Virginia. ☎

A meeting to conduct board business. 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:** 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

**November 16, 1995 - 9 a.m. -- Open Meeting**  
Department of Professional and Occupational Regulation,  
3600 West Broad Street, Richmond, Virginia. ☎

A meeting to conduct board business. 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:** 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

**November 13, 1995 - 9 a.m. -- Open Meeting**  
Department of Professional and Occupational Regulation,  
3600 West Broad Street, Richmond, Virginia. ☎

A meeting to conduct board business. 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

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## Calendar of Events

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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 OF AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY

**November 16, 1995 - 9:30 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) 662-9907 or (804) 662-7197/TDD ☎

### VIRGINIA AVIATION BOARD

† **December 5, 1995 - 10 a.m.** -- Open Meeting

† **December 6, 1995 - 9 a.m.** -- Open Meeting  
Donaldson Brown Hotel and Conference Center, Virginia Tech, Blacksburg, Virginia. ☎

A board retreat. No formal actions will be taken.

**Contact:** Cindy Waddell, Department of Aviation, 5702 Gulfstream Road, Sandston, VA 23150, telephone (804) 236-3625 or (804) 236-3624/TDD ☎

† **December 19, 1995 - 3 p.m.** -- Open Meeting  
Department of Aviation, 5702 Gulfstream Road, Sandston, Virginia. ☎ (Interpreter for the deaf provided upon request)

A workshop for the board. No formal actions will be taken.

**Contact:** Cindy Waddell, Department of Aviation, 5702 Gulfstream Road, Sandston, VA 23150, telephone (804) 236-3625 or (804) 236-3624/TDD ☎

† **December 20, 1995 - 9 a.m.** -- Open Meeting  
Department of Motor Vehicles, 2300 West Broad Street, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A regular bi-monthly meeting of the board. Applications for state funding will be presented to the board and other matters of interest to the Virginia aviation community will be discussed. Individuals with disabilities 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 ☎

### BOARD FOR BARBERS

**December 4, 1995 - 9 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☎

A general business meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact 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:** Karen W. O'Neal, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-0500, FAX (804) 367-2475 or (804) 367-9753/TDD ☎

### CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

#### Central Area Review Committee

**December 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 committee 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

**November 16, 1995 - 10 a.m.** -- Open Meeting  
**December 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 committee 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

**December 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 committee 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

## COMMONWEALTH COMPETITION COUNCIL

**† November 16, 1995 - 2 p.m.** -- Open Meeting  
General Assembly Building, 910 Capitol Square, Senate Room A, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A regular meeting.

**Contact:** Peggy Robertson, Coordinator, Commonwealth Competition Council, P.O. Box 1475, Richmond, VA 23212, telephone (804) 786-0240 or FAX (804) 786-1594.

## DEPARTMENT OF CONSERVATION AND RECREATION

### Board of Conservation and Recreation

**† November 16, 1995 - 11 a.m.** -- Open Meeting  
Clover Center at Staunton River, Battlefield State Park

A meeting of the board.

**Contact:** Leon App, Department of Conservation and Recreation, 203 Governor St., Richmond, VA 23219-2010, telephone (804) 786-6124.

### Catoctin Creek Scenic River Advisory Board

**† November 16, 1995 - 4 p.m.** -- Open Meeting  
Waterford Foundation Office, Corner Store on Main Street, Richmond, Virginia.

A meeting to discuss river topics and board related matters.

**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

## Falls of the James Scenic River Advisory Board

**November 16, 1995 - Noon** -- Open Meeting  
**† December 7, 1995 - Noon** -- Open Meeting  
City Hall, Planning Commission Conference Room, 5th Floor, Richmond, Virginia.

A meeting to discuss river issues and programs.

**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

**December 19, 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 interpreter 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, Board for Contractors, 3600 W. Broad St., Richmond, VA 23219, telephone (804) 367-8561.

## BOARD OF CORRECTIONS

**† November 15, 1995 - 10 a.m.** -- Open Meeting  
Department of Corrections, 6900 Atmore Drive, Board Room, Richmond, Virginia.

A meeting to discuss matters as they may be presented to board.

**Contact:** Barbara Fellows, Secretary to the Board, Board of Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3235.

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# Calendar of Events

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## Administration Committee

† **November 15, 1995 - 8:30 a.m.** -- Open Meeting  
Department of Corrections, 6900 Atmore Drive, Richmond, Virginia. ♿

A meeting to discuss administrative matters for possible presentation to the full board.

**Contact:** Barbara Fellows, Secretary to the Board, Board of Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3235.

## Correctional Services Committee

† **November 14, 1995 - 10 a.m.** -- Open Meeting  
Department of Corrections, 6900 Atmore Drive, Richmond, Virginia. ♿

A meeting to discuss correctional services matters for possible presentation to the full board.

**Contact:** Barbara Fellows, Secretary to the Board, Board of Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3235.

## BOARD FOR COSMETOLOGY

**December 11, 1995 - 10 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ♿

A general business meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact Karen W. O'Neal. The department fully complies with the Americans with Disabilities Act. Please notify the department of your request at least two weeks in advance.

**Contact:** Karen W. O'Neal, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-0500, FAX (804) 367-2475 or (804) 367-9753/TDD ♿

## DISABILITY SERVICES COUNCIL

**December 6, 1995 - 1 p.m.** -- Open Meeting  
Department of Rehabilitative Services, 8004 Franklin Farms Drive, Richmond, Virginia.

A meeting to review grants submitted for remaining uncommitted resources of the Rehabilitative Services Incentive Fund.

**Contact:** Martha Adams, Staff, Disability Services Council, 8004 Franklin Farms Dr., Richmond, VA 23230, telephone (804) 662-7077, toll-free 1-800-552-5019/TDD and Voice or (804) 662-9040/TDD ♿

## BOARD OF EDUCATION

**November 16, 1995 - 8 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.

## STATE BOARD OF ELECTIONS

**November 27, 1995 - 10 a.m.** -- Open Meeting  
State Capitol, Capitol Square, House Room One, Richmond, Virginia. ♿

A meeting to ascertain and certify the results of the November 7, 1995, general election.

