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THE VIRGINIA REGISTER

OF REGULATIONS

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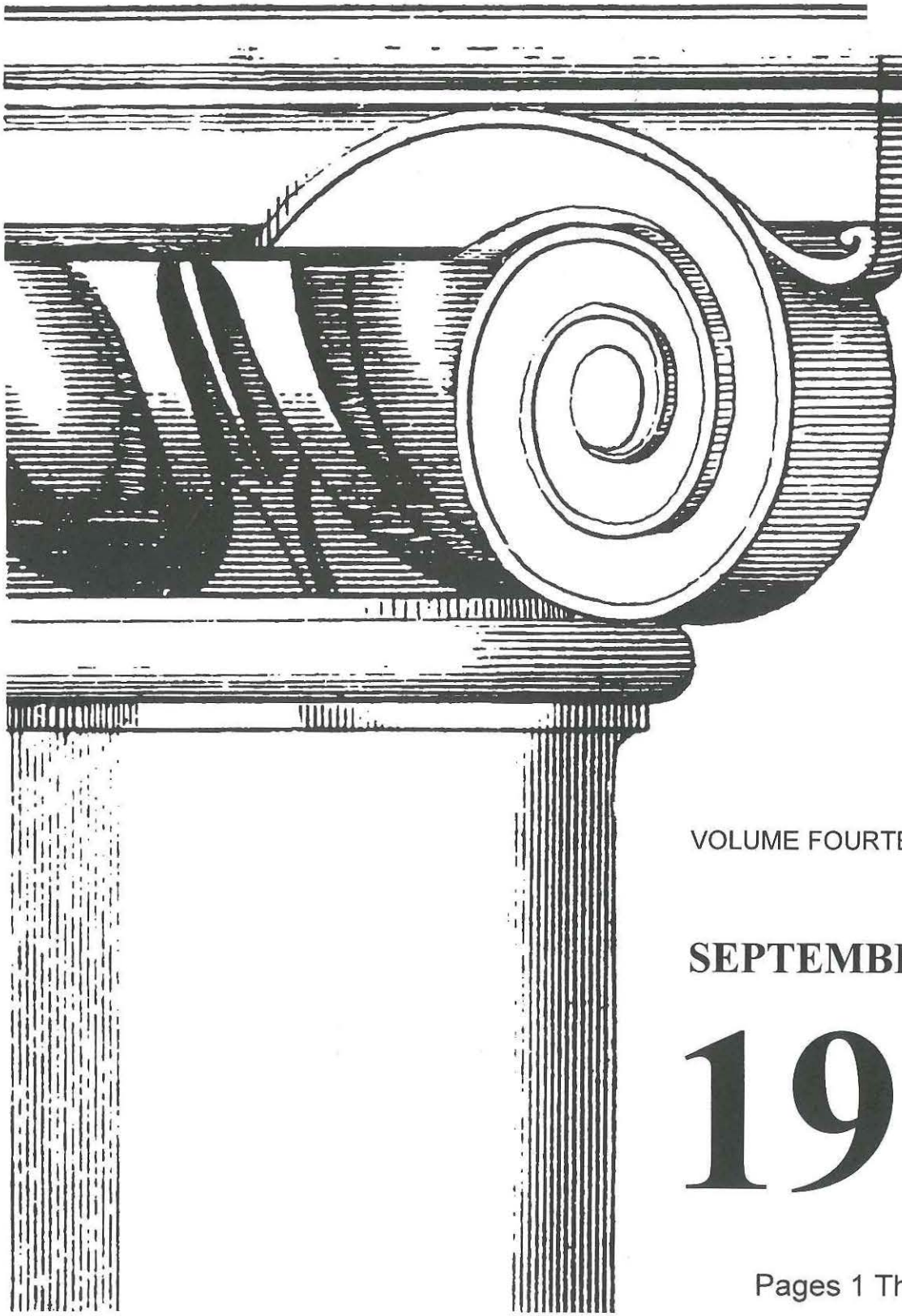

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Pages 1 Through 208

THE VIRGINIA REGISTER INFORMATION PAGE

THE VIRGINIA REGISTER is an official state publication issued every other week throughout the year. Indexes are published quarterly, and the last index of the year is cumulative. **THE VIRGINIA REGISTER** has several functions. The new and amended sections of regulations, both as proposed and as finally adopted, are required by law to be published in **THE VIRGINIA REGISTER OF REGULATIONS**. In addition, **THE VIRGINIA REGISTER** is a source of other information about state government, including all emergency regulations and executive orders issued by the Governor, the Virginia Tax Bulletin issued periodically by the Department of Taxation, and notices of 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 intended regulatory action; a basis, purpose, substance and issues statement; an economic impact analysis prepared by the Department of Planning and Budget; the agency's response to the economic impact analysis; a summary; a notice giving the public an opportunity to comment on the proposal; and the text of the proposed regulation.

Following publication of the proposal in the *Virginia Register*, the promulgating agency receives public comments for a minimum of 60 days. The Governor reviews the proposed regulation to determine if it is necessary to protect the public health, safety and welfare, and if it is clearly written and easily understandable. If the Governor chooses to comment on the proposed regulation, his comments must be transmitted to the agency and the Registrar no later than 15 days following the completion of the 60-day public comment period. The Governor's comments, if any, will be published in the *Virginia Register*. Not less than 15 days following the completion of the 60-day public comment period, the agency may adopt the proposed regulation.

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 21 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 agency again publishes the text of the regulation as adopted, highlighting all changes made to the proposed regulation and explaining any substantial changes made since publication of the proposal. A 30-day final adoption period begins upon final publication in the *Virginia Register*.

The Governor may review the final regulation during this time and, if he objects, forward his objection to the Registrar and the agency. In addition to or in lieu of filing a formal objection, the Governor may suspend the effective date of a portion or all of a regulation until the end of the next regular General Assembly session by issuing a directive signed by a majority of the members of the appropriate standing committees and the Governor. The Governor's objection or suspension of the regulation, or both, will be published in the *Virginia Register*. If the Governor finds that changes made to the proposed regulation have substantial impact, he may require the agency to provide an additional 30-day public comment period on the changes. Notice of the additional public comment period required by the Governor will be published in the *Virginia Register*.

The agency shall suspend the regulatory process for 30 days when it receives requests from 25 or more individuals to solicit additional public comment, unless the agency determines that the changes have minor or inconsequential impact.

A regulation becomes effective at the conclusion of the 30-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 21-day extension period; (ii) the Governor exercises his authority to require the agency to provide for 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 provided for additional public comment; (iii) the Governor and the General Assembly exercise their authority to suspend the effective date of a regulation until the end of the next regular legislative session; or (iv) the agency suspends the regulatory process, in which event the regulation, unless withdrawn, becomes effective on the date specified, which shall be after the expiration of the 30-day public comment period.

Proposed regulatory action may be withdrawn by the promulgating agency at any time before the regulation becomes final.

EMERGENCY REGULATIONS

If an agency demonstrates that (i) there is an immediate threat to the public's health or safety; or (ii) Virginia statutory law, the appropriation act, federal law, or federal regulation requires a regulation to take effect no later than (a) 280 days from the enactment in the case of Virginia or federal law or the appropriation act, or (b) 280 days from the effective date of a federal regulation, it then requests the Governor's approval to adopt 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 to addressing specifically defined situations and may not exceed 12 months in duration. Emergency regulations are published as soon as possible in the *Register*.

During the time the emergency status is in effect, the agency may proceed with the adoption of permanent regulations through the usual procedures. To begin promulgating the replacement regulation, the agency must (i) file the Notice of Intended Regulatory Action with the Registrar within 60 days of the effective date of the emergency regulation; and (ii) file the proposed regulation with the Registrar within 180 days of the effective date of the emergency regulation. If the agency chooses not 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.

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NOTICES OF INTENDED REGULATORY ACTION

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

TITLE 9. ENVIRONMENT

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: **9 VAC 5-40-10 et seq. Regulations for the Control and Abatement of Air Pollution: Existing Stationary Sources (Rev. F97).** The purpose of the proposed action is to adopt regulation amendments that remove requirements concerning petroleum liquid storage and transfer operations (9 VAC 5 Chapter 40, Article 37) that exceed federal mandates as identified pursuant to the review of existing regulations mandated by Executive Order 15 (94).

Public Meeting: A public meeting will be held by the department in the Training Room, 629 East Main Street, Richmond, Virginia, at 11 a.m. on October 8, 1997, 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 will form an ad hoc advisory group to assist in the development of the regulation. If you desire to be on the group, notify the agency contact in writing by 4:30 p.m. October 9, 1997, and provide your name, address, phone number and the organization you represent (if any). Notification of the composition of the ad hoc advisory group will be sent to all applicants. If you wish to be on the group, you are encouraged to attend the public meeting mentioned above. The primary function of the group is to develop recommended regulation amendments for department consideration through the collaborative approach of regulatory negotiation and consensus.

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 contemplated regulation is essential (i) to protect the health, safety or welfare of citizens or (ii) for the efficient and economical performance of an important governmental function. The reasoning for this conclusion is set forth below.

The agency performed an analysis to determine if statutory mandates justify continuation of the regulation. The analysis revealed that statutory justification does exist for the regulation. The regulation was adopted in order to implement the policy set forth in the Virginia Air Pollution Control Law and to fulfill the Commonwealth's responsibilities under the federal Clean Air Act to provide a legally enforceable State Implementation Plan for the control of criteria pollutants. These statutes still remain in force with the provisions that initiated adoption of the regulation still intact.

Analysis reveals that the regulation is consistent with applicable state and federal regulations, statutory provisions, and judicial decisions. Factors and circumstances (federal statutes, original intent, state air quality program, and air pollution control methodology and technology) which justified the original issuance of the regulation have not changed to a degree that would justify a change to the basic requirements of the regulation.

Federal guidance on states' approaches to air pollution control has varied considerably over the years, ranging from very general in the early years of the Clean Air Act to very specific in more recent years. The 1977 amendments to the Clean Air Act authorized the establishment of nonattainment areas and prescribed specific requirements for those areas. These amendments also required EPA to promulgate minimum RACT requirements for sources of volatile organic compounds. These requirements are summarized in Appendix D to EPA's proposed policy statement. See 52 FR 45105 (November 24, 1987). The 1990 amendments to the Clean Air Act required states to adopt regulations incorporating EPA's minimum RACT requirements for sources of volatile organic compounds. Therefore, the legally binding federal mandate for this regulation derives from the minimum RACT requirements published pursuant to the 1977 amendments combined with the directive in the 1990 amendments for states to adopt regulations which include these minimum RACT requirements in order to control volatile organic compounds, which are emitted by the sources subject to this regulation.

There is, however, one provision of the regulation that exceeds the specific minimum requirements of a legally binding state or federal mandate.

9 VAC 5-40-5200 B specifies the applicability of the regulation to sources outside the volatile organic compound emissions control areas according to a phased schedule set forth in 9 VAC 5-40-5200 B 1, 2, and 3. This requirement exceeds the federal mandate, which requires only sources inside, not outside, the volatile organic compound emissions control areas to comply with the standards. When the regulation was adopted Virginia's State Air Pollution Control Board chose to extend the applicability of the regulation to the entire state.

The specified provision of the regulation is not essential to protect the health, safety or welfare of the citizens of the Commonwealth because recent Regional Oxidant Modeling (ROM) has shown that controlling volatile organic compound emissions outside nonattainment areas does not contribute

significantly to attainment within those areas. Therefore, the extension of the regulation's applicability to the entire state does not accomplish any more than limiting the applicability to the volatile organic compound emissions control areas.

Alternatives: Alternatives to the proposed regulation amendments are being considered by the department. The department has tentatively determined that the third alternative is appropriate as it is the least burdensome and least intrusive alternative that fully meets the purpose of the regulation amendments. The alternatives being considered by the department are discussed below.

1. Take no action to amend the regulation. This option is not being selected because of the reason specified below in 3.

2. Make alternative regulatory changes to those that are required by the provisions of the legally binding state or federal mandates. This option is not being selected because such changes are not warranted.

3. Amend the regulation to satisfy the provisions of the legally binding state or federal mandates. This option is being selected because such changes are necessary as the current regulation needlessly exceeds the federal mandate.

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

Applicable Statutory Requirements: The regulation is mandated by federal law or regulation. A succinct statement of the source (including legal citation) and scope of the mandate may be found below.

Section 110(a) of the Clean Air Act (CAA) mandates that each state adopt and submit to EPA a plan which provides for the implementation, maintenance, and enforcement of each primary and secondary air quality standard within each air quality control region in the state. The state implementation plan shall be adopted only after reasonable public notice is given and public hearings are held. The plan shall include provisions to accomplish, among other tasks, the following:

1. Establish enforceable emission limitations and other control measures as necessary to comply with the provisions of the CAA, including economic incentives such as fees, marketable permits, and auctions of emissions rights;

2. Establish schedules for compliance;

3. Prohibit emissions which would contribute to nonattainment of the standards or interference with maintenance of the standards by any state; and

4. Require sources of air pollution to install, maintain, and replace monitoring equipment as necessary and to report periodically on emissions-related data.

40 CFR Part 51 sets out the general requirements for the preparation, adoption, and submittal of state implementation plans. These requirements mandate that any such plan shall include several provisions including those summarized below.

Subpart G (Control Strategy) specifies the description of control measures and schedules for implementation, the description of emissions reductions estimates sufficient to attain and maintain the standards, time periods for demonstrations of the control strategy's adequacy, an emissions inventory, an air quality data summary, data availability, special requirements for lead emissions, stack height provisions, and intermittent control systems.

Subpart K (Source Surveillance) specifies procedures for emissions reports and recordkeeping, procedures for testing, inspection, enforcement, and complaints, transportation control measures, and procedures for continuous emissions monitoring.

Subpart L (Legal Authority) specifies the requirements for legal authority to implement plans.

Section 51.230 under Subpart L specifies that each state implementation plan must show that the state has the legal authority to carry out the plan, including the authority to perform the following actions:

1. Adopt emission standards and limitations and any other measures necessary for the attainment and maintenance of the national ambient air quality standards;

2. Enforce applicable laws, regulations, and standards, and seek injunctive relief;

3. Abate pollutant emissions on an emergency basis to prevent substantial endangerment to the health of persons;

4. Prevent construction, modification, or operation of a facility, building, structure, or installation, or combination thereof, which directly or indirectly results or may result in emissions of any air pollutant at any location which will prevent the attainment or maintenance of a national standard;

5. Obtain information necessary to determine whether air pollution sources are in compliance with applicable laws, regulations, and standards, including authority to require recordkeeping and to make inspections and conduct tests of air pollution sources;

6. Require owners or operators of stationary sources to install, maintain, and use emission monitoring devices and to make periodic reports to the state on the nature and amounts of emissions from such stationary sources; and

7. Make emissions data available to the public as reported and as correlated with any applicable emission standards or limitations.

Section 51.231 under Subpart L requires the identification of legal authority as follows:

1. The provisions of law or regulation which the state determines provide the authorities required under this section must be specifically identified, and copies of such laws or regulations must be submitted with the plan; and

2. The plan must show that the legal authorities specified in this subpart are available to the state at the time of submission of the plan.

Subpart N (Compliance Schedules) specifies legally enforceable compliance schedules, final compliance schedule dates, and conditions for extensions beyond one year.

Part D of the Clean Air Act specifies state implementation plan requirements for nonattainment areas, with Subpart 1 covering nonattainment areas in general and Subpart 2 covering additional provisions for ozone nonattainment areas.

Section 171 defines "reasonable further progress," "nonattainment area," "lowest achievable emission rate," and "modification."

Section 172(a) authorizes EPA to classify nonattainment areas for the purpose of assigning attainment dates. Section 172(b) authorizes EPA to establish schedules for the submission of plans designed to achieve attainment by the specified dates. Section 172(c) specifies the provisions to be included in each attainment plan, as follows:

1. The implementation of all reasonably available control measures as expeditiously as practicable and shall provide for the attainment of the national ambient air quality standards;

2. The requirement of reasonable further progress;

3. A comprehensive, accurate, current inventory of actual emissions from all sources of the relevant pollutants in the nonattainment area;

4. An identification and quantification of allowable emissions from the construction and modification of new and modified major stationary sources in the nonattainment area;

5. The requirement for permits for the construction and operations of new and modified major stationary sources in the nonattainment area;

6. The inclusion of enforceable emission limitations and such other control measures (including economic incentives such as fees, marketable permits, and auctions of emission rights) as well as schedules for compliance;

7. If applicable, the proposal of equivalent modeling, emission inventory, or planning procedures; and

8. The inclusion of specific contingency measures to be undertaken if the nonattainment area fails to make reasonable further progress or to attain the national ambient air quality standards by the attainment date.

Section 172(d) requires that attainment plans be revised if EPA finds inadequacies. Section 172(e) authorizes the issuance of requirements for nonattainment areas in the event of a relaxation of any national ambient air quality standard. Such requirements shall provide for controls which are not less stringent than the controls applicable to these same areas before such relaxation.

Under Part D, Subpart 2, § 182(a)(2)(A) requires that the existing regulatory program requiring reasonably available control technology (RACT) for stationary sources of volatile organic compounds (VOCs) in marginal nonattainment areas be corrected by May 15, 1991, to meet the minimum requirements in existence prior to the enactment of the 1990 amendments. RACT is the lowest emission limit that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility. EPA has published control technology guidelines (CTGs) for various types of sources, thereby defining the minimum acceptable control measure or RACT for a particular source type.

Section 182(b) requires stationary sources in moderate nonattainment areas to comply with the requirements for sources in marginal nonattainment areas. The additional, more comprehensive control measures in § 182(b)(2)(A) require that each category of VOC sources employ RACT if the source is covered by a CTG document issued between enactment of the 1990 amendments and the attainment date for the nonattainment area. Section 182(b)(2)(B) requires that existing stationary sources emitting VOCs for which a CTG existed prior to adoption of the 1990 amendments also employ RACT.

Section 182(c) requires stationary sources in serious nonattainment areas to comply with the requirements for sources in both marginal and moderate nonattainment areas.

EPA has issued detailed guidance that sets out its preliminary views on the implementation of the air quality planning requirements applicable to nonattainment areas. This guidance is titled the "General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990" (or "General Preamble"). See 57 FR 13498 (April 16, 1992) and 57 FR 18070 (April 28, 1992). The General Preamble has been supplemented with further guidance on Title I requirements. See 57 FR 31477 (July 16, 1992) (announcing the availability of draft guidance for lead nonattainment areas and serious PM_{10} nonattainment areas); 57 FR 55621 (Nov. 25, 1992) (guidance on NO_X RACT requirements in ozone nonattainment areas). For this subject, the guidance provides little more than a summary and reiteration of the provisions of the Act.

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

Public comments may be submitted until 4:30 p.m. October 9, 1997, to the Director, Office of Program Development, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240.

Contact: Mary E. Major, Environmental Program Manager, Office of Air Program Development, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4423, FAX (804) 698-4510, toll-free 1-800-592-5482, or (804) 698-4021/TDD ☎

VA.R. Doc. No. R97-709; Filed August 12, 1997, 4:03 p.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 **Regulations for the Control and Abatement of Air Pollution (Rev. D97), 9 VAC 5-40-10 et seq. Existing Stationary Sources; 9 VAC 5-50-10 et seq. New and Modified Stationary Sources; and 9 VAC 5-60-10 et seq. Hazardous Air Pollutant Sources.** The purpose of the proposed action is to adopt regulation amendments to update the special provisions for existing sources, 9 VAC 5 Chapter 40, Part I; new and modified sources, 9 VAC 5 Chapter 50, Part I; and hazardous air pollutant sources, 9 VAC 5 Chapter 60, Part I, to be consistent with federal requirements as identified pursuant to the review of existing regulations mandated by Executive Order 15 (94).

Public Meeting: A public meeting will be held by the department in the Training Room, 629 East Main Street, Richmond, Virginia, at 10 a.m. on October 8, 1997, 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. The primary function of any group, committee or individuals that may be utilized is to develop recommended regulation amendments for department consideration through the collaborative approach of regulatory negotiation and consensus. Any comments relative to this issue may be submitted until 4:30 p.m. October 9, 1997, to the Director, Office of Program Development, Department of Environmental Quality, P.O. Box 10009, Richmond, Virginia 23240.

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 contemplated regulation is essential (i) to protect the health, safety or welfare of citizens or (ii) for the efficient and economical performance of an important governmental function. The reasoning for this conclusion is set forth below.

The agency performed an analysis to determine if statutory mandates justify continuation of the regulation. The analysis revealed that statutory justification does exist for the regulation. The regulation was adopted in order to implement the policy set forth in the Virginia Air Pollution Control Law and to fulfill the Commonwealth's responsibilities under the federal Clean Air Act to provide a legally enforceable State Implementation Plan for the control of criteria pollutants. These statutes still remain in force with the provisions that initiated adoption of the regulation still intact.

Analysis reveals that the regulation is not consistent with applicable state and federal regulations, statutory provisions, and judicial decisions. Factors and circumstances (federal statutes, original intent, state air quality program and air pollution control methodology and technology) which justified the initial issuance of the regulation have changed to a degree that would justify a change to the basic requirements of the regulation, as explained below.

9 VAC 5 Chapter 40, Existing Sources

Federal guidance on states' approaches to air pollution control has varied considerably over the years, ranging from very general in the early years of the Clean Air Act to very specific in more recent years. 9 VAC 5 Chapter 40, Part I, Special Provisions for Existing Sources, was adopted in 1975, when little detailed guidance existed. Therefore, the legally binding federal mandate for this regulation is general, not specific, consisting of the Clean Air Act's broad-based directive to states to meet the air quality standards.

The current regulatory requirements of 9 VAC 5 Chapter 40, Part I, Special Provisions, for Existing Sources and 9 VAC 5-10-20, Appendices J and N were reviewed against the current requirements of 40 CFR Part 51, and Appendix M and Appendix P to 40 CFR Part 51. Appendix S relates specifically to VOC sources and will be evaluated with pertinent regulations. In some cases, 40 CFR Part 51 suggested or required the use of regulatory provisions of 40 CFR Part 60. In these cases, the requirements of 40 CFR Part 60 were reviewed against 9 VAC 5 Chapter 40, Part I, Special Provisions, and 9 VAC 5-10-20, Appendix J. In addition, the current regulatory requirements of 9 VAC 5-40-20 I concerning stack height were reviewed against the current requirements of 40 CFR 51.118.

In this review, certain provisions were found to be inconsistent with the corresponding federal requirements. An explanation of the amendments needed to bring the affected provisions in line with the federal requirements is provided below.

1. 9 VAC 5-10-20, Appendix J needs to be amended to meet the requirements of 40 CFR Part 51, Appendix P, with regard to the frequency of sampling, analyzing and data recording and with regard to the number of data points needed to calculate averages when using continuous emissions monitoring.

2. 9 VAC 5-40-30 needs to be amended to include the test methods in 40 CFR Part 51, Appendix M, as well as those in 40 CFR Part 60, Appendix A.

9 VAC 5 Chapter 50, New and Modified Sources

The current regulatory requirements of 9 VAC 5 Chapter 50, Part I, Special Provisions for New and Modified Sources were reviewed against the current requirements of 40 CFR Part 51, and Appendix M and Appendix P to 40 CFR Part 51. Appendix S relates specifically to VOC sources and will be evaluated with pertinent regulations. In some cases, 40 CFR Part 51 suggested or required the use of regulatory provisions of 40 CFR Part 60. In these cases, the requirements of 40 CFR Part 60 were reviewed against 9 VAC 5 Chapter 50, Part I, Special Provisions. In addition, the current regulatory requirements of 9 VAC 5-50-20 H concerning stack height were reviewed against the current requirements of 40 CFR 51.118 and 40 CFR 51.164.

In this review, certain provisions were found to be inconsistent with the corresponding federal requirements. An explanation of the amendments needed to bring the affected provisions in line with the federal requirements is provided below.

9 VAC 5-50-30 needs to be amended to include the test methods in 40 CFR Part 51, Appendix M, as well as those in 40 CFR Part 60, Appendix A.

9 VAC 5 Chapter 60, Hazardous Air Pollutant Sources

The current regulatory requirements of 9 VAC 5 Chapter 60, Part I, Special Provisions, Hazardous Air Pollutants, were reviewed against the current requirements of 40 CFR Part 61.

In this review, certain provisions were found to be inconsistent with the corresponding federal requirements. An explanation of the amendments needed to bring the affected provisions in line with the federal requirements is provided below.

9 VAC 5 Chapter 60, Part I, needs to be amended to ensure that it meets the federal requirements of 40 CFR Part 61, particularly with regard to requirements for visible emissions.

Alternatives: Alternatives to the proposed regulation amendments are being considered by the department. The department has tentatively determined that the third alternative is appropriate, as it is the least burdensome and least intrusive alternative that fully meets the purpose of the regulation amendments. The alternatives being considered by the department are discussed below.

1. Take no action to amend the regulation. This option is not being selected because the regulation would remain out of date.

2. Make alternative regulatory changes to those required by the provisions of the legally binding state or federal mandates. This option is not being selected because no alternative to the federal mandate would be appropriate.

3. Amend the regulation to satisfy the provisions of the legally binding state or federal mandates. This option is being selected because the regulation should be updated to reflect the latest requirements.

Applicable Statutory Requirements: The contemplated regulation amendments are mandated by federal law or regulation. A succinct statement of the source (including legal citation) and scope of the mandate may be found below.

9 VAC 5 Chapter 40, Existing Sources

Section 110(a) of the Clean Air Act (CAA) mandates that each state adopt and submit to EPA a plan which provides for the implementation, maintenance, and enforcement of each primary and secondary air quality standard within each air quality control region in the state. The state implementation plan shall be adopted only after reasonable public notice is given and public hearings are held. The plan shall include provisions to accomplish, among other tasks, the following:

1. Establish enforceable emission limitations and other control measures as necessary to comply with the provisions of the CAA including economic incentives such as fees, marketable permits, and auctions of emissions rights;

2. Establish schedules for compliance;

3. Establish a program for the enforcement of the emission limitations and schedules for compliance; and

4. Require sources of air pollution to install, maintain, and replace monitoring equipment as necessary and to report periodically on emissions-related data.

Section 123 of the Clean Air Act establishes the criteria for determining the stack height for stationary sources of air pollution in existence before the date of enactment of the Clean Air Act Amendments of 1970. Specifically the section requires that "the degree of emission limitation required of any source for control of any air pollutant under an applicable implementation plan...must not be affected in any manner by:

1. So much of any source's stack height that exceeds good engineering practice (as determined under regulations promulgated by the Administrator), or

2. Any other dispersion technique."

For purposes of this section the term "dispersion technique" includes any intermittent or supplemental control of air pollutants varying with atmospheric conditions. Good engineering practice means, with respect to stack height, the height necessary to ensure that emissions from the stack do not result in excessive concentrations of any pollutant in the immediate vicinity of the source as a result of atmospheric downwash, eddies and wakes which may be created by the source itself, nearby structures or nearby terrain obstacles.

40 CFR Part 51 sets out requirements for the preparation, adoption, and submittal of state implementation plans. These requirements mandate that any such plan shall include several provisions as summarized below.

Subpart F (Procedural Requirements) specifies definitions of key terms, stipulations and format for plan submission, requirements for public hearings, and conditions for plan revisions and federal approval.

Subpart G (Control Strategy) specifies the description of emissions reductions estimates sufficient to attain and

maintain the standards, the description of control measures and schedules for implementation, time periods for demonstrations of the control strategy's adequacy, an emissions inventory, an air quality data summary, data availability, special requirements for lead emissions, and intermittent control systems.

Section 51.118 of Subpart G sets out stack height requirements. Section 51.118 requires that the plan submitted by the state must provide that "the degree of emission limitation required of any source for control of any air pollutant must not be affected by so much of any source's stack height that exceeds good engineering practice or by any other dispersion technique." Facilities with stacks in existence after December 31, 1970, must follow good engineering practice.

Subpart K (Source Surveillance) specifies procedures for emissions reports and recordkeeping, procedures for testing, inspection, enforcement, and complaints, transportation control measures and procedures for continuous emissions monitoring.

Subpart L (Legal Authority) specifies the requirements for legal authority to implement plans and assignment of legal authority to local agencies.

Section 51.230 of Subpart L specifies that each state implementation plan must show that the state has the legal authority to carry out the plan including the authority to perform the following actions:

1. Adopt emission standards and limitations and any other measures necessary for the attainment and maintenance of the national ambient air quality standards;

2. Enforce applicable laws, regulations, and standards, and seek injunctive relief;

3. Obtain information necessary to determine whether air pollution sources are in compliance with applicable laws, regulations, and standards including authority to require recordkeeping and to make inspections and conduct tests of air pollution sources;

4. Require owners or operators of stationary sources to install, maintain, and use emission monitoring devices and to make periodic reports to the state on the nature and amounts of emissions from such stationary sources; and

5. Make emissions data available to the public as reported and as correlated with any applicable emission standards or limitations.

Section 51.231 of Subpart L requires the identification of legal authority as follows:

1. The provisions of law or regulation which the state determines provide the authorities required under § 51.231 must be specifically identified, and copies of such laws or regulations must be submitted with the plan; and

2. The plan must show that the legal authorities specified in Subpart L are available to the state at the time of submission of the plan.

Subpart N (Compliance Schedules) specifies legally enforceable compliance schedules, final compliance schedule dates, and conditions for extensions beyond one year.

Appendix M (Recommended Test Methods for State Implementation Plans) provides recommended test methods for measuring air pollutants which a state may choose to meet the requirements of Subpart K. The state may also choose to meet the requirements of Subpart K through any of the relevant methods in Appendix A to 40 CFR Part 60 or any other method that could be approved and adopted into the state implementation plan.

Appendix P (Minimum Emission Monitoring Requirements) specifies the minimum requirements for continuous emission monitoring and recording.