**Contact:** M. Bruce Meadows, Secretary, State Board of Elections, 200 N. 9th St., Room 101, Richmond, VA 23219, telephone (804) 786-6551, FAX (804) 371-0194, toll-free 1-800-552-9745 or (804) 260-3466/TDD ♿

## LOCAL EMERGENCY PLANNING COMMITTEE - CITY OF ALEXANDRIA

† **December 13, 1995 - 6 p.m.** -- Open Meeting  
Alexandria Sanitation Authority, 835 South Payne Street, Alexandria, Virginia. ♿ (Interpreter for the deaf provided upon request)

An open meeting with committee members and facility emergency coordinators to conduct business in accordance with SARA Title III, Emergency Planning and Community Right-to-Know Act of 1986.

**Contact:** Charles McRorie, Emergency Preparedness Coordinator, City of Alexandria, 900 Second St., Alexandria, VA 22314, telephone (703) 838-3825 or (703) 838-5056/TDD ♿

## LOCAL EMERGENCY PLANNING COMMITTEE - CHESTERFIELD COUNTY

**December 7, 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.

## DEPARTMENT OF ENVIRONMENTAL QUALITY

† **November 16, 1995 - 10 a.m.** -- Open Meeting  
Department of Environmental Quality, 629 East Main Street,  
6th Floor Conference Room, Richmond, Virginia.

The department has established a work group on four topics with respect to the water quality standards program: mercury, ammonia, lead and copper. The work group, upon completion, will advise the Director of Environmental Quality. Other meetings of the work group have been scheduled as follows: November 30, December 14, January 4, January 18, February 1, February 15, February 29, March 7, March 21, and April 4. However, these dates are not firm. Persons interested in the meetings of this work group should confirm the date, location and time with the contact person below.

**Contact:** Alan J. Anthony, Chairman, Department of Environmental Quality, 629 E. Main St., P.O. Box 10009, Richmond, VA 23240-0009, telephone (804) 762-4114.

**November 16, 1995 - 10 a.m.** -- Open Meeting  
Department of Environmental Quality, 629 East Main Street,  
Richmond, Virginia.

A meeting to obtain advice from interested parties to the Virginia Waste Management Board on desirable features to be incorporated into the Voluntary Remediation Program. Subsequent meetings will be held on December 20, 1995, January 17, 1996, and February 27, 1996. The public should contact the Department of Environmental Quality prior to attendance to confirm the meeting's occurrence, location and time.

**Contact:** Dr. Wladimir Gulevich, Assistant Division Director, Office of Technical Assistance, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240-0009, telephone (804) 762-4236, FAX (804) 762-4327 or (804) 762-4021/TDD ☎

## BOARD OF FUNERAL DIRECTORS AND EMBALMERS

**December 11, 1995 - 9 a.m.** -- Open Meeting

**December 12, 1995 - 9 a.m.** -- Open Meeting

Department of Health Professions, 6606 West Broad Street,  
Richmond, Virginia. ☎

Informal conferences will be conducted.

**Contact:** Lisa Russell Hahn, Executive Director, Board of Funeral Directors and Embalmers, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9907 or (804) 662-7197/TDD ☎

## BOARD OF GAME AND INLAND FISHERIES

### Finance Committee

† **December 7, 1995 - 10 a.m.** -- Open Meeting

Department of Game and Inland Fisheries, 4010 West Broad Street, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A meeting to conduct an interim review of the Department of Game and Inland Fisheries 1995-96 operating budget. If necessary, programmatic adjustments may be made.

**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.

## GEORGE MASON UNIVERSITY

### Student Affairs Committee

**November 14, 1995 - 6:30 p.m.** -- Open Meeting  
George Mason University, Mason Hall, Room D23, Fairfax,  
Virginia. ☎

A regular meeting.

**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.

### Board of Visitors

**November 15, 1995 - 3:30 p.m.** -- Open Meeting  
George Mason University, Mason Hall, Room D23, Fairfax,  
Virginia. ☎

A regular meeting to hear reports of the standing committees, and to act on those recommendations presented by the standing committees. An agenda will be available seven days prior to the board meeting for those individuals or organizations who request it. Standing committees will meet 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.

## DEPARTMENT OF HEALTH (STATE BOARD OF)

### Commissioner's Waterworks Advisory Committee

**November 16, 1995 - 10 a.m.** -- Open Meeting  
Sydnor Hydrodynamics, Inc., 2111 Magnolia Street,  
Richmond, Virginia.

A general business meeting of the committee. The committee meets on the third Thursday of odd months at various locations around the state. The next meeting is scheduled for January 18, 1996. Location will be announced.

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## Calendar of Events

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**Contact:** Thomas B. Gray, P.E., Special Projects Manager, Division of Water Supply Engineering, Department of Health, 1500 E. Main St., Room 109, Richmond, VA 23219, telephone (804) 786-5566.

### VIRGINIA HEALTH SERVICES COST REVIEW COUNCIL

**November 28, 1995 - 9:30 a.m.** -- Open Meeting  
Trigon Blue Cross/Blue Shield, 2015 Staples Mill Road, Richmond, Virginia. ☎

A monthly meeting of the council.

**Contact:** Richard L. Walker, Director of Administration, Virginia Health Services Cost Review Council, 805 E. Broad St., 6th Floor, Richmond, VA 23219, telephone (804) 786-6371.

### BOARD FOR HEARING AID SPECIALISTS

**January 8, 1996 - 9 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☎

A general business meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact 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:** Karen W. O'Neal, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-0500, FAX (804) 367-2475 or (804) 367-9753/TDD ☎

### COMMISSION ON THE FUTURE OF HIGHER EDUCATION IN VIRGINIA

**November 15, 1995 - 10 a.m.** -- Open Meeting  
General Assembly Building, 910 Capitol Square, 6th Floor, Richmond, 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) 225-2636.

### STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA

**November 13, 1995 - 3 p.m.** -- Open Meeting  
**November 14, 1995 - 8:30 a.m.** -- Open Meeting  
James Monroe Building, 101 North 14th Street, Council Conference Room, 9th Floor, Richmond, Virginia. ☎  
(Interpreter for the deaf provided upon request)

A general business meeting. Contact the Council of Higher Education for additional information.

**Contact:** Anne H. Moore, Associate Director, State Council of Higher Education for Virginia, 101 N. 14th St., 9th Floor, Richmond, VA 23219, telephone (804) 225-2629.

### VIRGINIA HIV PREVENTION COMMUNITY PLANNING COMMITTEE

† **November 17, 1995 - 8:30 a.m.** -- Open Meeting  
Sheraton Inn, 4700 South Laburnum Avenue, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A meeting to finalize the report to the Department of Health.