9 VAC 5 Chapter 50, New and Modified Sources

Section 110(a) of the Clean Air Act (CAA) mandates that each state adopt and submit to EPA a plan which provides for the implementation, maintenance, and enforcement of each primary and secondary air quality standard within each air quality control region in the state. The state implementation plan shall be adopted only after reasonable public notice is given and public hearings are held. The plan shall include provisions to accomplish, among other tasks, the following:

1. Establish enforceable emission limitations and other control measures as necessary to comply with the provisions of the CAA, including economic incentives such as fees, marketable permits, and auctions of emissions rights;

2. Establish schedules for compliance;

3. Establish a program for the enforcement of the emission limitations and schedules for compliance; and

4. Require sources of air pollution to install, maintain, and replace monitoring equipment as necessary and to report periodically on emissions-related data.

Section 110(j) specifies that, as a condition for issuance of any permit required under this title, the owner or operator of each new or modified stationary source which is required to obtain such a permit must show to the satisfaction of the permitting authority that the technological system of continuous emission reduction which is proposed will enable the source to comply with the standards of performance which are to apply to the source and that the construction or modification and operation of the source will be in compliance with all other requirements of the CAA.

Section 123 of the Clean Air Act establishes the criteria for determining the stack height for stationary sources of air pollution in existence before the date of enactment of the Clean Air Act Amendments of 1970. Specifically the section requires that "the degree of emission limitation required of

any source for control of any air pollutant under an applicable implementation plan...must not be affected in any manner by:

1. So much of any source's stack height that exceeds good engineering practice (as determined under regulations promulgated by the Administrator), or

2. Any other dispersion technique."

For purposes of this section the term "dispersion technique" includes any intermittent or supplemental control of air pollutants varying with atmospheric conditions. Good engineering practice means, with respect to stack height, the height necessary to ensure that emissions from the stack do not result in excessive concentrations of any pollutant in the immediate vicinity of the source as a result of atmospheric downwash, eddies and wakes which may be created by the source itself, nearby structures or nearby terrain obstacles.

40 CFR Part 51 sets out requirements for the preparation, adoption, and submittal of state implementation plans. These requirements mandate that any such plan shall include several provisions as summarized below.

Subpart F (Procedural Requirements) specifies definitions of key terms, stipulations and format for plan submission, requirements for public hearings, and conditions for plan revisions and federal approval.

Subpart G (Control Strategy) specifies the description of emissions reductions estimates sufficient to attain and maintain the standards, the description of control measures and schedules for implementation, time periods for demonstrations of the control strategy's adequacy, an emissions inventory, an air quality data summary, data availability, special requirements for lead emissions, and intermittent control systems.

Section 51.118 of Subpart G sets out stack height requirements. Section 51.118 requires that the plan submitted by the state must provide that "the degree of emission limitation required of any source for control of any air pollutant must not be affected by so much of any source's stack height that exceeds good engineering practice or by any other dispersion technique." Facilities with stacks in existence after December 31, 1970, must follow good engineering practice.

Subpart I (Review of New Sources and Modifications) specifies legally enforceable procedures, public availability of information on sources, identification of responsible agency, administrative procedures, stack height procedures, permit requirements, and requirements for prevention of significant deterioration of air quality.

Subpart K (Source Surveillance) specifies procedures for emissions reports and recordkeeping, procedures for testing, inspection, enforcement, and complaints, transportation control measures, and procedures for continuous emissions monitoring.

Subpart L (Legal Authority) specifies the requirements for legal authority to implement plans and assignment of legal authority to local agencies.

Section 51.230 of Subpart L specifies that each state implementation plan must show that the state has the legal authority to carry out the plan, including the authority to perform the following actions:

1. Adopt emission standards and limitations and any other measures necessary for the attainment and maintenance of the national ambient air quality standards;

2. Enforce applicable laws, regulations, and standards, and seek injunctive relief;

3. Obtain information necessary to determine whether air pollution sources are in compliance with applicable laws, regulations, and standards, including authority to require recordkeeping and to make inspections and conduct tests of air pollution sources;

4. Require owners or operators of stationary sources to install, maintain, and use emission monitoring devices and to make periodic reports to the state on the nature and amounts of emissions from such stationary sources; and

5. Make emissions data available to the public as reported and as correlated with any applicable emission standards or limitations.

Section 51.231 of Subpart L requires the identification of legal authority as follows:

1. The provisions of law or regulation which the state determines provide the authorities required under § 51.231 must be specifically identified, and copies of such laws or regulations must be submitted with the plan; and

2. The plan must show that the legal authorities specified in Subpart L are available to the state at the time of submission of the plan.

Subpart N (Compliance Schedules) specifies legally enforceable compliance schedules, final compliance schedule dates, and conditions for extensions beyond one year.

Appendix M (Recommended Test Methods for State Implementation Plans) provides recommended test methods for measuring air pollutants which a state may choose to meet the requirements of Subpart K. The state may also choose to meet the requirements of Subpart K through any of the relevant methods in Appendix A to 40 CFR Part 60 or any other method that could be approved and adopted into the state implementation plan.

Appendix P (Minimum Emission Monitoring Requirements) specifies the minimum requirements for continuous emission monitoring and recording.

9 VAC 5 Chapter 60, Hazardous Air Pollutant Sources

Hazardous air pollutants (HAPs) are pollutants for which no ambient air quality standard is applicable yet pose the risk of serious health problems. EPA's program for dealing with HAPs was first established in § 112 of the Clean Air Act Amendments of 1977. This section requires that EPA develop and maintain a list of hazardous air pollutants (HAPs), and develop national emission standards (NESHAPs) for these pollutants.

Section 112(b)(1)(A) requires EPA to develop the list of HAPS; under § 112(b)(1)(B), emission standards for each HAP on the list must be established. States may be delegated the authority to implement and enforce the NESHAPs; § 112(d)(1) states, "Each State may develop and submit to [EPA] a procedure for implementing and enforcing emission standards for [HAPs] for stationary sources located in such State. If [EPA] finds the State procedure is adequate, [it] shall delegate to such State any authority . . . to implement and enforce such standards."

The National Emission Standards for Hazardous Air Pollutants are found in 40 CFR 61. Thus far, over 20 NESHAPs have been established, as well as related test methods and quality assurance procedures. Additionally, the General Provisions include lists of pollutants and applicability; determination, application, and approval of construction or modification; source reporting; compliance with standards and maintenance requirements; emission tests; monitoring requirements; and state authority.

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

Public comments may be submitted until 4:30 p.m. October 9, 1997, to the Director, Office of Program Development, Department of Environmental Quality, P.O. Box 10009, Richmond, Virginia 23240.

Contact: Mary E. Major, Environmental Program Manager, Office of Air Program Development, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4423, FAX (804) 698-4510, toll-free 1-800-592-5482, or (804) 698-4021/TDD ☎

VA.R. Doc. No. R97-708; Filed August 12, 1997, 4:03 p.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: **9 VAC 5-40-10 et seq. Regulations for the Control and Abatement of Air Pollution: Existing Stationary Sources (Rev. L97).** The purpose of the proposed action is to amend the regulation in order to clearly identify which sources are subject to the regulation as identified pursuant to the review of existing regulations mandated by Executive Order 15 (94).

Public Meeting: A public meeting will be held by the department in the Training Room, 629 East Main Street, Richmond, Virginia, at 10 a.m. on Monday, October 20, 1997, 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. The primary function of any group, committee or individuals that may be utilized is to develop recommended regulation amendments for department consideration through the collaborative approach of regulatory negotiation and consensus. Any comments relative to this issue may be submitted until 4:30 p.m. Tuesday, October 21, 1997, to the Director, Office of Program Development, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240.

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 contemplated regulation amendments are essential (i) to protect the health, safety or welfare of citizens or (ii) for the efficient and economical performance of an important governmental function. The reasoning for this conclusion is set forth below.

The agency performed an analysis to determine if statutory mandates justify continuation of the regulation. The analysis revealed that statutory justification does exist for the regulation. The regulation was adopted in order to implement the policy set forth in the Virginia Air Pollution Control Law and to fulfill the Commonwealth's responsibilities under the federal Clean Air Act to provide a legally enforceable State Implementation Plan for the control of criteria pollutants. These statutes still remain in force with the provisions that initiated adoption of the regulation still intact.

Analysis reveals that the regulation is consistent with applicable state and federal regulations, statutory provisions, and judicial decisions. Factors and circumstances (federal statutes, original intent, state air quality program and air pollution control methodology and technology) which justified the initial issuance of the regulation have not changed to a degree that would justify a change to the basic requirements of the regulation.

Federal guidance on states' approaches to air pollution control has varied considerably over the years, ranging from very general in the early years of the Clean Air Act to very specific in more recent years. This regulation, Rule 4-13, was first adopted in 1972, when no detailed guidance existed. Therefore, the legally binding federal mandate for this regulation is general, not specific, consisting of the Clean Air Act's broad-based directive to states to meet the air quality standard for particulate matter, which is emitted by all kraft pulp mill recovery furnace units, smelt dissolving tank units, lime kiln units and slaker tank units.

Guidance for the control of TRS was published in an EPA guideline document in 1979. The rule was amended to address the control of TRS, which is emitted by each kraft pulp mill recovery furnace, digester system, multiple-effect evaporative system, lime kiln, condensate stripper system, and smelt dissolving tank.

The agency performed a review to determine if the regulation is written so as to permit only one reasonable interpretation. This review revealed that some confusion exists over whether the regulation applies to semi-chemical paper mills or if this type of source is actually controlled by another regulation.

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

1. Amend the regulation to adequately identify the regulated entity to which the provisions of the regulation apply. This option is being selected in order to improve understanding of the regulation.

2. Make alternative regulatory changes to those required by the provisions of the legally binding state or federal mandates. This option is not being selected because it could result in the imposition of requirements that place unreasonable hardships on the regulated community.

3. Take no action to amend the regulation. This option is not being selected because the current regulation does not adequately identify the entity to which the provisions of the regulation apply.

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

Applicable Statutory Requirements: The regulation is mandated by federal law or regulation. A succinct statement of the source (including legal citation) and scope of the mandate may be found below.

Section 110(a) of the Clean Air Act (CAA) mandates that each state adopt and submit to the EPA a plan which provides for the implementation, maintenance, and enforcement of each primary and secondary air quality standard within each air quality control region in the state. The state implementation plan shall be adopted only after reasonable public notice is given and public hearings are held. The plan shall include provisions to accomplish, among other tasks, the following:

1. Establish enforceable emission limitations and other control measures as necessary to comply with the provisions of the CAA, including economic incentives such as fees, marketable permits, and auctions of emissions rights;

2. Establish schedules for compliance;

3. Prohibit emissions which would contribute to nonattainment of the standards or interference with maintenance of the standards by any state; and

4. Require sources of air pollution to install, maintain, and replace monitoring equipment as necessary and to report periodically on emissions-related data.

Section 111(d) requires that each state submit a plan which will (i) establish standards of performance for any existing source for any air pollutant: (a) for which criteria have not been issued or which is not included on a list published under section 110 (or emitted from a source category which is regulated under section 112 or 112(b)), but (b) to which a standard of performance under this section would apply if such existing source were a new source and (ii) provides for the implementation and enforcement of such standards of performance. The state may take into consideration the remaining useful life of the existing source to which standards apply.

40 CFR Part 51 sets out requirements for the preparation, adoption, and submittal of state implementation plans. These requirements mandate that any such plan shall include several provisions, including those summarized below.

Subpart G (Control Strategy) specifies the description of control measures and schedules for implementation, the description of emissions reductions estimates sufficient to attain and maintain the standards, time periods for demonstrations of the control strategy's adequacy, an emissions inventory, an air quality data summary, data availability, special requirements for lead emissions, stack height provisions, and intermittent control systems.

Subpart K (Source Surveillance) specifies procedures for emissions reports and recordkeeping, procedures for testing, inspection, enforcement, and complaints; transportation control measures; and procedures for continuous emissions monitoring.

Subpart L (Legal Authority) specifies the requirements for legal authority to implement plans.

Section 51.230 under Subpart L specifies that each state implementation plan must show that the state has the legal authority to carry out the plan, including the authority to perform the following actions:

1. Adopt emission standards and limitations and any other measures necessary for the attainment and maintenance of the national ambient air quality standards;

2. Enforce applicable laws, regulations, and standards, and seek injunctive relief;

3. Abate pollutant emissions on an emergency basis to prevent substantial endangerment to the health of persons;

4. Prevent construction, modification, or operation of a facility, building, structure, or installation, or combination thereof, which directly or indirectly results or may result in emissions of any air pollutant at any location which will prevent the attainment or maintenance of a national standard;

5. Obtain information necessary to determine whether air pollution sources are in compliance with applicable laws, regulations, and standards, including authority to require recordkeeping and to make inspections and conduct tests of air pollution sources;

6. Require owners or operators of stationary sources to install, maintain, and use emission monitoring devices and to make periodic reports to the state on the nature and amounts of emissions from such stationary sources; and

7. Make emissions data available to the public as reported and as correlated with any applicable emission standards or limitations.

Section 51.231 under Subpart L requires the identification of legal authority as follows:

1. The provisions of law or regulation which the state determines provide the authorities required under this section must be specifically identified, and copies of such laws or regulations must be submitted with the plan; and

2. The plan must show that the legal authorities specified in this subpart are available to the state at the time of submission of the plan.

Subpart N (Compliance Schedules) specifies legally enforceable compliance schedules, final compliance schedule dates, and conditions for extensions beyond one year.

40 CFR Part 60 subpart B provides the criteria for adoption and submittal of state plans for designated facilities. The issues include: (i) publication of guideline documents, emissions guidelines, and final compliance times; (ii) adoption and submittal of state plans including public hearings; (iii) emission standards and compliance schedules; (iv) emission inventories and source surveillance, reports; (v) actions by the EPA Administrator; (vi) plan revisions by the state; and (vii) plan revisions by the administrator.

The EPA issued a guideline entitled Kraft Pulping: Control of TRS emissions from Existing Mills, EPA 450/2-78-003b (March, 1979). This guideline provides information related to: the health-and-welfare-related effects of the TRS compounds; paper industry characteristics; process description; emissions characteristics, guidelines and control techniques; and cost analysis information.

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

Public comments may be submitted until 4:30 p.m. Tuesday, October 21, 1997, to the Director, Office of Program Development, Department of Environmental Quality, P.O. Box 10009, Richmond, Virginia 23240.

Contact: Mary E. Major, Environmental Program Manager, Office of Air Program Development, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4423, FAX (804) 698-4510, toll free 1-800-592-5482, or (804) 698-4021/TDD ☎

VA.R. Doc. No. R97-739; Filed August 25, 1997, 11:38 a.m.