**Contact:** Elaine G. Martin, Coordinator, STD/AIDS Education, Information and Training, Bureau of STD/AIDS, Department of Health, P.O. Box 2448, Room 112, Richmond, VA 23218, telephone (804) 786-0877 or toll-free 1-800-533-4148.

### HOPEWELL INDUSTRIAL SAFETY COUNCIL

**December 5, 1995 - 9 a.m.** -- Open Meeting  
**January 2, 1996 - 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.

### DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT (BOARD OF)

† **November 28, 1995 - 3 p.m.** -- Open Meeting  
Holiday Inn Hotel and Conference Center, 1815 West Mercury Boulevard, Hampton, Virginia. ☎

A regular monthly business meeting of the board. Public comment will be received.

**Contact:** Stephen W. Calhoun, CPA, Program Manager, 501 N. 2nd St., Richmond, VA 23219, telephone (804) 371-7150, FAX (804) 371-7092 or (804) 371-7089/TDD ☎

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**December 29, 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 Housing and Community Development intends to amend regulations entitled: **VR 394-01-21. Virginia Uniform Statewide Building Code, Volume 1 - New Construction Code/1993**. The purpose of the proposed action is to (i) amend the "Notice of Violation" section to comport with the Code of Virginia; (ii) amend the requirements for the spacing of intermediate supports for guardrails; (iii) amend the sections that establish "Wind Zones" in Virginia to comply with those required by new federal regulation; (iv) delete vague and subjective text in the regulation regarding ice damming on roofs for one and two family dwellings; (v) raise the size and occupancy threshold regarding when permits are required for tents; and (vi) amend the "Existing Building" section for clarity and remove vague and subjective language which may be barriers to revitalization of existing buildings.

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

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

## State Building Code Technical Review Board

**November 17, 1995 - 10 a.m.** -- Open Meeting  
The Jackson Center, 501 North Second Street, 1st Floor Conference Room, Richmond, Virginia. (Interpreter for the deaf provided upon request)

The board hears administrative appeals concerning building and fire codes and other regulations of the department. The board also issues interpretations and formalizes recommendations to the Board of Housing and Community Development concerning future changes to the regulations.

**Contact:** Vernon W. Hodge, Building Code Supervisor, State Building Code Office, Department of Housing and Community Development, 501 N. 2nd St., Richmond, VA 23219-1321, telephone (804) 371-7170 or (804) 371-7089/TDD

## VIRGINIA HOUSING AND DEVELOPMENT AUTHORITY

† **November 20, 1995 1 p.m.** -- Open Meeting  
Jefferson Hotel, Franklin and Adams Street, Richmond, Virginia.

† **November 21, 1995 - 11 a.m.** -- Open Meeting  
Virginia Housing Development Authority, 601 South Belvidere Street, Richmond, Virginia.

A regular meeting of the Board of Commissioners. On November 20, 1995, the board will conduct a retreat to receive various reports from the staff of the Virginia

Housing Development Authority and to discuss and consider such other matters as it may deem appropriate. On November 21, 1995, the Board of Commissioners will review and, if appropriate, approve the minutes from the prior monthly meeting; consider for approval and ratification mortgage loan commitments under its various programs; review the authority's operations for the prior month; and consider such other matters and take such other actions as it may deem appropriate. Various committees of the Board of Commissioners may also meet before or after the regular meeting and consider matters within their purview. The planned agenda of the meeting will be available at the offices of the authority one week prior to the date of the meeting.

**Contact:** J. Judson McKellar, Jr., General Counsel, Virginia Housing Development Authority, 601 S. Belvidere St., Richmond, VA 23220, telephone (804) 782-1986.

## COUNCIL ON INFORMATION MANAGEMENT

† **November 17, 1995 - 10 a.m.** -- Open Meeting  
Department of Information Technology, 101 North 14th Street, Conference Room B, Richmond, Virginia.

The council will meet jointly with its four advisory committees.

**Contact:** Linda Hering, Administrative Assistant, Council on Information Management, 1100 Bank St., Suite 901, Richmond, VA 23219, telephone (804) 225-3622 or (804) 225-3624/TDD

## VIRGINIA INTERAGENCY COORDINATING COUNCIL

† **December 6, 1995 - 9:30 a.m.** -- Open Meeting

Henrico Area Mental Health, Mental Retardation Services, 10299 Woodman Road, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A quarterly meeting to discuss ongoing issues pertaining to the implementation of Part H (Early Intervention for Infants and Toddlers with Disabilities) in Virginia.

**Contact:** Richard B. Corbett, Program Support, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-3710 or FAX (804) 371-7959.

## DEPARTMENT OF LABOR AND INDUSTRY

### Safety and Health Codes Board

† **December 11, 1995 - 10 a.m.** -- Open Meeting  
General Assembly Building, 910 Capitol Square, House Room C, Richmond, Virginia.

The tentative agenda items for consideration by the board include:

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## Calendar of Events

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1. Asbestos Standard, Extension of Start-up Dates and Subsequent Amendments: General Industry, § 1910.1001, VR 425-02-09; Shipyard Employment, § 1915.1001, VR 425-02-178; and Construction, § 1926.1101, VR 425-02-10.

2. Fall Protection, Construction Industry, Correcting Amendment, VR 425-02-177.

3. Logging Operations, General Industry, Corrections and Technical Amendments, § 1910.266, VR 425-02-52.

**Contact:** John J. Crisanti, Policy Analyst, Department of Labor and Industry, Powers-Taylor Bldg., 13 S. 13th St., Richmond, VA 23219, telephone (804) 786-2384, FAX (804) 786-8418 or (804) 786-2376/TDD ☎

### LIBRARY BOARD

**November 13, 1995 - 10 a.m.** -- Open Meeting  
The Library of Virginia, 11th Street at Capitol Square, 3rd Floor, Supreme Court Room, Richmond, Virginia. ☎

A meeting to discuss administrative matters of The Library of Virginia.

**Contact:** Jean H. Taylor, Secretary to the State Librarian, The Library of Virginia, 11th Street at Capitol Square, Richmond, VA 23219, telephone (804) 786-2332.

### LITTER CONTROL AND RECYCLING FUND ADVISORY BOARD

† **November 15, 1995 - 10 a.m.** -- Open Meeting  
General Assembly Building, 910 Capitol Square, 4th Floor, West Conference Room, Richmond, Virginia.

A meeting to (i) review and make recommendations on applications for grants from the fund; (ii) promote the control, prevention, and elimination of litter from the Commonwealth and encourage recycling; and (iii) advise the Director of Environmental Quality on other litter control and recycling matters.

**Contact:** Paddy Katzen, Special Assistant to the Secretary of Natural Resources, Department of Environmental Quality, 629 E. Main St., Richmond, VA 23219, telephone (804) 762-4488 or FAX (804) 762-4453.

### STATE COUNCIL ON LOCAL DEBT

**November 15, 1995 - 11 a.m.** -- Open Meeting  
**December 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

**November 20, 1995 - 10 a.m.** -- Open Meeting  
Eighth Street Office Building, Room 702, Richmond, Virginia.

A regular meeting of the commission to consider such matters as may be presented. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the commission.

**Contact:** Barbara Bingham, Administrative Assistant, Commission on Local Government, 702 8th Street Office Bldg., Richmond, VA 23219-1924, telephone (804) 786-6508 or (804) 786-1860/TDD ☎

**January 8, 1996 - 10:30 a.m.** -- Open Meeting  
Town of Round Hill; site to be determined.

Oral presentations regarding the Town of Round Hill - County of Loudoun Agreement Refining Annexation Rights. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the commission.

**Contact:** Barbara Bingham, Administrative Assistant, Commission on Local Government, 702 8th Street Office Bldg., Richmond, VA 23219-1924, telephone (804) 786-6508 or (804) 786-1860/TDD ☎

**January 8, 1996 - 7 p.m.** -- Public Hearing  
Town of Round Hill; site to be determined.

A public hearing regarding the Town of Round Hill - County of Loudoun Agreement Refining Annexation Rights. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the commission.

**Contact:** Barbara Bingham, Administrative Assistant, Commission on Local Government, 702 8th Street Office Bldg., Richmond, VA 23219-1924, telephone (804) 786-6508 or (804) 786-1860/TDD ☎

**January 9, 1996 - 9 a.m.** -- Open Meeting  
Leesburg area; site to be determined.

A regular meeting of the commission to consider such matters as may be presented. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the commission.

**Contact:** Barbara Bingham, Administrative Assistant, Commission on Local Government, 702 8th Street Office Bldg., Richmond, VA 23219-1924, telephone (804) 786-6508 or (804) 786-1860/TDD ☎

## MARINE RESOURCES COMMISSION

**November 28, 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 will be taken under oath from parties addressing agenda items on permits and licensing. Public comments will be 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

† **November 15, 1995 - 9:30 a.m.** -- Open Meeting  
Sheraton Inn/Fredericksburg, I-95 and Va. Route 3,  
Fredericksburg, Virginia.

† **November 30, 1995 - 9 a.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street,  
5th Floor, Conference Room 1, Richmond, 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, Department of Health Professions, 6606 W. Broad St., Richmond, VA 23230-1717, telephone (804) 662-7693, FAX (804) 662-9943 or (804) 662-7197/TDD ☎

## Credentials Committee

† **December 9, 1995 - 8 a.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street,  
5th Floor, Board Rooms 3 and 4, Richmond, Virginia. ☎

The committee will meet in open and closed session to conduct general business, interview and review medical credentials of applicants applying for licensure in Virginia, and to discuss any other items which may come before the board. The committee will receive public comments of those persons appearing on behalf of candidates.

**Contact:** Warren W. Koontz, M.D., Executive Director, Department of Health Professions, 6606 W. Broad St., Richmond, VA 23230-1717, telephone (804) 662-9908, FAX (804) 662-9943 or (804) 662-7197/TDD ☎

## Executive Committee

† **December 8, 1995 - 9 a.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street,  
5th Floor, Board Rooms 2 and 3, Richmond, Virginia. ☎

The committee will meet in open and closed session to:  
(i) review disciplinary files requiring administrative action;  
(ii) adopt amendments for approval of promulgation of regulations as presented; and (iii) act on other issues that come before the board. The chairman will entertain public comments on agenda items for 10 minutes following adoption of the agenda.

**Contact:** Warren W. Koontz, M.D., Executive Director, Department of Health Professions, 6606 W. Broad St., Richmond, VA 23230-1717, telephone (804) 662-9960, FAX (804) 662-9943 or (804) 662-7197/TDD ☎

## Legislative Committee

† **November 16, 1995 - 1 p.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street,  
5th Floor, Board Room 2, Richmond, Virginia. ☎ (Interpreter  
for the deaf provided upon request)

A meeting to review Memorandum of Understanding with the Medical Society of Virginia, guidelines for physician/patient relationship, mandatory continuing education, telemedicine, amendments to regulations for the use of anorectic agents, and any such other information that shall come before the committee.

**Contact:** Warren W. Koontz, M.D., Executive Director, Department of Health Professions, 6606 W. Broad St., Richmond, VA 23230-1717, telephone (804) 662-9908, FAX (804) 662-9943 or (804) 662-7197/TDD ☎

## DEPARTMENT OF MINES, MINERALS AND ENERGY

### Board of Mineral Mining Examiners

**November 15, 1995 - 10 a.m.** -- Public Hearing  
Division of Mineral Mining, Fontaine Research Park, 900  
Natural Resources Drive, Charlottesville, Virginia.

**December 1, 1995** -- Public comments may be submitted until this date.

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## Calendar of Events

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Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Mineral Mining Examiners intends to adopt regulations entitled: **VR 480-04-3. Certification Requirements for Mineral Miners.** The purpose of the proposed regulation is to establish a separate regulation setting requirements for the certification of mineral miners.

Statutory Authority: § 45.1-161.46 of the Code of Virginia.

**Contact:** Conrad T. Spangler, Chairman, Board of Mineral Mining Examiners, Division of Mineral Mining, P.O. Box 3727, Fontaine Research Park, 900 Natural Resources Dr., Charlottesville, VA 22903-0727, telephone (804) 961-5000.

### MOTOR VEHICLE DEALER BOARD

**November 21, 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 of Motor Vehicles (DMV) 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. A public comment period will be provided at the beginning of the meeting. Public comment will be subject to the board's "Guidelines for Public Comment."

**Contact:** W. Gail Morykon, Chief, Investigative Services, Department of Motor Vehicles, P.O. Box 27412, Richmond, VA 23269-0001, telephone (804) 367-6002, FAX (804) 367-2936 or (804) 272-9278/TDD

### VIRGINIA MUSEUM OF FINE ARTS

† **December 5, 1995 - 8 a.m. -- Open Meeting**  
† **January 2, 1996 - 8 a.m. -- Open Meeting**  
Virginia Museum of Fine Arts, 2800 Grove Avenue, Director's Office, Richmond, Virginia.