STATE WATER CONTROL BOARD

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia and this board's Public Participation Guidelines that the State Water Control Board intends to consider the repeal of 18 water quality management plans as follows: **9 VAC 25-420-10 et seq. James River 3(c) Wastewater Management Plan - Peninsula Area; 9 VAC 25-430-10 et seq. Roanoke River Basin Water Quality Management Plan; 9 VAC 25-440-10 et seq. Upper Roanoke River Subarea Water Quality Management Plan; 9 VAC 25-450-10 et seq. Upper James River Basin Water Quality Management Plan; 9 VAC 25-452-10 et seq. Upper James-Jackson River Subarea Water Quality Management Plan; 9 VAC 25-460-10 et seq. Metropolitan/Regional Water Quality Management Plan for Northern Neck Planning District No. 17; 9 VAC 25-470-10 et seq. York River Basin Water Quality Management Plan; 9 VAC 25-480-10 et seq. Tennessee and Big Sandy River Basins Water Quality Management Plan; 9 VAC 25-490-10 et seq. Rappahannock Area Development Commission (RADCO) 208 Areawide Waste Treatment Management Plan and Potomac-Shenandoah River Basin 303(e) Water Quality Management Plan; 9 VAC 25-500-10 et seq. State Water Quality Management Plan for the Fifth Planning District; 9 VAC 25-510-10 et seq. Water Quality Management Plan for the Southwest Virginia 208 Planning Area; 9 VAC 25-520-10 et seq. Water Quality Management Plan for the First Tennessee-Virginia Development District; 9 VAC 25-530-10 et seq. Water Quality Management Plan for the Hampton Roads Planning Area (Planning Districts 20 and 21); 9 VAC 25-540-10 et seq. Water Quality Management Plan for the New River Basin; 9 VAC 25-550-10 et seq. Small Coastal River Basins and Chesapeake Bay Virginia Eastern Shore Portion Water Quality Management Plan; 9 VAC 25-560-10 et seq. Potomac-Shenandoah River Basin Water Quality Management Plan; 9 VAC 25-570-10 et seq. Richmond-Crater Interim Water Quality Management Plan; 9 VAC 25-572-10 et seq. The Metropolitan/Regional Water Quality Management Plans for:**

I. Accomack-Northampton Planning District

II. Central Shenandoah Planning District

III. Central Virginia Planning District

IV. Cumberland Plateau Planning District

V. Lenowisco Planning District

VI. Lord Fairfax Planning District

VII. Mount Rogers Planning District

VIII. New River Valley Planning District

IX. Piedmont Planning District

X. Rappahannock-Rapidan Planning District

XI. Richmond Planning District

XII. Southside Planning District

XIII. Thomas Jefferson Planning District

XIV. West Piedmont Planning District

The purpose of the proposed action is to repeal the existing 18 water quality management plans to eliminate duplicative regulatory efforts and simplify the processing of wastewater discharge permits. The resulting nonregulatory plans will continue to guide water quality management efforts by the Department of Environmental Quality until replaced by updated plans.

Basis and Statutory Authority: Section 62.1-44.15 (13) of the Code of Virginia authorizes the board to establish policies and programs for effective areawide and basinwide water quality control and management. The code also authorizes the board to develop pollution abatement and water quality control plans.

Water quality management plans are required by § 303(e) of the federal Clean Water Act (CWA) as implemented by 40 CFR 130. Federal law does not require that water quality management plans be adopted as regulation. However, when the plans were first developed in the 1980's, the state Attorney General's office made a determination that the plans be adopted as regulations because they were required to contain total maximum daily loads (TMDL) and waste load allocation which were eventually incorporated into the Virginia Pollutant Discharge Elimination System (VPDES) permit. For this reason, each water quality management plan was adopted in its entirety as a regulation.

Need: Repeal of the existing water quality management plans will simplify the processing of the VPDES permits resulting in more efficient utilization of the resources of the Department of the Environmental Quality (DEQ).

The CWA requires that VPDES permits be consistent with the applicable water quality management plans. The plans, however, also allow for revisions in permit requirements as a result of availability of more data and more sophisticated methods of analyses. Application of newer methods coupled with more data usually result in permit limitations that are different from those listed in the plans. Consequently, the plans would require amendment in order for the permit to be legal. Deregulation of the plans will allow the revisions to be accomplished through the simpler procedure of permit amendment.

Amendment of the water quality management plans is governed by the Virginia Administrative Process Act (APA) and the Public Participation Guidelines of DEQ, which on average, takes between 14 to 18 months to complete. In contrast, permit revisions only take three to six months on average to complete.

Subject and Intent: The proposed regulatory action is to repeal the 18 water quality management plans listed in this notice. The State Water Control Board developed these plans during the 1970's and 1980's in compliance with §§ 208 and 303(e) of the federal Clean Water Act. The plans identified water quality problems, considered alternative solutions and recommended pollution control measures needed to attain or maintain water quality standards. The control measures are implemented through the issuance of Virginia Pollutant Discharge Elimination System permits for point source discharges and through voluntary best management practices for nonpoint sources of pollution.

The 208 plans were referred to as areawide waste treatment plans and were developed mainly for urbanized areas. The 303(e) plans were generally basinwide plans; however, some of the bigger river basins required more than one plan because of their size and diversity.

Although the CWA requires states to develop water quality management plans, there is no requirement that the plans be regulatory. At the time the plans were developed, the Virginia Attorney General's office was of the opinion that the plans were regulatory because they contain requirements that were incorporated in VPDES permits.

Estimated Impact: The repeal of water quality management Plans as regulations will have positive impact on VPDES permit holders because it will simplify the processing of the VPDES permits and allows the DEQ staff to issue permits in a more timely manner.

The majority of the existing regulatory plans have become obsolete because plan recommendations have already been implemented yet they continue to be carried on the books of the Virginia Registrar of Regulations. Plan repeal will clear the Registrar's books of unnecessary regulations.

Repeal of the water quality management plans will have an indirect positive impact on the citizens of Virginia in that water quality will still be maintained but with less expenditure of government resources. There are no costs associated with the repeal of the plan other than those normally incurred in the public participation process.

Alternatives: The waste load allocation and the total maximum daily loads are considered to be the regulatory components of the existing plans. The preferred alternative to meet the need is to repeal all existing water quality management plans and streamline and update the resulting nonregulatory plans. The regulatory components will be implemented through the existing VPDES permit process.

Another alternative to repealing the water quality management plans is to do nothing and amend the plans as needed whenever permit issuance or reissuance requires changes to the plans. The third alternative is to update each individual plan and maintain them as regulations.

Comments: The Department of Environmental Quality seeks written comments from interested persons on the proposed regulatory action and on the costs and benefits of the stated alternatives. Comments should be directed to Mrs. Erlinda

Patron, Office of Water Quality Assessment and Planning, Department of Environmental Quality, P. O. Box 10009, Richmond, Virginia 23240-0009, and must be received by 4 p.m. on October 31, 1997.

The Department of Environmental Quality intends to hold two public meetings to receive views and comments and to answer questions of the public. The first meeting will be held on Wednesday, October 29, 1997, in the Conference Room of the DEQ Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia, 23060, at 7:30 p.m. An Advisory Committee meeting will also be held prior to the general public meeting in the same room at 5 p.m. A second public meeting will be held on Thursday, October 30, 1997, at the Roanoke County Board of Supervisors' Room, 5204 Bernard Drive, Roanoke, Virginia 24018, at 2 p.m.

Accessibility to Persons with Disabilities: The meeting is being held at a public facility believed to be accessible to persons with disabilities. Any person with questions on the accessibility of the facilities should contact Mrs. Patron at the address above or by telephone at (804) 698-4047. Persons needing interpreter services for the deaf must notify Mrs. Patron no later than October 15, 1997.

Advisory Committee/Group: An ad hoc advisory group has been formed to provide input to the department regarding the format and content of the nonregulatory plans that will replace the current plans. The advisory group is composed of representatives from state, federal and local agencies, environmental groups, manufacturing and industrial facilities, and the public.

Intent to Hold a Public Hearing: The board intends to hold a public hearing on the proposed plan repeal after it is published in the *Register of Regulations*.

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

Public comments may be submitted until October 31, 1997.

Contact: Erlinda L. Patron, Environmental Engineer Consultant, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240-0009, telephone (804) 698-4047 or (804) 698-4136.

VA.R. Doc. No. R98-15; Filed September 10, 1997, 8:34 a.m.

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TITLE 12. HEALTH

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: **12 VAC 30-50-10 et seq. Amount, Duration, and Scope of Medical and Remedial Care and Services.** The purpose of the proposed action is to incorporate into the state plan the agency's policies for the coverage of outpatient hospital observation beds and breast reconstruction/prosthetics. 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 October 29, 1997, to Bonnie Winn, R.N., Division of Program Operations, Department of Medical Assistance Services, 600 East Broad Street, 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 (804) 371-4981.

VA.R. Doc. No. R8-18; Filed September 10, 1997, 11:45 a.m.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Medical Assistance Services intends to consider amending regulations entitled: **12 VAC 30-50-10 et seq. Amount, Duration and Scope of Medical and Remedial Care and Services; 12 VAC 30-70-10 et seq. Methods and Standards for Establishing Payment Rates; Inpatient Hospital Care.** The purpose of the proposed action is to provide for full implementation of a diagnosis related group methodology for payment and prior authorization of inpatient hospital services. Existing regulations provide for a two-year transition followed by full implementation but do not provide all the necessary details of the fully implemented method. 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 October 29, 1997, to Scott Crawford, Manager, Division of Financial Operations, Department of Medical Assistance Services, 600 East Broad Street, 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 (804) 371-4981.

VA.R. Doc. No. R98-19; Filed September 10, 1997, 11:45 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Medical Assistance Services intends to consider amending regulations entitled: **12 VAC 30-50-10 et seq. Amount, Duration, and Scope of Medical and Remedial Care and Services.** The purpose of the proposed action is to amend the State Plan for Medical Assistance to provide coverage for the additional school-

based health care services of skilled nursing services and Individualized Education Plan for development for children who qualify for special education services under Public Law 101-476. 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 October 1, 1997, to Jeff Nelson, Division of Policy and Budget, Department of Medical Assistance Services, 600 East Broad Street, 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 (804) 371-4981.

VA.R. Doc. No. R97-722; Filed August 13, 1997, 11:12 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Medical Assistance Services intends to consider amending regulations entitled: **12 VAC 30-50-100, 12 VAC 30-50-140, and 12 VAC 30-50-543, Amount, Duration, and Scope of Medical and Remedial Care and Services.** The purpose of the proposed action is to authorize the Department of Medical Assistance Services to provide reimbursement for high dose chemotherapy and bone marrow transplants for individuals over the age of 21 who have been diagnosed with lymphoma or breast cancer and to clarify the transplant reimbursement policy. 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 October 1, 1997.

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 (804) 371-4981.

VA.R. Doc. No. R97-721; Filed August 13, 1997, 11:12 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Medical Assistance Services intends to consider amending regulations entitled: **12 VAC 30-70-140, Methods and Standards for Establishing Payment Rates; Inpatient Hospital Care.** The purpose of the proposed action is to amend the current hospital appeals regulations to address the new payment methodology based on Diagnosis Related Groups. 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 October 1, 1997, to the Department of Medical Assistance Services, 600 East Broad Street, 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 (804) 371-4981.

VA.R. Doc. No. R97-720; Filed August 13, 1997, 11:12 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Medical Assistance Services intends to consider amending regulations entitled: **12 VAC 30-90-10 et seq. Methods and Standards for Establishing Payment Rates for Long-Term Care.** The purpose of the proposed action is to establish a payment methodology to nursing facilities for care rendered to persons having diagnoses of traumatic brain injury and the concomitant behavioral problems. 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 October 1, 1997, to Scott Crawford, Division of Financial Operations, Department of Medical Assistance Services, 600 East Broad Street, 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 (804) 371-4981.

VA.R. Doc. No. R97-723; Filed August 13, 1997, 11:12 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Medical Assistance Services intends to consider promulgating regulations entitled: **12 VAC 30-120-10 et seq. Waivered Services.** The purpose of the proposed action is to promulgate regulations for the provision of personal attendant services when they are directed by the consumer-recipient of the services. This program also contains the requirements and restrictions applicable to attendants, provider agencies, service coordinators, and the consumer-recipients themselves. 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 October 1, 1997, to Karen Lawson, Division of Policy and Budget, Department of Medical Assistance Services, 600 East Broad Street, 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 (804) 371-4981.

VA.R. Doc. No. R97-724; Filed August 13, 1997, 11:12 a.m.

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD FOR ACCOUNTANCY

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 for Accountancy intends to consider amending regulations entitled: **18 VAC 5-20-10 et seq. Board for Accountancy Regulations.** The purpose of the proposed action is to establish an efficient staggered system for collection of renewal fees. Each regulant would be given a particular month in which to renew. The agency does not intend to hold a public hearing on the proposed regulation after publication.

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

Public comments may be submitted until October 16, 1997.

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 ☎

VA.R. Doc. No. R97-759; Filed August 27, 1997, 11:50 a.m.

BOARD FOR BRANCH PILOTS

† 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 for Branch Pilots intends to consider amending regulations entitled: **18 VAC 45-20-10 et seq. Board for Branch Pilots Regulations.** The purpose of the proposed action is to increase fees for licenses and renewals in order to bring the board into compliance with the provisions of § 54.1-113 of the Code of Virginia. Other changes to the regulation which may be necessary will be considered. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 54.1-113, 54.1-201 and 54.1-902 of the Code of Virginia.

Public comments may be submitted until October 31, 1997.

Contact: Mark N. Courtney, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8514, FAX (804) 367-2475 or (804) 367-9753/TDD ☎

VA.R. Doc. No. R98-13; Filed September 9, 1997, 3:21 p.m.

BOARD FOR CONTRACTORS

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 for Contractors intends to consider amending regulations entitled: **18 VAC 50-30-10 et seq. Tradesman Certification Regulations.** The purpose of the proposed action is to amend the current regulations to include the trade of backflow prevention device worker as required by §§ 54.1-1128 through 54.1-1135 of the Code of Virginia. Other changes to the regulations which may be necessary will be considered. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 54.1-201, 54.1-1102, and 54.1-1128 through 54.1-1135 of the Code of Virginia.

Public comments may be submitted until October 1, 1997, to Steven L. Arthur, Administrator, Tradesman Program, Board for Contractors, 3600 West Broad Street, Richmond, VA 23230.

Contact: Jan McMahon, Administrative Assistant, Board for Contractors, Tradesman Program, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-6166 or FAX (804) 367-2474.

VA.R. Doc. No. R97-701; Filed August 6, 1997, 3:03 p.m.

BOARD OF DENTISTRY

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 Dentistry intends to consider amending regulations entitled: **18 VAC 60-20-105 et seq. Virginia Board of Dentistry Regulations.** The purpose of the proposed action is to replace emergency regulations which established an inactive license for dentists and dental hygienists according to the provisions of §§ 54.1-2709 and 54.1-2722 of the Code of Virginia as amended by the 1997 Session of the General Assembly. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 54.1-2400, 54.1-2709 and 54.1-2722 of the Code of Virginia.

Public comments may be submitted until October 1, 1997.

Contact: Marcia J. Miller, Executive Director, Board of Dentistry, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9909 or FAX (804) 662-9943.

VA.R. Doc. No. R97-728; Filed August 13, 1997, 11:28 a.m.

BOARD FOR HEARING AID SPECIALISTS

† 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 for Hearing Aid Specialists intends to consider amending regulations entitled: **18 VAC 80-10-10 et seq. Public Participation Guidelines.** The purpose of the proposed action is to solicit public comment which will assist the board in evaluating the regulations for effectiveness. The agency intends to hold a public hearing on the proposed regulation after publication.

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

Public comments may be submitted until October 31, 1997.

Contact: David E. Dick, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8507, FAX (804) 367-2475 or (804) 367-9753/TDD ☎

VA.R. Doc. No. R98-01; Filed September 16, 1997, 9:24 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 Board for Hearing Aid Specialists intends to consider amending regulations entitled: **18 VAC 80-20-10 et seq. Board for Hearing Aid Specialists Regulations.** The purpose of the proposed action is to increase fees and solicit public comment which will assist the board in evaluating the regulations for effectiveness. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 54.1-113 and 54.1-201 of the Code of Virginia.

Public comments may be submitted until October 31, 1997.

Contact: David E. Dick, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8507, FAX (804) 367-2475 or (804) 367-9753/TDD ☎

VA.R. Doc. No. R98-03; Filed September 16, 1997, 9:24 a.m.

BOARD OF MEDICINE

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 Medicine intends to consider amending regulations entitled: **18 VAC 85-20-10 et seq. Regulations Governing the Practice of Medicine, Osteopathy, Podiatry, Chiropractic, and Physician Acupuncture.** The purpose of the proposed action is to consider amendments to regulations in compliance with § 54.1-2912.1 of the Code of Virginia which provides that the board shall prescribe by regulation such requirements as may be necessary to ensure continued practitioner competence which may include continuing education, testing, or any other requirement. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 54.1-2400 and 54.1-2912.1 of the Code of Virginia.

Public comments may be submitted until October 1, 1997.

Contact: Warren W. Koontz, M.D., Executive Director, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9908 or FAX (804) 662-9943.

VA.R. Doc. No. R97-726; Filed August 13, 1997, 11:28 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 Board of Medicine intends to consider amending regulations entitled: **18 VAC 85-101-10 et seq. Regulations Governing the Licensure of Radiologic Technologists and Radiologic Technologists-Limited.** The purpose of the proposed action is to consider minimal guidelines for a board-approved educational program and to establish a requirement for testing by a recognized entity for licensure of radiologic technologists-limited. The board will also consider standards for licensing of persons for performance of mammography. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 54.1-2400, 54.1-2956.8:1 and 54.1-2956.8:2 of the Code of Virginia.

Public comments may be submitted until October 1, 1997.

Contact: Warren W. Koontz, M.D., Executive Director, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9908 or FAX (804) 662-9943.

VA.R. Doc. No. R97-725; Filed August 13, 1997, 11:28 a.m.

BOARDS OF NURSING AND MEDICINE

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Boards of Nursing and Medicine intend to consider amending regulations entitled: **18 VAC 90-30-10 et seq. Regulations Governing the Licensure of Nurse Practitioners.** The purpose of the proposed action is to consider amendments which will (i) clarify terminology and categories of licensure, (ii) revise the appointment of an advisory committee, (iii) clarify the role of a nurse practitioner in the practice of a podiatrist, (iv) add criteria such as "according to an acceptable standard of practice" to the requirement for availability of a supervising physician, and (v) revise burdensome requirements for approval of educational

programs. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 54.1-2400 and 54.1-2957 of the Code of Virginia.

Public comments may be submitted until October 1, 1997.

Contact: Nancy K. Durrett, R.N., Executive Director, Board of Nursing, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9909 or FAX (804) 662-9943.

VA.R. Doc. No. R97-727; Filed August 13, 1997, 11:28 a.m.

BOARD FOR OPTICIANS

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 for Opticians intends to consider amending regulations entitled: **18 VAC 100-20-10 et seq. Board for Opticians Regulations.** The purpose of the proposed action is to establish a definition section; clarify entry requirements for licensure; establish provisions for reciprocity; specify examination procedures and examination content for licensure examination and contact lenses examination; modify the procedures and provisions regarding renewal, reinstatement, and the standards of practice and conduct; and establish an efficient staggered system for collection of renewal fees. The agency intends to hold a public hearing on the proposed regulation after publication.

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

Public comments may be submitted until October 16, 1997.

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 ☎

VA.R. Doc. No. R97-758; Filed August 27, 1997, 11:50 a.m.

REAL ESTATE 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 Real Estate Board intends to consider amending regulations entitled: **18 VAC 135-20-10 et seq. Virginia Real Estate Board Licensing Regulations.** The purpose of the proposed action is to implement the Consumer Real Estate Settlement Protection Act (CRESPA) effective July 1, 1997. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: § 6.1-2.25 of the Code of Virginia.

Public comments may be submitted until October 29, 1997.

Contact: Karen W. O'Neal, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8552, FAX (804) 367-2475 or (804) 367-9753/TDD ☎

VA.R. Doc. No. R98-2; Filed August 29, 1997, 11:45 a.m.

TITLE 22. SOCIAL SERVICES

BOARDS OF EDUCATION; JUVENILE JUSTICE; MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES; AND SOCIAL 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 Boards of Education; Juvenile Justice; Mental Health, Mental Retardation and Substance Abuse Services; and Social Services intend to consider repealing regulations entitled: **8 VAC 20-50-10 et seq., 6 VAC 35-50-10 et seq., 12 VAC 35-30-10 et seq., and 22 VAC 40-150-10 et seq. Standards for Interdepartmental Regulation of Residential Facilities for Children.** The purpose of the proposed action is to repeal the existing regulations and promulgate a replacement regulation. Although the agencies jointly promulgated an identical regulation, it is published and considered as four different regulations in the Virginia Administrative Code. In addition to any substantive changes that may be made, the agencies propose to (i) reorganize and simplify the regulation, (ii) assure the regulation addresses only the generic elements of care related to all children, (iii) increase providers' flexibility to provide care based on the facility's program and the population served, and (iv) increase providers' and regulators' opportunities for use of professional judgment. The need for such revisions was verified in the agencies' regulation review analyses prepared in response to Executive Order 15 (94): Comprehensive Review of All Existing Agency Regulations. The agencies intend to hold a public hearing on the repeal of the proposed regulations after publication.

Statutory Authority: §§ 16.1-309.9, 22.1-321, 22.1-323, 22.1-323.2, 37.1-182, 37.1-183.1, 37.1-189.1, 63.1-25, 63.1-196, 63.1-196.4, 63.1-217, 66-10, and 66-24 of the Code of Virginia.

Public comments may be submitted until October 1, 1997.

Contact: John J. Allen, Coordinator, Office of Interdepartmental Regulation, 730 E. Broad St., Richmond, VA 23219-1849, telephone (804) 692-1960 or FAX (804) 692-1999.

VA.R. Doc. No. R97-705; Filed August 12, 1997, 12:54 p.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 Boards of Education; Juvenile Justice; Mental Health, Mental Retardation and Substance Abuse Services; and Social Services intend to consider promulgating regulations entitled: **22 VAC 42-10-10 et seq. Standards for Interagency Regulation of Children's Residential Facilities.** The purpose of the proposed action is to promulgate a single regulation to reorganize, simplify, and replace four regulations which are each entitled Standards for Interdepartmental Regulation of Residential Facilities for Children. In addition to any substantive changes that may be made, the agencies propose to (i) reorganize and simplify the regulation, (ii) assure the regulation addresses only the generic elements of care related to all children, (iii) increase providers' flexibility to provide care based on the facility's program and the population served, and (iv) increase providers' and regulators' opportunities for use of professional judgment. The need for such revisions was verified in the agencies' regulation review analyses prepared in response to Executive Order 15 (94): Comprehensive Review of All Existing Agency Regulations. The agencies intend to hold a public hearing on the proposed regulations after publication.

Statutory Authority: §§ 16.1-309.9, 22.1-321, 22.1-323, 22.1-323.2, 37.1-182, 37.1-183.1, 37.1-189.1, 63.1-25, 63.1-196, 63.1-196.4, 63.1-217, 66-10, and 66-24 of the Code of Virginia.

Public comments may be submitted until October 1, 1997.

Contact: John J. Allen, Coordinator, Office of Interdepartmental Regulation, 730 E. Broad St., Richmond, VA 23219-1849, telephone (804) 692-1960 or FAX (804) 692-1999.

VA.R. Doc. No. R97-706; Filed August 12, 1997, 12:56 p.m.

BOARD OF SOCIAL 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 State Board of Social Services intends to consider repealing regulations entitled: **22 VAC 40-40-10 et seq. Rules of the Neighborhood Assistance Act.** The purpose of the proposed action is to repeal outdated and burdensome regulations. The agency does not intend to hold a public hearing on the repeal of the proposed regulation after publication.

Statutory Authority: §§ 63.1-25 and 63.1-323 of the Code of Virginia.

Public comments may be submitted until October 1, 1997.

Contact: Phyllis Parrish, Special Projects Coordinator, Department of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1895 or FAX (804) 692-1869.

VA.R. Doc. No. R97-704; Filed August 12, 1997, 12:54 p.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Social Services intends to consider promulgating regulations entitled: **22 VAC 40-41-10 et seq. Neighborhood Assistance Tax Credit Program.** The purpose of the proposed action is to replace regulations which are being repealed and reflect changes which have developed over time and through legislation. The regulations will set out criteria for approving projects, allocating tax credits and appealing decisions made by Department of Social Services staff. The regulations will also require applicant organizations to submit an audit as a prerequisite to approval. The agency does not intend to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 63.1-25 and 63.1-323 of the Code of Virginia.

Public comments may be submitted until October 1, 1997.

Contact: Phyllis Parrish, Special Projects Coordinator, Department of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1895 or FAX (804) 692-1869.

VA.R. Doc. No. R97-707; Filed August 12, 1997, 12:54 p.m.

PUBLIC COMMENT PERIODS - PROPOSED REGULATIONS

PUBLIC COMMENT PERIODS REGARDING STATE AGENCY REGULATIONS

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

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

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

REAL ESTATE APPRAISER BOARD

November 18, 1997 - 2 p.m. – Public Hearing
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Real Estate Appraiser Board intends to amend regulations entitled: **18 VAC 130-20-10 et seq. Real Estate Appraiser Board Regulations.** The purpose of the proposed amendments is to comply with the federally mandated Appraiser Qualifications Board Qualification Criteria effective January 1, 1998, and to implement less burdensome alternatives.

Statutory Authority: § 54.1-2013 of the Code of Virginia.

Contact: Karen W. O'Neal, Assistant Director, Real Estate Appraiser Board, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-0500.

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TITLE 22. SOCIAL SERVICES

CHILD DAY-CARE COUNCIL

November 18, 1997 - 4 p.m. – Public Hearing
Pennino Building, 12011 Government Center Parkway, Conference Room 230, Fairfax, Virginia.

November 19, 1997 - 4 p.m. – Public Hearing
Virginia Wesleyan University, 1584 Wesleyan Drive, Blocker Hall, Science Auditorium, Norfolk, Virginia.

November 20, 1997 - 4 p.m. – Public Hearing
General Assembly Building, 910 Capitol Street, 1st Floor, House Room D, Richmond, Virginia.

November 24, 1997 - 4 p.m. – Public Hearing
Roanoke City Council Chambers, Municipal Building, 215 Church Avenue, S.W., 4th Floor, Roanoke, Virginia.

November 25, 1997 - 4 p.m. – Public Hearing
Southwest Virginia 4-H Center, 25236 Hillman Highway, Ratcliff Hall, Abingdon, Virginia.

November 29, 1997 - 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 Child Day-Care Council intends to amend regulations entitled: **22 VAC 15-30-10 et seq. Minimum Standards for Licensed Child Day Centers.** This regulation lists the standards that child day centers serving children of preschool age or younger must meet to be licensed by the Department of Social Services. The school age requirements from 22 VAC 15-40-10 et seq. will be incorporated into this regulation.

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

Public comments may be submitted until November 29, 1997, to Sharon Jones, Chair, Child Day-Care Council, 730 East Broad Street, Richmond, VA 23219-1849.

Contact: Arlene Kasper, Program Development Supervisor, Department of Social Services, Division of Licensing Programs, 730 E. Broad St., Richmond, VA 23219-1849, telephone (804) 692-1791 or FAX (804) 692-2370.

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November 29, 1997 - 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 Child Day-Care Council intends to repeal regulations entitled: **22 VAC 15-40-10**

et seq. Minimum Standards for Licensed Child Day Centers Serving School Age Children. The purpose of the proposed action is to repeal this regulation and incorporate these standards into the regulation currently entitled "Minimum Standards for Licensed Child Day Centers Serving Children of Preschool Age or Younger" (22 VAC 15-30-10 et seq.).

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

Public comments may be submitted until November 29, 1997, to Sharon Jones, Chair, Child Day-Care Council, 730 East Broad Street, Richmond, VA 23219-1849.

Contact: Arlene Kasper, Program Development Supervisor, Department of Social Services, Division of Licensing Programs, 730 E. Broad St., Richmond, VA 23219-1849, telephone (804) 692-1791 or FAX (804) 692-2370.

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

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

REAL ESTATE APPRAISER BOARD

Title of Regulation: **18 VAC 130-20-10 et seq. Real Estate Appraiser Board Rules and Regulations (amending 18 VAC 130-20-10, 18 VAC 130-20-30, 18 VAC 130-20-90, 18 VAC 130-20-110, 18 VAC 130-20-120, 18 VAC 130-20-180, 18 VAC 130-20-210, 18 VAC 130-20-220, 18 VAC 130-20-230, 18 VAC 130-20-250).**

Statutory Authority: § 54.1-2013 of the Code of Virginia.

Public Hearing Date: November 18, 1997 - 2 p.m.
Public comments may be submitted until November 29, 1997.
(See Calendar of Events section for additional information)

Basis: Section 54.1-2013 of the Code of Virginia states that the board "may do all things necessary and convenient for carrying into effect the provisions of this chapter and all things required or expected of a state appraiser certifying and licensing agency under Title 11 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (12 USC § 3301 et seq.)."

Purpose: The Real Estate Appraiser Board is revising its existing regulations to comply with the Appraiser Qualifications Board Appraiser Qualification Criteria effective January 1, 1998, to implement less burdensome alternatives to the current regulations and to reduce fees.

Substance: Most of the proposed changes are required by the Appraisal Qualifications Board (AQB). The AQB is an arm of the federal government. Following is an explanation of the federal entities involved in the state regulation of real estate appraisers:

The Federal Financial Institutions Reform, Recovery and Enforcement Act (FIRREA) was passed by Congress in 1989 as a result of the savings and loan crisis and requires the state licensing of real estate appraisers. FIRREA created the Appraisal Subcommittee which monitors and reviews the practices, procedures, activities, and organizational structure of the Appraisal Foundation. The Appraisal Foundation consists of the Appraisal Qualifications Board and the Appraisal Standards Board. The Appraisal Qualifications Board sets minimum qualifications standards all states must use in licensing appraisers. The Appraisal Standards Board promulgates USPAP (Uniform Standards of Professional Appraisal Practice) which are incorporated into the board's regulations.

The following summary is broken down into two parts. Part I lists proposed changes required by the AQB. Part II lists other proposed changes.