A briefing for museum officers of current and upcoming museum activities. 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.

### Collections Committee

† **December 13, 1995 - 11 a.m. -- Open Meeting**  
Virginia Museum of Fine Arts, 2800 Grove Avenue, Auditorium, Richmond, Virginia.

A meeting to consider gift offers, purchases, and loans. This is a regularly scheduled meeting. 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.

### Executive Committee

† **December 13, 1995 - 1 p.m. -- Open Meeting**  
Virginia Museum of Fine Arts, 2800 Grove Avenue, Auditorium, Richmond, Virginia.

A meeting to approve committee and staff reports. 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.

### Finance Committee

† **November 16, 1995 - 11 a.m. -- Open Meeting**  
Virginia Museum of Fine Arts, 2800 Grove Avenue, Richmond, Virginia.

A meeting to conduct budget update/review of food service operations.

**Contact:** Emily C. Robertson, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond, VA 23221, telephone (804) 367-0553.

### Board of Trustees

† **November 16, 1995 - Noon -- Open Meeting**  
Virginia Museum of Fine Arts, 2800 Grove Avenue, Richmond, Virginia.

A regularly scheduled meeting of the board to review the budget and receive committee and staff reports. 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

† **November 27, 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)

Two special conference committees will conduct informal conferences in the morning. A panel of the board will conduct formal hearings in the afternoon. 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

† November 28, 1995 - 9 a.m. -- Open Meeting

† November 29, 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 regular meeting of the board to consider matters relating to education programs, discipline of licensees, licensure by examination and other matters under the jurisdiction of the board. Public comment will be received during an open forum beginning at 11 a.m., November 28, 1995. On November 29, 1995, the board will conduct formal hearings.

**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

† November 30, 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 meeting to conduct formal hearings with licensees and certificate holders. 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

## BOARD OF NURSING HOME ADMINISTRATORS

### NOTE: CHANGE IN MEETING TIME

November 29, 1995 - 9 a.m. -- Open Meeting

Department of Health Professions, 6606 West Broad Street, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A general board meeting to discuss board business. Public comments will be received at the beginning of the meeting for 15 minutes. Formal hearings will take place after the board meeting at 1 p.m.

**Contact:** Lisa Russell Hahn, Executive Director, Board of Nursing Home Administrators, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9907 or (804) 662-7197/TDD

## BOARD OF PHARMACY

November 13, 1995 - 9 a.m. -- Open Meeting

November 14, 1995 - 9 a.m. -- Open Meeting

Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 4, Richmond, Virginia.

An examination workshop. No public comment 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.

† November 16, 1995 - 9 a.m. -- Open Meeting

Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 1, Richmond, Virginia.

A meeting to conduct informal conferences. 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.

## POLYGRAPH EXAMINERS ADVISORY BOARD

November 28, 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)

The board will meet to review new enforcement procedures, 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. 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 23230-4917, telephone (804) 367-8590, FAX (804) 367-2474 or (804) 367-9753/TDD

## BOARD OF PROFESSIONAL COUNSELORS AND MARRIAGE AND FAMILY THERAPISTS

† November 16, 1995 - 9 a.m. -- Open Meeting

Department of Health Professions, 6606 West Broad Street, 4th Floor, Richmond, Virginia. (Interpreter for the deaf provided upon request)

An informal conference will be held pursuant to § 9-6.14:11 of the Code of Virginia. Public comment will not be heard.

**Contact:** Evelyn B. Brown, Executive Director, Professional Counselors and Marriage and Family Therapists, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9967.

November 17, 1995 - 8:30 a.m. -- Open Meeting

Department of Health Professions, 6606 West Broad Street, Conference Rooms 1 and 3, Richmond, Virginia. (Interpreter for the deaf provided upon request)

8:30 a.m. Informal conference regarding credentials. Public comment will not be heard. (Conference Room 3)

8:30 a.m. Credentials review by Executive Committee. Public comment will not be heard. (Conference Room 1)

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## Calendar of Events

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9:30 a.m. A regular meeting of the board to conduct general board business; to consider committee reports, correspondence, and other matters under the jurisdiction of the board; and to conduct regulatory review. This is a public meeting and there will be a 30 minute general public comment period from 9:45 to 10:15 a.m.

**Contact:** Evelyn B. Brown, Executive Director, or Joyce D. Williams, Administrative Assistant, Board of Professional Counselors and Marriage and Family Therapists, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9912.

### BOARD FOR PROFESSIONAL AND OCCUPATIONAL REGULATION

**November 20, 1995 - 10 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☎

A general business meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the board at least 10 days prior to the meeting. 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 23230-4917, telephone (804) 367-8519, or (804) 367-9753/TDD ☎

### BOARD OF PSYCHOLOGY

† **November 14, 1995 - 10 a.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street, 4th Floor, Richmond, Virginia. ☎

A formal administrative hearing will be held pursuant to § 9-6.14:12 of the Code of Virginia. Public comment will not be heard.

**Contact:** Evelyn B. Brown, Executive Director, Board of Psychology, 6606 W. Broad Street, 4th Floor, Richmond, VA 23230, telephone (804) 662-9967.

**November 14, 1995 - 9 a.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 3, Richmond, Virginia. ☎

A meeting to conduct general board business and to approve draft regulations for Sex Offender Treatment Providers. Public comment will be received from 9:15 to 9:30 a.m.

**Contact:** Janet Delorme, Deputy Executive Director, Board of Psychology, 6606 W. Broad Street, 4th Floor, Richmond, VA 23230, telephone (804) 662-9575 or FAX (804) 662-9943.

### REAL ESTATE APPRAISER BOARD

**November 14, 1995 - 10 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☎

A general business meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact 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:** Karen W. O'Neal, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-0500, FAX (804) 367-2475 or (804) 367-9753/TDD ☎

### VIRGINIA RECYCLING MARKETS DEVELOPMENT COUNCIL

† **November 16, 1995 - 9 a.m.** -- Open Meeting  
State Capitol, Capitol Square, House Room One, Richmond, Virginia.

The council will continue work on developing and monitoring a plan to strengthen Virginia's recycling infrastructure and markets; setting forth strategies primarily designed to improve the supply, quantity, and quality of recyclables; and providing strategies for increasing the demand for recycled products and expanding the capacity of collectors, processors and manufacturers to handle and use specified materials. Subcommittee meetings, if appropriate, will be held prior to or after the general council meeting; subcommittees will meet from 9 to 11 a.m.; council will meet from 11 a.m. to 12:30 p.m.