1. Part I - Changes Required by the AQB.

a. Experience.

(1) Teaching of appraisal courses will no longer be accepted for experience credit. It will continue to be accepted for education credit.

(2) Licensed residential - 2,000 hours will continue to be obtained over a 24-month period. The prohibition against obtaining more than 1,000 hours in 12 months is deleted.

(3) Certified residential - the total hours required increases from 2,000 to 2,500 hours and must be obtained over a 30-month period. The prohibition against obtaining more than 1,000 hours in 12 months is deleted.

(4) Certified general - The total hours required increases from 2,000 to 3,000 hours and must be obtained over a 30-month period. The number of hours in nonresidential appraising increases from 1,000 to 1,500. The prohibition against obtaining more than 1,000 hours in 12 months is deleted.

b. Prelicense education. Requires applicants for certified residential or certified general licenses to demonstrate coverage in narrative report writing in their prelicense education. Specifies that examinations in prelicense courses may not be open book. Allows prelicense education credit for distance education.

c. Examination. Includes in regulation the current requirement to have the licensing examination endorsed by the AQB.

d. Continuing education. The continuing education requirement increases from 20 to 28 hours for each licensing term. The course in recent developments in federal, state and local appraisal law and regulation and the Uniform Standards of Professional Appraisal Practice decreases from four to three hours. Adds topics to the list of topics acceptable for continuing education.

2. Part II - Other Changes.

a. Education. Adopts as regulation the current board policy of allowing 30 hours education credit for appraisal-related courses toward meeting the education requirement for the certified residential license.

b. Standards of conduct.

(1) Allows for the electronic transmission of appraisal reports.

(2) Deletes requirement for licensees with direct knowledge that another licensee is in violation of the regulations to inform the board. Maintains provision to allow the board to sanction a licensee who cooperates with others in violating appraiser law or regulation.

Issues: The Real Estate Appraiser Board is required to incorporate qualifications criteria established by the Appraiser Qualifications Board by January 1, 1998. The board also reviewed all of its regulations to implement some less burdensome alternatives such as allowing related education credit toward the education requirement for certified residential appraisers, allowing the electronic transmission of appraisal reports, and deleting the requirement for licensees with direct knowledge that another licensee is in violation of the regulations to inform the board.

There are no disadvantages to the agency resulting from the proposed changes. The changes do not add new requirements, they simply minimally increase existing requirements. The potential disadvantages to the public resulting from a minimal increase in cost of compliance will be offset by an increase in the quality of real estate appraiser services offered in Virginia.

Department of Planning and Budget's Economic Impact Analysis: The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 9-6.14:7.1 G of the Administrative Process Act and Executive Order Number 13 (94). Section 9-6.14:7.1 G requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. The analysis presented below represents DPB's best estimate of these economic effects.

Summary of the proposed regulation. The proposed regulation amends current regulations of the Real Estate Appraiser Board. These regulations establish the educational, experience, and fee requirements for licensed residential real estate appraisers, certified residential real estate appraisers, and certified general real estate appraisers in Virginia. Most of the proposed amendments are being made to bring the regulation into compliance with federal Appraisal Qualifications Board requirements. In addition, the Real Estate Appraiser Board has proposed fee reductions pursuant to the Callahan Act. Those amendments that would likely have economic consequences are as follows:

1. The prohibition against allotting more than 1,000 hours of appraisal credit per year against the experience requirements would be deleted;

2. Experience requirements for certified residential real estate appraisers would be changed from 2,000 continuous hours over a 24-month period to 2,500 continuous hours;

3. Experience requirements for certified general real estate appraisers would be changed from 2,000 continuous hours over a 24-month period to 3,000 continuous hours over a 30-month period;

4. Applicants for certified residential and certified general real estate appraisers licenses would be required to demonstrate that required course work included classes relating to narrative report writing;

5. Continuing education requirements would increase from 20 hours to 28 hours during each two-year licensing term;

6. The current board policy of allowing 30 of the classroom hours required for licensed and certified residential real estate appraisers to be comprised of approved continuing education courses would be incorporated in the regulation;

7. Fee reductions implemented on March 1, 1997, would be incorporated in the regulation; and

8. Electronic transmission of appraisal reports would be permitted.

Estimated economic impact. The amendments contained in the proposed regulation would likely have two main economic consequences--an increase in the quality of real estate appraiser services offered in Virginia and an increase in the regulatory compliance costs that providers must incur in order to offer those services.

Quality of service. Several of the proposed amendments would increase the experience and education prerequisites for licensure as a real estate appraiser in Virginia. In each case, the amendments are being proposed to bring the regulation into compliance with federal Appraisal Qualifications Board requirements. These requirements are intended to ensure that individuals licensed by state boards such as the Real Estate Appraiser Board meet generally accepted national standards of practice.

The primary purpose of requiring licensure of real estate appraisers is that it establishes the Real Estate Appraiser Board as a third party guarantor of the professional credentials of such individuals. This reduces the uncertainty and risk confronted by the public when purchasing real estate appraiser services. Amending the regulation to reflect current national standards for experience and education is consistent with this purpose. It would be cost prohibitive for DPB to quantify the exact magnitude of the benefit derived from the implied increase in the quality and certainty of real estate appraiser services however.

Compliance costs. Virtually all of the proposed amendments would have an effect on regulatory compliance costs. These effects are conflicting however. In some cases the proposed amendments would tend to increase regulatory compliance costs and in others they would tend to decrease those costs. The proposed amendments can be grouped according to three categories, those that would: increase regulatory flexibility; increase regulatory stringency, and decrease license fees.

Deleting the prohibition against allocating more than 1,000 hours of appraisal credit per year toward experience requirements would increase the flexibility real estate appraisers have in meeting those requirements. Such an increase in flexibility cannot increase compliance costs and may reduce them for some licensees. Similarly, allowing licensees to take advantage of current technology by permitting the electronic transmission of appraisal reports cannot increase compliance costs and may reduce them for some licensees.

Those amendments that increase regulatory stringency by increasing the experience and educational prerequisites for licensure as a real estate appraiser in Virginia (i.e., increasing experience requirements for certified residential real estate appraisers from 2,000 to 2,500 hours per 24 months and for certified general real estate appraisers from 2,000 per 24 months to 3,000 hours per 30 months; requiring classes in narrative report writing; and increasing the continuing education requirement from 20 to 28 hours per 24 months) would undoubtedly increase the regulatory compliance costs imposed on licensees. Moreover, because the costs associated with education and training usually dwarf all other professional costs, this category of amendments has the potential to have the largest impact on compliance costs.

The most direct impact on compliance costs would come from the proposed reduction in licensing fees. According to information provided by the Real Estate Appraiser Board, the proposed fee reductions should be responsible for a roughly $14,000, or 5.0%, reduction in total statewide licensing fees for the 1996-98 fiscal biennium.

The net effect of these three categories of changes is likely to be a small increase in compliance costs. The reason for this is the large proportion of total professional expense comprised of expenditures on education and training. It would be cost prohibitive for DPB to quantify the exact amount of the increase however.

Businesses and entities particularly affected. The proposed regulation particularly affects licensees of the Real Estate Appraiser Board and their clientele.

Localities particularly affected. No localities are particularly affected by the proposed regulation.

Projected impact on employment. The proposed regulation is not anticipated to have a significant effect on employment.

Effects on the use and value of private property. The proposed regulation is not anticipated to have a significant effect on the use and value of private property.

Summary of analysis. DPB anticipates that the proposed amendments to current regulations of the Real Estate Appraiser Board will have two primary economic effects: (i) an increase in the quality of real estate appraiser services offered in Virginia and (ii) an associated increase in the regulatory compliance costs that providers must incur in order to offer those services.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The agency concurs.

Summary:

These regulations establish the educational, experience, and fee requirements for licensed residential real estate appraisers, certified residential real estate appraisers, and certified general real estate appraisers in Virginia. Most of the proposed amendments are being made to bring the regulation into compliance with federal Appraisal Qualifications Board requirements. The substantive amendments are as follows:

1. The prohibition against allotting more than 1,000 hours of appraisal credit per year against the experience requirements would be deleted;

2. Experience requirements for certified residential real estate appraisers would be changed from 2,000 continuous hours over a 24-month period to 2,500 continuous hours;

3. Experience requirements for certified general real estate appraisers would be changed from 2,000 continuous hours over a 24-month period to 3,000 continuous hours over a 30-month period;

4. Applicants for certified residential and certified general real estate appraisers licenses would be required to demonstrate that required course work included classes relating to narrative report writing;

5. Continuing education requirements would increase from 20 hours to 28 hours during each two-year licensing term;

6. The current board policy of allowing 30 of the classroom hours required for licensed and certified residential real estate appraisers to be comprised of approved continuing education courses would be incorporated in the regulation; and

7. Electronic transmission of appraisal reports would be permitted.

18 VAC 130-20-10. Definitions.

The following words and terms, when used in this chapter, unless a different meaning is provided or is plainly required by the context, shall have the following meanings:

"Accredited colleges, universities, junior and community colleges" means those accredited institutions of higher learning approved by the Virginia Council of Higher Education or listed in the Transfer Credit Practices of Designated Educational Institutions, published by the American Association of Collegiate Registrars and Admissions Officers *or a recognized international equivalent.*

"Adult distributive or marketing education programs" means those programs offered at schools approved by the Virginia Department of Education or any other local, state, or federal government agency, board or commission to teach adult education or marketing courses.

"Analysis" means a study of real estate or real property other than the estimation of value.

"Appraisal Foundation" means the foundation incorporated as an Illinois Not for Profit Corporation on November 30, 1987, to establish and improve uniform appraisal standards by defining, issuing and promoting such standards.

"Appraisal subcommittee" means the designees of the heads of the federal financing institutions regulatory agencies established by the Federal Financial Institutions Examination Council Act of 1978 (12 USC § 3301 et seq.), as amended.

"Appraiser" means any person who, for valuable consideration or with the intent or expectation of receiving the same from another, engages in real estate appraisal activity on any type of property.

"Appraiser classification" means any category of appraiser which the board creates by designing criteria for qualification for such category and by designing the scope of practice permitted for such category.

"Appraiser Qualifications Board" means the board created by the Appraisal Foundation to establish appropriate criteria for the certification and recertification of qualified appraisers by defining, issuing and promoting such qualification criteria; to disseminate such qualification criteria to states, governmental entities and others; and to develop or assist in the development of appropriate examinations for qualified appraisers.

"Appraiser trainee" means an individual who is licensed as an appraiser trainee to appraise those properties which the supervising appraiser is permitted to appraise.

"Business entity" means any corporation, partnership, association or other business entity under which appraisal services are performed.

"Certified general real estate appraiser" means an individual who meets the requirements for licensure that relate to the appraisal of all types of real estate and real property and is licensed as a certified general real estate appraiser.

"Certified instructor" means an individual holding an instructor certificate issued by the Real Estate Appraiser Board to act as an instructor.

"Certified residential real estate appraiser" means an individual who meets the requirements for licensure for the appraisal of any residential real estate or real property of one to four residential units regardless of transaction value or complexity. Certified residential real estate appraisers may also appraise nonresidential properties with a transaction value up to $250,000.

"Classroom hour" means 50 minutes out of each 60-minute segment. The prescribed number of classroom hours includes time devoted to tests which are considered to be part of the course.

"Distance education" means an educational process based on the geographical separation of provider and student (i.e., CD-ROM, on-line learning, correspondence courses, etc.).

"Experience" as used in this chapter includes but is not limited to experience gained in the performance of traditional appraisal assignments, or in the performance of the following: fee and staff appraisals, ad valorem tax appraisal, review appraisal, appraisal analysis, real estate counseling, highest and best use analysis, *and* feasibility analysis/study~~, and teaching of appraisal courses~~.

For the purpose of this chapter experience has been divided into ~~five~~ *four* major categories: (i) fee and staff appraisal, (ii) ad valorem *tax* appraisal, (iii) review appraisal, *and* (iv) real estate ~~consulting, and (v) teaching of real estate courses~~ *counseling.*

1. *"Fee/staff appraiser experience"* means experience acquired as either a sole appraiser or as a cosigner.

Sole appraiser experience is experience obtained by an individual who makes personal inspections of real estate, assembles and analyzes the relevant facts, and by the use of reason and the exercise of judgment, forms objective opinions and prepares reports as to the market value or other properly defined value of identified interests in said real estate.

Cosigner appraiser experience is experience obtained by an individual who signs an appraisal report prepared by another, thereby accepting full responsibility for the content and conclusions of the appraisal.

To qualify for fee/staff appraiser experience, an individual must have prepared written appraisal reports which meet minimum standards. For appraisal reports dated prior to July 1, 1991, these minimum standards include the following (if any item is not applicable, the applicant shall adequately state the reasons for the exclusions):

a. An adequate identification of the real estate and the interests being appraised;

b. The purpose of the report, date of value, and date of report;

c. A definition of the value being appraised;

d. A determination of highest and best use;

e. An estimate of land value;

f. The usual valuation approaches for the property type being appraised or the reason for excluding any of these approaches;

g. A reconciliation and conclusion as to the property's value;

h. Disclosure of assumptions or limiting conditions, if any; and

i. Signature of appraiser.

For appraisal reports dated subsequent to July 1, 1991, the minimum standards for written appraisal reports are those as prescribed in Standard 2 of the Uniform Standards of Professional Appraisal Practice in the edition in effect at the time of the reports' preparation.

2. *"Ad valorem tax appraisal experience"* means experience obtained by an individual who assembles and analyzes the relevant facts, and who correctly employs those recognized methods and techniques that are necessary to produce and communicate credible appraisals within the context of the real property tax laws. Ad valorem tax appraisal experience may be obtained either through individual property appraisals or through mass appraisals as long as applicants under this category of experience can demonstrate that they are using techniques to value real property similar to those being used by fee/staff appraisers and that they are effectively utilizing the appraisal process.

To qualify for ad valorem tax appraisal experience for individual property appraisals, an individual must have prepared written appraisal reports which meet minimum standards. For appraisal reports dated prior to July 1, 1991, these minimum standards include the following (if any item is not applicable, the applicant shall adequately state the reasons for the exclusions):

a. An adequate identification of the real estate and the interests being appraised;

b. The effective date of value;

c. A definition of the value being appraised if other than fee simple;

d. A determination of highest and best use;

e. An estimate of land value;

f. The usual valuation approaches for the property type being appraised or the reason for excluding any of these approaches;

g. A reconciliation and conclusion as to the property's value;

h. Disclosure of assumptions or limiting conditions, if any.

For appraisal reports dated subsequent to July 1, 1991, the minimum standards for written appraisal reports are those as prescribed in the Uniform Standards of Professional Appraisal Practice in the edition in effect at the time of the reports' preparation.

To qualify for ad valorem tax appraisal experience for mass appraisals, an individual must have prepared mass appraisals or have documented mass appraisal files which meet minimum standards. For mass appraisals dated prior to July 1, 1991, these minimum standards include the following (if any item is not applicable, the applicant shall adequately state the reasons for the exclusions):

a. An adequate identification of the real estate and the interests being appraised;

b. The effective date of value;

c. A definition of the value being appraised if other than fee simple;

d. A determination of highest and best use;

e. An estimate of land value;

f. Those recognized methods and techniques that are necessary to produce a credible appraisal.

For mass appraisal reports dated subsequent to July 1, 1991, the minimum standards for these appraisal reports are those as prescribed in Standard 6 of the Uniform Standards of Professional Appraisal Practice in the edition in effect at the time of the reports' preparation.

In addition to the preceding, to qualify for ad valorem *tax* appraisal experience, the applicant's experience log must be attested to by the applicant's supervisor.

3. *"Reviewer experience"* means experience obtained by an individual who examines the reports of appraisers to determine whether their conclusions are consistent with the data reported and other generally known information. An individual acting in the capacity of a reviewer does not necessarily make personal inspection of real estate, but does review and analyze relevant facts assembled by fee/staff appraisers, and by the use of reason and exercise of judgment, forms objective conclusions as to the validity of fee/staff appraisers' opinions. Reviewer experience shall not constitute more than 1,000 hours of total experience claimed and at least 50% of the review experience claimed must be in field review wherein the individual has personally inspected the real property which is the subject of the review.

To qualify for reviewer experience, an individual must have prepared written reports recommending the acceptance, revision, or rejection of the fee/staff appraiser's opinions, which written reports must meet minimum standards. For appraisal reviews dated prior to July 1, 1991, these minimum standards include the following (if any item is not applicable, the applicant shall adequately state the reasons for the exclusions):

a. An identification of the report under review, the real estate and real property interest being appraised, the effective date of the opinion in the report under review, and the date of the review;

b. A description of the review process undertaken;

c. An opinion as to the adequacy and appropriateness of the report being reviewed, and the reasons for any disagreement;

d. An opinion as to whether the analyses, opinions, and conclusions in the report under review are appropriate and reasonable, and the development of any reasons for any disagreement;

e. Signature of reviewer.

For appraisal review reports dated subsequent to July 1, 1991, the minimum standards for these appraisal reports are those as prescribed in Standard 3 of the Uniform Standards of Professional Appraisal Practice in the edition in effect at the time of the reports' preparation.

Signing as "Review Appraiser" on an appraisal report prepared by another will not qualify an individual for experience in the reviewer category. Experience gained in this capacity will be considered under the Cosigner subcategory of Fee/staff appraiser experience.

4. *"Real estate counseling experience"* means experience obtained by an individual who assembles and analyzes the relevant facts and by the use of reason and the exercise of judgment, forms objective opinions concerning matters other than value estimates relating to real property. Real estate counseling experience includes, but is not necessarily limited to, the following:

Absorption Study	Ad Valorem Tax Study
Annexation Study	Assemblage Study
Assessment Study	Condominium Conversion Study
Cost-Benefit Study	Cross Impact Study
Depreciation/Cost Study	Distressed Property Study
Economic Base Analysis	Economic Impact Study
Economic Structure Analysis	Eminent Domain Study
Feasibility Study	Highest and Best Use Study
Impact Zone Study	Investment Analysis Study
Investment Strategy Study	Land Development Study
Land Suitability Study	Land Use Study
Location Analysis Study	Market Analysis Study
Market Strategy Study	Market Turning Point Analysis
Marketability Study	Portfolio Study
Rehabilitation Study	Remodeling Study
Rental Market Study	Right of Way Study
Site Analysis Study	Utilization Study
Urban Renewal Study	Zoning Study

To qualify for real estate counseling experience, an individual must have prepared written reports which meet minimum standards. For real estate counseling reports dated prior to July 1, 1991, these minimum standards include the following (if any item is not applicable, the applicant shall so state the reasons for the exclusions):

a. A definition of the problem;

b. An identification of the real estate under consideration (if any);

c. Disclosure of the client's objective;

d. The effective date of the consulting assignment and date of report;

e. The information considered, and the reasoning that supports the analyses, opinions, and conclusions;

f. Any assumptions and limiting conditions that affect the analyses, opinions, and conclusions;

g. Signature of real estate counselor.

For real estate counseling reports dated subsequent to July 1, 1991, the minimum standards for these appraisal reports are those as prescribed in Standard 4 of the Uniform Standards of Professional Appraisal Practice in the edition in effect at the time of the reports' preparation. Real estate counseling shall not constitute more than 500 hours of experience for any type of appraisal license.

~~5. *"Teaching experience"* means experience obtained by an individual in the instruction of real estate appraisal or real estate related seminars/courses as well as in the authorship of real estate appraisal and analysis publications. Experience in these areas will be considered on the following basis:~~

~~a. Seminar and course instructions: The number of approved hours is based on the published number of classroom hours stated in the official college catalog or similar publication of other educational bodies or professional organizations.~~

~~b. Authorship: Authorship of published books, journal articles and theses may count toward an applicant's experience credit as follows:~~

~~(1) Topic must relate to real estate valuation or analysis;~~

~~(2) A book will be credited 150 hours, a journal article will be credited 20 hours, and a thesis will be credited 50 hours.~~

~~Credit may be earned only once for instruction of courses having substantially equivalent content. In cases where there is more than one instructor, credit will be pro rated based on each instructor's participation.~~

"Licensed residential real estate appraiser" means an individual who meets the requirements for licensure for the appraisal of any noncomplex, residential real estate or real property of one to four residential units, including federally related transactions, where the transaction value is less than $1 million. Licensed residential real estate appraisers may also appraise noncomplex, nonresidential properties with a transaction value up to $250,000.

"Licensee" means any individual holding a license issued by the Real Estate Appraiser Board to act as a certified general real estate appraiser, certified residential real estate appraiser, licensed residential real estate appraiser, or appraiser trainee as defined, respectively, in § 54.1-2009 of the Code of Virginia and in this chapter.

"Local, state or federal government agency, board or commission" means an entity established by any local, federal or state government to protect or promote the health, safety and welfare of its citizens.

"Proprietary school" means a privately owned school offering appraisal or appraisal related courses approved by the board.

"Provider" means accredited colleges, universities, junior and community colleges; adult distributive or marketing education programs; local, state or federal government agencies, boards or commissions; proprietary schools; or real estate appraisal or real estate related organizations.

"Real estate appraisal activity" means the act or process of valuation of real property or preparing an appraisal report.

"Real estate appraisal" or *"real estate related organization"* means any appraisal or real estate related organization formulated on a national level, where its membership extends to more than one state or territory of the United States.

"Reciprocity agreement" means a conditional agreement between two or more states that will recognize one another's regulations and laws for equal privileges for mutual benefit.

"Registrant" means any corporation, partnership, association or other business entity which provides appraisal services and which is registered with the Real Estate Appraiser Board in accordance with § 54.1-2011 E of the Code of Virginia.

"Reinstatement" means having a license or registration restored to effectiveness after the expiration date has passed.

"Renewal" means continuing the effectiveness of a license or registration for another period of time.

"Sole proprietor" means any individual, but not a corporation, partnership or association, who is trading under his own name, or under an assumed or fictitious name pursuant to the provisions of §§ 56.1-69 through 59.1-76 of the Code of Virginia.

"Substantially equivalent" is any educational course or seminar, experience, or examination taken in this or another jurisdiction which is equivalent in classroom hours, course content and subject, and degree of difficulty, respectively, to those requirements outlined in this chapter and Chapter 20.1 *(§ 54.1-2009 et seq.)* of Title 54.1 of the Code of Virginia for licensure and renewal.

"Supervising appraiser" means any individual holding a license issued by the Real Estate Appraiser Board to act as a certified general real estate appraiser, certified residential real estate appraiser, or licensed residential real estate appraiser who supervises any unlicensed person acting as a real estate appraiser or an appraiser trainee as specified in this chapter.

"Transaction value" means the monetary amount of a transaction which may require the services of a certified or licensed appraiser for completion. The transaction value is not always equal to the market value of the real property interest involved. For loans or other extensions of credit, the transaction value equals the amount of the loan or other extensions of credit. For sales, leases, purchases and investments in or exchanges of real property, the transaction value is the market value of the real property interest involved. For the pooling of loans or interests in real property for resale or purchase, the transaction value is the amount of the loan or the market value of real property calculated with respect to each such loan or interest in real property.

"Uniform Standards of Professional Appraisal Practice" means those standards promulgated by the Appraisal Standards Board of the Appraisal Foundation for use by all appraisers in the preparation of appraisal reports.

"Valuation" means an estimate of the value of real property.

"Valuation assignment" means an engagement for which an appraiser is employed or retained to give an analysis, opinion or conclusion that results in an estimate of the value of an identified parcel of real property as of a specified date.

"Waiver" means the voluntary, intentional relinquishment of a known right.

18 VAC 130-20-30. General qualifications for licensure.

Every applicant to the Real Estate Appraiser Board for a certified general, certified residential, or licensed residential

real estate appraiser license shall meet the following qualifications:

1. The applicant shall be of good moral character, honest, truthful, and competent to transact the business of a licensed real estate appraiser in such a manner as to safeguard the interests of the public.

2. The applicant shall meet the current educational and experience requirements and submit a license application to the Department of Professional and Occupational Regulation or its agent prior to the time the applicant is approved to take the licensing examination. Applications received by the department or its agent must be complete within 12 months of the date of the receipt of the license application and fee by the Department of Professional and Occupational Regulation or its agent.

3. The applicant shall be in good standing as a real estate appraiser in every jurisdiction where licensed or certified; the applicant may not have had a license or certification which was suspended, revoked or surrendered in connection with a disciplinary action or which has been the subject of discipline in any jurisdiction prior to applying for licensure in Virginia.

4. The applicant may not have been convicted, found guilty or pled guilty, regardless of adjudication, in any jurisdiction of a misdemeanor involving moral turpitude or of any felony. Any plea of nolo contendere shall be considered a conviction for purposes of this subdivision. The record of a conviction authenticated in such form as to be admissible in evidence under the laws of the jurisdiction where convicted shall be admissible as prima facie evidence of such conviction.

5. The applicant shall be at least 18 years old.

6. The applicant shall have successfully completed ~~75~~ *90* hours for the licensed residential classification, 120 hours for the certified residential classification, and ~~165~~ *180* hours for the certified general classification, of approved real estate appraisal courses, including a course of at least 15 hours on the Uniform Standards of Professional Appraisal Practice, from accredited colleges, universities, junior and community colleges; adult distributive or marketing education programs; local, state or federal government agencies, boards or commissions; proprietary schools; or real estate appraisal or real estate related organizations. The classroom hours required for the licensed residential real estate appraiser may include the classroom hours required for the appraiser trainee. The classroom hours required for the certified residential real estate appraiser may include the classroom hours required for the appraiser trainee or the licensed real estate appraiser *and may also include 30 hours of related courses in topics specified in 18 VAC 130-20-220 A 1.* The classroom hours required for the certified general real estate appraiser may include the classroom hours required for the appraiser trainee, the licensed residential real estate appraiser, or the certified residential real estate appraiser *and may also include 30 hours of related courses in topics specified in 18 VAC 130-20-220 A 1.*

All applicants for licensure as a certified general real estate appraiser must complete an advanced level appraisal course of at least 30 classroom hours in the appraisal of nonresidential properties.

7. ~~The applicant shall have a minimum of 24 months and 2,000 hours experience as a real estate appraiser. The maximum number of appraisal credit hours which may be awarded in a 12-month period is 1,000 hours. Hours may be treated as cumulative in order to achieve the necessary 2,000 hours of appraisal experience.~~ The applicant shall execute an affidavit as part of the application for licensure attesting to his experience in the field of real estate appraisal. All applicants must submit, upon application, sample appraisal reports as specified by the board. In addition, all experience must be supported by adequate written reports or file memoranda which shall be made available to the board upon request.

a. Applicants for a licensed residential real estate appraiser license shall have a minimum of 2,000 hours appraisal experience obtained continuously over a period of not less than 24 months. Hours may be treated as cumulative in order to achieve the necessary 2,000 hours of appraisal experience.

b. Applicants for a certified residential real estate appraiser license shall have a minimum of 2,500 hours of appraisal experience obtained continuously over a period of not less than 24 months. Hours may be treated as cumulative in order to achieve the necessary 2,500 hours of appraisal experience.

~~For all applicants for a certified general real estate appraiser license,~~ *c. Applicants for a certified general real estate appraiser license shall have a minimum of 3,000 hours of appraisal experience obtained continuously over a period of not less than 30 months. Hours may be treated as cumulative in order to achieve the necessary 3,000 hours of appraisal experience.* At least 50% of the appraisal experience required (~~1,000~~ *1,500* hours) must be in nonresidential appraisal assignments and include assignments which demonstrate the use and understanding of the income approach. An applicant whose nonresidential appraisal experience is predominately in such properties which do not require the use of the income approach may satisfy this requirement by performing two or more appraisals on properties in association with a certified general appraiser which include the use of the income approach.

8. Within 12 months after being approved by the board to take the examination, the applicant shall have registered for and passed a written examination *endorsed by the Appraiser Qualifications Board and* provided by the board or by a testing service acting on behalf of the board.

9. Applicants for licensure who do not meet the requirements set forth in subdivisions 3 and 4 of this section may be approved for licensure following consideration of their application by the board.

18 VAC 130-20-90. Application and registration fees.

There will be no pro rata refund of these fees to licensees who resign or upgrade to a higher license or to licensees whose licenses are revoked or surrendered for other causes. All application fees for licenses and registrations are nonrefundable.

1. Application fees for registrations, certificates and licenses are as follows:

Registration of business entity	$100
Certified General Real Estate Appraiser	$141
Temporary Certified General Real Estate Appraiser	$45
Certified Residential Real Estate Appraiser	$141
Temporary Certified Residential Real Estate Appraiser	$45
Licensed Residential Real Estate Appraiser	$141
Temporary Licensed Residential Real Estate Appraiser	$45
Appraiser Trainee	$96
Upgrade of license	$65
Instructor Certification	$135
~~Bad check penalty~~	~~$25~~
~~Duplicate wall certificate~~	~~$25~~

Application fees for a certified general real estate appraiser, a certified residential real estate appraiser, a licensed residential real estate appraiser and an appraiser trainee include a $21 fee for a copy of the Uniform Standards of Professional Appraisal Practice. This fee is subject to the fee charged by the Appraisal Foundation and may be adjusted and charged to the applicant in accordance with the fee charged by the Appraisal Foundation.

2. Examination fees. The fee for examination or reexamination is subject to contracted charges to the department by an outside vendor. These contracts are competitively negotiated and bargained for in compliance with the Virginia Public Procurement Act (§ 11-35 et seq. of the Code of Virginia). Fees may be adjusted and charged to the candidate in accordance with this contract.

3. *A $50* National Registry Fee Assessment for all permanent license applicants ~~$50~~ *is* to be assessed of each applicant in accordance with § 1109 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 *(12 USCS §§ 3331-3351)*. This fee may be adjusted and charged to the applicant in accordance with the Act. If the applicant fails to qualify for licensure, then this assessment fee will be refunded.