**Contact:** Paddy Katzen, Assistant to Secretary of Natural Resources, Department of Environmental Quality, 629 E. Main St., Richmond, VA 23219, telephone (804) 762-4488.

### STATE REHABILITATION ADVISORY COUNCIL

**November 13, 1995 - 10 a.m.** -- Open Meeting  
Department of Rehabilitative Services, 8004 Franklin Farms Drive, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A meeting to conduct regular business of the council.

**Contact:** Kathy Hayfield, SRAC Staff, Department of Rehabilitative Services, 8004 Franklin Farms Dr., Richmond, VA 23230, telephone (804) 662-7134, toll-free 1-800-552-5019/TDD and Voice, or (804) 662-9040/TDD ☎

## BOARD OF REHABILITATIVE SERVICES

**November 30, 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 ☎

## VIRGINIA RESOURCES AUTHORITY

**November 14, 1995 - 9:30 a.m.** -- Open Meeting  
The Mutual Building, 909 East Main Street, Suite 607, Board Room, Richmond, Virginia.

The board will meet to approve minutes of the meeting of the prior month; to review the Authority's operations for the prior months; and to consider other matters and take other actions as it may deem appropriate. The planned agenda of the meeting will be available at the offices of the Authority one week prior to the date of the meeting. Public comments will be received at the beginning of the meeting.

**Contact:** Shockley D. Gardner, Jr., Virginia Resources Authority, 909 E. Main St., Suite 607, Mutual Building, Richmond, VA 23219, telephone (804) 644-3100 or FAX (804) 644-3109.

## RICHMOND HOSPITAL AUTHORITY

### Board of Commissioners

† **December 7, 1995 - 4 p.m.** -- Open Meeting  
Richmond Nursing Home, 1900 Cool Lane, 2nd Floor, Classroom, Richmond, Virginia.☎

A monthly meeting of the board 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.

## STATE BOARD OF SOCIAL SERVICES

**November 15, 1995 - 1:30 p.m.** -- Open Meeting  
**November 16, 1995 - 9 a.m. (if necessary)** -- Open Meeting  
Wythe Building, Koger Executive Center, 1604 Santa Rosa Road, Richmond, Virginia.☎

A work session and formal business meeting of the board.

**Contact:** Phyllis Sisk, Special Assistant to the Commissioner, State Board of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1900, FAX (804) 692-1949, toll-free 1-800-552-7096 or 1-800-552-3431/TDD ☎

## COMMONWEALTH TRANSPORTATION BOARD

† **November 15, 1995 - 2 p.m.** -- Open Meeting  
Virginia Tech, Donaldson Brown Center, 229 Otey Street, Blacksburg, Virginia.☎ (Interpreter for the deaf provided upon request)

A work session of the board and the Department of Transportation staff.

**Contact:** Robert E. Martinez, Secretary of Transportation, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-8032.

† **November 16, 1995 - 10 a.m.** -- Open Meeting  
Hotel Roanoke and Conference Center, 110 Shenandoah Avenue, Roanoke, Virginia.☎ (Interpreter for the deaf provided upon request)

A monthly of the board to vote on proposals presented regarding bids, permits, additions and deletions to the highway system, and any other matters requiring board approval. Public comment will be received at the outset of the meeting on items on the meeting agenda for which the opportunity for public comment has not been afforded the public in another forum. Remarks will be limited to five minutes. Large groups are asked to select one individual to speak for the group. The board reserves the right to amend these conditions. Separate committee meetings may be held on call of the chairman. Contact the Department of Transportation Public Affairs at (804) 786-2715 for schedule.

**Contact:** Robert E. Martinez, Secretary of Transportation, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-8032.

## TREASURY BOARD

**November 15, 1995 - 9 a.m.** -- Open Meeting  
**December 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 ON VETERANS' AFFAIRS

**November 15, 1995 - 1 p.m.** -- Open Meeting  
American Legion Post #176, 6520 Amherst Street, Springfield, Virginia.☎

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## Calendar of Events

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A meeting to discuss the state veterans' cemetery and other items of interest to Virginia's veterans. The public is invited to speak on items of interest to the veteran community; however, presentations should be limited to 10 minutes. Speakers are requested to register with an aide present at the meeting and should leave a copy of their remarks for the record. Service organizations should designate one person to speak on behalf of the entire organization in order to allow ample time to accommodate all who may wish to speak.

**Contact:** Beth Tonn, Secretary for the Board, Department of Veterans' Affairs, 270 Franklin Rd., S.W., Room 1012, Roanoke, VA 24011-2215, telephone (540) 857-7104.

### BOARD OF VETERINARY MEDICINE

**November 15, 1995 - 9 a.m.** -- Public Hearing  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia.

**December 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 Veterinary Medicine intends to amend regulations entitled: **VR 645-01-1 [ 18 VAC 150-20-10 et seq. ] Regulations Governing Veterinary Medicine.** The board proposes a one-time, two-year reduction in fees for licensure and renewals and a permanent reduction in the state jurisprudence exam fee.

Statutory Authority: §§ 54.1-113 and 54.1-2400 of the Code of Virginia.

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

### VIRGINIA RACING COMMISSION

† **November 15, 1995 - 9:30 a.m.** -- Open Meeting  
Tyler Building, 1300 East Main Street, Richmond, Virginia. 

A regular commission meeting including a discussion of proposed regulations relating to medication.

**Contact:** William H. Anderson, Policy Analyst, Virginia Racing Commission, P.O. Box 1123, Richmond, VA, 23208, telephone (804) 371-7363.

### DEPARTMENT FOR THE VISUALLY HANDICAPPED

#### Vocational Rehabilitation Council

**December 9, 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)

A quarterly meeting to advise the Department for the Visually Handicapped on matters related to vocational rehabilitation services for the blind and visually impaired citizens of the Commonwealth. Requests for interpreter services must be received no later than November 24, 1995.

**Contact:** James G. Taylor, Vocational Rehabilitation Program Specialist, Department for the Visually Handicapped, 397 Azalea Ave., Richmond, VA 23227, telephone (804) 371-3140/TDD  or toll-free 1-800-622-2155.

#### Advisory Committee on Services

† **February 3, 1996 - 11 a.m.** -- Open Meeting  
Department for the Visually Handicapped, Administrative Headquarters, 397 Azalea Avenue, Richmond, Virginia.   
(Interpreter for the deaf provided upon request)

The committee meets quarterly to advise the Board for the Visually Handicapped on matters related to services for blind and visually handicapped 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 or toll-free 1-800-622-2155.

### VIRGINIA COUNCIL ON VOCATIONAL EDUCATION

† **November 15, 1995 - 8:30 a.m.** -- Open Meeting  
Valley Vocational-Technical Center, Route 1, Box 265, Fishersville, Virginia.

Council members will gather at the Best Western at 8:30 a.m. for transportation to conduct on-site visits to vocational education programs. At 2 p.m. there will be a council session at Valley Vo-Tech Center to conduct council business and receive reports from liaison agency representatives.

**Contact:** Jerry M. Hicks, Executive Director, Virginia Council on Vocational Education, 7420-A Whitepine Rd., Richmond, VA 23237, telephone (804) 275-6218.

† **November 16, 1995 - 8:30 a.m.** -- Open Meeting  
Valley Vocational-Technical Center, Route 1, Box 265, Fishersville, Virginia.

A council business session.

**Contact:** Jerry M. Hicks, Executive Director, Virginia Council on Vocational Education, 7420-A Whitepine Rd., Richmond, VA 23237, telephone (804) 275-6218.

### VIRGINIA VOLUNTARY FORMULARY BOARD

**November 30, 1995 - 10:30 a.m.** -- Open Meeting  
Washington Building, 1100 Bank Street, 2nd Floor Board Room, Richmond, Virginia.

A meeting to consider public hearing comments and review new product data for products being considered for inclusion in the Virginia Voluntary Formulary.

**Contact:** James K. Thomson, Director, Bureau of Pharmacy Services, 109 Governor St., Room B1-9, Richmond, VA 23219, telephone (804) 786-4326.

## VIRGINIA WASTE MANAGEMENT BOARD

**November 20, 1995** -- Public comments may be submitted until 4 p.m. on this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Waste Management Board intends to amend regulations entitled: **VR 672-30-1. Regulations Governing the Transportation of Hazardous Materials.** The purpose of the proposed amendment is to incorporate recent changes to federal regulations governing hazardous materials transport and motor carrier safety and new state law requiring a register of shippers.

Statutory Authority: §§ 10.1-1402, 10.1-1450 and 44-146.30 of the Code of Virginia.

**Contact:** Julia King-Collins, Office of Enforcement, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 762-4247.

## STATE WATER CONTROL BOARD

† **November 15, 1995 - 7 p.m.** -- Public Hearing  
Nandua High School, Accomac, Virginia.

A public hearing to receive comments on the proposed issuance of a Virginia Pollutant Discharge Elimination System Permit to Perdue Farms in Accomac, Virginia.

**Contact:** Debra L. Thompson, Department of Environmental Quality, Tidewater Regional Office, 287 Pembroke Office Park, Pembroke 2, Suite 310, Virginia Beach, VA 23462, telephone (804) 552-1840.

† **November 16, 1995 - 7 p.m.** -- Public Hearing  
Caroline High School, 19155 Rogers Clark Boulevard, Millford, Virginia.

A public hearing to receive comments on the proposed issuance of a Virginia Pollutant Discharge Elimination System Permit for Haymount Limited Partnership's Haymount Wastewater Treatment Plant.

**Contact:** Thomas A. Faha, Department of Environmental Quality, 1549 Old Bridge Road, Suite 108, Woodbridge, VA 22192, telephone (703) 490-8922.

## BOARD FOR WATERWORKS AND WASTEWATER WORKS OPERATORS

**December 8, 1995 - 8:30 a.m.** -- Open Meeting

**December 14, 1995 - 8:30 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 regulations under Executive Order 15(94). Brief public comment will be received at the beginning of the meeting. 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:** 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

## GOVERNOR'S ADVISORY COMMISSION ON WELFARE REFORM

† **November 16, 1995 - 1 p.m.** -- Open Meeting

Department of Social Services, 730 East Broad Street, Lower Level, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A regular meeting of the commission. Business will be conducted according to items listed on the agenda which has not yet been determined. Subcommittees of the commission are tentatively scheduled to meet at the same location, beginning at 10 a.m.

**Contact:** Gail Nottingham, Commission Secretary, Governor's Advisory Commission on Welfare Reform, 4615 W. Broad St., 3rd Floor, Richmond, VA 23230, telephone (804) 367-9800, FAX (804) 367-6172 or (804) 367-6283/TDD

## THE COLLEGE OF WILLIAM AND MARY

### Board of Visitors

† **November 16, 1995 - 2:30 p.m.** -- Open Meeting

† **November 17, 1995 - 8 a.m.** -- Open Meeting

The College of William and Mary, Blow Memorial Hall, Richmond Road, Williamsburg, Virginia. (Interpreter for the deaf provided upon request)

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 administration of William and Mary and Richard Bland College. An informational release will be available four days prior the board meeting for those individuals and organizations who request it.

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## Calendar of Events

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**Contact:** Peggy J. Shaw, Information Manager, Office of University Relations, The College of William and Mary, 312 Jamestown Rd., P.O. Box 8795, Williamsburg, VA 23187-8795, telephone (804) 221-2626.

### INDEPENDENT

#### STATE LOTTERY BOARD

**November 29, 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.

### LEGISLATIVE

#### JOINT LEGISLATIVE AUDIT AND REVIEW COMMISSION

† **November 21, 1995 - 9:30 a.m.** -- Open Meeting  
General Assembly Building, 910 Capitol Square, Senate Room A, Richmond, Virginia.

A staff briefing on juvenile justice services, and an interim briefing on the Department of Game and Inland Fisheries and the Virginia Marine Resources Commission.

**Contact:** Philip A. Leone, Director, Joint Legislative Audit and Review Commission, General Assembly Bldg., 910 Capitol St., Suite 1100, Richmond, VA 23219, telephone (804) 786-1258.

#### COMMISSION ON YOUTH

**November 21, 1995 - 11 a.m.** -- Open Meeting  
**November 21, 1995 - 1 p.m.** -- Public Hearing  
General Assembly Building, 910 Capitol Square, House Room C, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A meeting of the Juvenile Justice System Study Task Force for dissemination of draft legislative proposals. A public hearing will be held at 1 p.m. on proposals. HJR 604.

**Contact:** Joyce Huey, General Assembly Bldg., 910 Capitol St., Suite 517B, Richmond, VA 23219-0406, telephone (804) 371-2481.

**December 13, 1995 - 10 a.m.** -- Open Meeting  
General Assembly Building, 910 Capitol Square, House Room D, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A meeting of the Juvenile Justice System Study Task Force to discuss Task Force approval of legislation and final report. HJR 604.

**Contact:** Joyce Huey, General Assembly Bldg., 910 Capitol St., Suite 517B, Richmond, VA 23219-0406, telephone (804) 371-2481.

### CHRONOLOGICAL LIST

#### OPEN MEETINGS

##### November 13

† Aging, Governor's Advisory Board on  
Architects, Professional Engineers, Land Surveyors and Landscape Architects, Board for  
- Board for Architects  
- Board for Professional Engineers  
Higher Education for Virginia, State Council on  
Library of Virginia  
- Library Board  
Mines, Minerals and Energy, Department of  
- Division of Mined Land Reclamation  
Pharmacy, Board of  
Rehabilitation Advisory Council, State

##### November 14

† Corrections, Board of  
- Correctional Services Committee  
Pharmacy, Board of  
Psychology, Board of  
Real Estate Appraiser Board  
Resources Authority, Virginia

##### November 15

† Corrections, Board of  
- Administration Committee  
George Mason University  
- Student Affairs Committee  
- Board of Visitors  
Higher Education, Commission on the Future of  
† Litter Control and Recycling Fund Advisory Board  
Local Debt, State Council on  
† Medicine, Board of  
Social Services, State Board of  
† Transportation Board, Commonwealth  
Treasury Board  
Veterans' Affairs, Board on  
† Vocational Education, Virginia Council on

##### November 16

Architects, Professional Engineers, Land Surveyors and Landscape Architects, Board for  
- Board for Land Surveyors  
Audiology and Speech-Language Pathology, Board of  
Chesapeake Bay Local Assistance Board  
† Competition Council, Commonwealth

- Northern Area Review Committee
- Conservation and Recreation, Department of
  - Board of Conservation and Recreation
  - Catoctin Creek Scenic River Advisory Board
  - Falls of the James Scenic River Advisory Board
- Education, Board of
- Environmental Quality, Department of
- Health, Department of
  - Commissioner's Waterworks Advisory Committee
- † Medicine, Board of
  - Legislative Committee
- † Museum of Fine Arts, Virginia
  - Finance Committee
  - Board of Trustees
- † Pharmacy, Board of
- † Professional Counselors and Marriage and Family Therapists, Board of
- † Recycling Markets Development Council
- Social Services, State Board of
- † Transportation Board, Commonwealth
- † Vocational Education, Virginia Council on
- † Welfare Reform, Governor's Advisory Commission on
- † William and Mary, The College of
  - Board of Visitors

## November 17

- † HIV Prevention Community Planning Committee, Virginia
- Housing and Community Development, Department of
  - State Building Code Technical Review Board
- † Information Management, Council on
- Professional Counselors and Marriage and Family Therapists
- † William and Mary, The College of
  - Board of Visitors

## November 20

- † Housing Development Authority, Virginia
- Local Government, Commission on
- Professional and Occupational Regulation, Board for

## November 21

- † Agriculture and Consumer Services, Department of
  - Virginia Farmers' Market Board
- † Housing Development Authority, Virginia
- † Joint Legislative Audit and Review Commission
- Motor Vehicle Dealer Board
- Youth, Commission on

## November 27

- Elections, State Board of
- † Nursing, Board of

## November 28

- Health Services Cost Review Council, Virginia
- † Housing and Community Development, Board of
- Marine Resources Commission
- † Nursing, Board of
- Polygraph Examiners Advisory Board

## November 29

- Lottery Board, State
- † Nursing, Board of
- Nursing Home Administrators, Board of

## November 30

- Architects, Professional Engineers, Land Surveyors and Landscape Architects, Board for
  - Board for Landscape Architects
- † Medicine, Board of
- † Nursing, Board of
- Rehabilitative Services, Board of
- Voluntary Formulary Board, Virginia

## December 4

- Barbers, Board for

## December 5

- † Aviation Board, Virginia
- Hopewell Industrial Safety Council
- † Museum of Fine Arts, Virginia

## December 6

- † Aviation Board, Virginia
- Chesapeake Bay Local Assistance Board
  - Northern Area Review Committee
- Disability Services Council
- † Interagency Coordinating Council, Virginia

## December 7

- Chesapeake Bay Local Assistance Board
  - Central Area Review Committee
  - Southern Area Review Committee
- † Conservation and Recreation, Department of
  - Falls of the James Scenic River Advisory Board
- Emergency Planning Committee, Local - Chesterfield County
- † Game and Inland Fisheries, Board of
  - Finance Committee
- † Richmond Hospital Authority
  - Board of Commissioners

## December 8

- † Medicine, Board of
  - Executive Committee
- Waterworks and Wastewater Works Operators, Board for

## December 9

- † Medicine, Board of
  - Credentials Committee
- Visually Handicapped, Department for the
  - Vocational Rehabilitation Advisory Council

## December 11

- Cosmetology, Board for
- Funeral Directors and Embalmers, Board of
- † Labor and Industry, Department of
  - Safety and Health Codes Board

## December 12

- † Agriculture and Consumer Services, Department of
  - Virginia Corn Board
- Funeral Directors and Embalmers, Board of

## December 13

- † Emergency Planning Committee - Local, City of Alexandria
- † Museum of Fine Arts, Board of
  - Collections Committee
  - Executive Committee

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## Calendar of Events

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Youth, Commission on

**December 14**

Agriculture and Consumer Services, Department of  
- Virginia Horse Industry Board  
Waterworks and Wastewater Works Operators, Board  
for

**December 19**

† Accountancy, Board for  
† Aviation Board, Virginia  
Contractors, Board for

**December 20**

† Aviation Board, Virginia  
Local Debt, State Council on  
Treasury Board

**January 2, 1996**

Hopewell Industrial Safety Council  
† Museum of Fine Arts, Virginia  
- Board of Trustees

**January 8**

Hearing Aid Specialists, Board for  
Local Government, Commission on

**January 9**

Local Government, Commission on

**January 19**

† Agriculture and Consumer Services, Department of  
- Virginia Horse Industry Board

**February 3**

† Visually Handicapped, Department for the  
- Advisory Committee on Services

### PUBLIC HEARINGS

**November 13**

Air Pollution Control Board, State

**November 14**

Air Pollution Control Board, State

**November 15**

Mines, Minerals and Energy, Department of  
Veterinary Medicine, Board of  
† Water Control Board, State

**November 16**

† Water Control Board, State