18 VAC 130-20-110. Qualifications for renewal.

A. As a condition of renewal, and under § 54.1-2014 of the Code of Virginia, all certified general real estate appraisers, certified residential real estate appraisers, and licensed residential real estate appraisers, resident or nonresident, shall be required to complete continuing education courses satisfactorily within each licensing term as follows:

1. All real estate appraisers must satisfactorily complete continuing education courses or seminars offered by accredited colleges, universities, junior and community colleges; adult distributive or marketing education programs; local, state or federal government agencies, boards or commissions; proprietary schools; or real estate appraisal or real estate related organizations of not less than ~~20~~ *28* classroom hours during each licensing term.

2. All real estate appraisers may also satisfy continuing education requirements by participation other than as a student in educational processes and programs approved by the board to be substantially equivalent for continuing education purposes including, but not limited to teaching, program development, or authorship of textbooks.

3. ~~Four~~ *Three* of the classroom hours completed to satisfy the continuing education requirements shall be a course approved by the board on recent developments in federal, state and local real estate appraisal law and regulation and the Uniform Standards of Professional Appraisal Practice.

B. In addition to the continuing education requirements specified in subsection A of this section all applicants for renewal shall complete a 15-hour course in the Uniform Standards of Professional Appraisal Practice once every six years.

C. Applicants for renewal of a license shall meet the standards for entry as set forth in subdivisions 1, 3 and 4 of 18 VAC 130-20-30 ~~of this chapter~~.

D. Applicants for the renewal of a registration shall meet the requirement for registration as set forth in 18 VAC 130-20-20.

E. Applicants for the renewal of a certificate as an instructor shall meet the standards for entry as set forth in 18 VAC 130-20-80.

18 VAC 130-20-120. Procedures for renewal.

A. The board will mail a renewal application form to the licensee and certificate holder at the last known home address and to the registered firm or at the last known business address. This form shall outline the procedures for renewal. Failure to receive the renewal application form shall

not relieve the licensee, certificate holder or the registrant of the obligation to renew.

B. Prior to the expiration date shown on the license or registration, each licensee, certificate holder or registrant desiring to renew the license or registration shall return to the board the completed renewal application form and the appropriate renewal and registry fees as outlined in 18 VAC 130-20-130 ~~of this chapter~~.

C. The date on which the renewal application form and the appropriate fees are received by the Department of Professional and Occupational Regulation or its agent will determine whether the licensee, certificate holder or registrant is eligible for renewal. If either the renewal application form or renewal fee, including the registry fee, is not received by the Department of Professional and Occupational Regulation or its agent within 30 days of the expiration date, the licensee, certificate holder or registrant must reinstate his license by meeting all requirements listed in 18 VAC 130-20-110 ~~of this chapter~~ and pay a reinstatement fee as specified in 18 VAC 130-20-130 ~~of this chapter~~. Three months after the expiration date on the license, certificate or registration, reinstatement is no longer possible. To resume practice, the former licensee, certificate holder, or registrant shall reapply for licensure as a new applicant, meeting current education, examination and experience requirements.

18 VAC 130-20-180. Standards of professional practice.

A. The provisions of subsections C through J of this section shall not apply to local, state and federal employees performing in their official capacity.

B. Maintenance of licenses. The board shall not be responsible for the failure of a licensee, registrant, or certificate holder to receive notices, communications and correspondence.

1. Change of address.

a. All licensed real estate appraisers, appraiser trainees, and certified instructors shall at all times keep the board informed in writing of their current home address and shall report any change of address to the board within 30 days of such change.

b. Registered real estate appraisal business entities shall at all times keep the board informed in writing of their current business address and shall report any change of address to the board within 30 days of such change.

2. Change of name.

a. All real estate appraisers, appraiser trainees, and certified instructors shall promptly notify the board in writing and provide appropriate written legal verification of any change of name.

b. Registered real estate appraisal business entities shall promptly notify the board of any change of name or change of business structure in writing. In addition to written notification, corporations shall provide a copy of the Certificate of Amendment from the State Corporation Commission, partnerships shall provide a copy of a certified Partnership Certificate, and other business entities trading under a fictitious name shall provide a copy of the certificate filed with the clerk of the court where business is to be conducted.

3. Upon the change of name or address of the registered agent, associate, or partner, or sole proprietor designated by a real estate appraisal business entity, the business entity shall notify the board in writing of the change within 30 days of such event.

4. No license, certification or registration issued by the board shall be assigned or otherwise transferred.

5. All licensees, certificate holders and registrants shall operate under the name in which the license or registration is issued.

6. All certificates of licensure, registration or certification in any form are the property of the Real Estate Appraiser Board. Upon death of a licensee, dissolution or restructure of a registered business entity, or change of a licensee's, registrant's, or certificate holder's name or address, such licenses, registrations, or certificates must be returned with proper instructions and supplemental material to the board within 30 days of such event.

7. All appraiser licenses issued by the board shall be visibly displayed.

C. Use of seal.

1. The authorized application of a licensed appraiser's seal shall indicate that the licensee has exercised complete direction and control over the appraisal. Therefore, no licensee shall affix his seal to any appraisal which has been prepared by an unlicensed person unless such work was performed under the direction and supervision of the licensee in accordance with § 54.1-2011 C of the Code of Virginia.

2. All original appraisal reports shall be issued under seal and signed by the licensed appraiser. For narrative and letter appraisals, the signature, seal, and final value conclusion shall appear on the letter of transmittal and certification page. For form appraisals, the signature and seal shall appear on the page designated for the appraiser's signature and final estimate of value. All temporary licensed real estate appraisers shall sign and affix their temporary license to the appraisal report or letter for which they obtained the license to authenticate such report or letter. *Appraisal reports may be transmitted electronically in accordance with Appraisal Standards Board Statement on Appraisal Standard No. 8.*

a. An appraiser may provide market analysis studies or counseling reports, which do not constitute appraisals of market value, provided, that such reports, studies or evaluations shall contain a conspicuous statement that such reports, studies or

valuations are not an appraisal as defined in § 54.1-2009 of the Code of Virginia.

b. Application of the seal and signature indicates acceptance of responsibility for work shown thereon.

c. The seal shall conform in detail and size to the design illustrated below:

*The number on the seal shall be the 10-digit number or the last 6 digits, or the last significant digits on the license issued by the board.

D. Development of appraisal. In developing a real property appraisal, all licensees shall comply with the provisions of Standard ~~I~~ *1* of the Uniform Standards of Professional Appraisal Practice (USPAP) in the edition in effect at the time of the reports' preparation. If the required definition of value uses the word "market," licensees must use the definition of market value set forth in USPAP "DEFINITIONS."

E. Appraisal report requirements. In reporting a real property appraisal, a licensee shall meet the requirements of Standard ~~II~~ *2* of the Uniform Standards of Professional Appraisal Practice in the edition in effect at the time of the reports' preparation.

F. Reviewing an appraisal. In performing a review appraisal, a licensee shall comply with the requirements of Standard ~~III~~ *3* of the Uniform Standards of Professional Appraisal Practice in the edition in effect at the time of the reports' preparation. The reviewer's signature and seal shall appear on the certification page of the report.

G. Mass appraisals. In developing and reporting a mass appraisal for ad valorem tax purposes, a licensee shall comply with the requirements of Standard ~~VI~~ *6* of the Uniform Standards of Professional Appraisal Practice in the edition in effect at the time of the reports' preparation.

H. Recordkeeping requirements.

1. A licensee or registrant of the Real Estate Appraiser Board shall, upon request or demand, promptly produce to the board or any of its agents any document, book, or record in a licensee's possession concerning any appraisal which the licensee performed, or for which the licensee is required to maintain records for inspection and copying by the board or its agents. These records shall be made available at the licensee's place of business during regular business hours.

2. Upon the completion of an assignment, a licensee or registrant shall return to the rightful owner, upon demand, any document or instrument which the licensee possesses.

3. Supervising appraisers shall make appraisal reports prepared by appraiser trainees available to the board, at the appraiser trainee's expense, upon request of the appraiser trainee for the purpose of documenting experience when applying to the board for licensure.

I. Disclosure requirements. A licensee appraising property in which he, any member of his family, his firm, any member of his firm, or any entity in which he has an ownership interest, has any interest shall disclose, in writing, to any client such interest in the property and his status as a real estate appraiser licensed in the Commonwealth of Virginia. As used in the context of this chapter, "any interest" includes but is not limited to an ownership interest in the property to be appraised or in an adjacent property or involvement in the transaction, such as deciding whether to extend credit to be secured by such property.

J. Competency. A licensee shall abide by the Competency Provision as stated in the Ethics Provision of the Uniform Standards of Professional Appraisal Practice in the edition in effect at the time of the reports' preparation.

K. Unworthiness.

1. A licensee shall act as a certified general real estate appraiser, certified residential real estate appraiser or licensed residential real estate appraiser in such a manner as to safeguard the interests of the public, and shall not engage in improper, fraudulent, or dishonest conduct.

2. A licensee may not have been convicted, found guilty or pled guilty, regardless of adjudication, in any jurisdiction of the United States of a misdemeanor involving moral turpitude or of any felony there being no appeal pending therefrom or the time for appeal having elapsed. Any plea of nolo contendere shall be considered a conviction for the purposes of this subdivision. The record of a conviction certified or authenticated in such form as to be admissible in evidence of the laws of the jurisdiction where convicted shall be admissible as prima facie evidence of such guilt.

3. A licensee shall inform the board in writing within 30 days of pleading guilty or nolo contendere or being convicted or found guilty, regardless of adjudication, of any felony or of a misdemeanor involving moral turpitude.

4. A licensee may not have had a license or certification as a real estate appraiser which was suspended, revoked, or surrendered in connection with a disciplinary

action or which has been the subject of discipline in any jurisdiction.

5. A licensee shall inform the board in writing within 30 days of the suspension, revocation or surrender of an appraiser license or certification in connection with a disciplinary action in any other jurisdiction, and a licensee shall inform the board in writing within 30 days of any appraiser license or certification which has been the subject of discipline in any jurisdiction.

6. A licensee shall perform all appraisals in accordance with Virginia Fair Housing Law, § 36-96.1 et seq. of the Code of Virginia.

~~7. A licensee who has direct knowledge that another licensee may be violating any of this chapter, or the provisions of Chapters 1 through 3 and Chapter 20.1 of Title 54.1 of the Code of Virginia shall immediately inform the board in writing and shall cooperate in furnishing any further information or assistance that may be required.~~

18 VAC 130-20-210. Standards for the approval of appraisal educational offerings for prelicensure credit.

A. Content.

1. Prior to licensure, applicants shall have successfully completed a 15 classroom hour course in the Uniform Standards of Professional Appraisal Practice.

2. While various appraisal courses may be credited toward the classroom requirement specified for each classification of licensure, all applicants for licensure as an appraiser trainee, a licensed residential, certified residential, or certified general real estate appraiser must demonstrate that their course work included coverage of all the topics listed below.

Appraisal standards and ethics

Influences on real estate value

Legal considerations in appraisal

Types of value

Land economic principles

Real estate markets and analysis

Valuation process

Property description and analysis

Highest and best use analysis

Appraisal statistical concepts

Sales comparison approach

Site valuation

Cost approach

Income approach

Valuation of partial interests

In addition, all applicants for certified residential or certified general real estate appraiser must demonstrate that their course work included coverage in narrative report writing.

3. All appraisal and appraisal-related offerings presented for ~~prelicensure~~ *prelicense* credit must have a final, written examination. *The examination may not be an open book examination.*

4. Credit toward the classroom hour requirement to satisfy the educational requirement prior to licensure shall be granted only where the length of the educational offering is at least 15 classroom hours.

B. Instruction. With the exception of courses taught at accredited colleges, universities, junior and community colleges, or adult distributive or marketing education programs, all other ~~prelicensure~~ *prelicense* educational offerings given after January 1, 1993, must be taught by instructors certified by the board.

18 VAC 130-20-220. Standards for the approval of appraisal educational offerings for continuing education credit.

A. Content.

1. The content of courses, seminars, workshops or conferences which may be accepted for continuing education credit includes, but is not limited to those topics listed in 18 VAC 130-20-210 A 2 and below.

Ad valorem taxation

Arbitrations

~~Business~~ Courses related to the practice of real estate appraisal

Construction estimating

Ethics and Uniform Standards of Professional Appraisal Practice

Land use planning, zoning, and taxation

Management, leasing, brokerage, timesharing

Property development

Real estate appraisal (valuations/evaluations)

Real estate financing and investment

Real estate law

Real estate litigation

Real estate *appraisal* related computer applications

Real estate securities and syndication

Real property exchange

2. Courses, seminars, workshops or conferences submitted for continuing education credit must indicate that the licensee participated in an educational program

that maintained and increased his knowledge, skill and competency in real estate appraisal.

3. Credit toward the classroom hour requirement to satisfy the continuing education requirements shall be granted only where the length of the educational offering is at least two hours and the licensee participated in the full length of the program.

B. Instruction. Although continuing education offerings, except the ~~four-hour~~ *three-hour* required course on recent developments in federal, state and local real estate appraisal law and regulation and the Uniform Standards of Professional Appraisal Practice, are not required to be taught by board certified instructors, these offerings must meet the standards set forth in ~~subsection A of~~ this section.

18 VAC 130-20-230. Procedures for awarding prelicense and continuing education credits.

A. Course credits shall be awarded only once for courses having substantially equivalent content.

B. Proof of completion of such course, seminar, workshop or conference may be in the form of a transcript, certificate, letter of completion or in any such written form as may be required by the board. All courses, seminars and workshops submitted for prelicensure and continuing education credit must indicate the number of classroom hours.

C. Information which may be requested by the board in order to further evaluate course content includes, but is not limited to, course descriptions, syllabi or textbook references.

D. All transcripts, certificates, letters of completion or similar documents submitted to verify completion of seminars, workshops or conferences for continuing education credit must indicate successful completion of the course, seminar, workshop or conference. Applicants must furnish written proof of having received a passing grade in all prelicense education courses submitted.

E. Credit may be awarded for prelicensure courses completed by challenge examination without classroom attendance, if such credit was granted by the course provider prior to July 1, 1990, and provided that the board is satisfied with the quality of the challenge examination that was administered by the course provider.

F. All courses seminars, workshops, or conferences, submitted for satisfaction of continuing education requirements must be satisfactory to the board.

~~G. Correspondence courses, video and remote TV educational offerings may be acceptable to meet the classroom hour requirements for prelicense courses provided each course or offering is approved by the board and has been presented by an accredited college, university, junior or community college; the student passes a written examination administered at a location by an official approved by the college or university; the subject matter was appraisal related; and that the course or offering is a minimum of 15 classroom hours in length.~~

G. Prelicense courses. A distance education course may be acceptable to meet the classroom hour requirement or its equivalent provided that the course is approved by the board and meets one of the following conditions:

1. The course is presented by an accredited (Commission on Colleges or a regional accreditation association) college or university that offers distance education programs in other disciplines; the learner successfully completes a written examination personally administered by an official approved by the college or university; and the course meets the requirements for real estate appraisal related courses established by the Appraiser Qualifications Board and is equivalent to the minimum of 15 classroom hours; or

2. The course has received the American Council on Education's Program on Noncollegiate Sponsored Instruction (PONSI) approval for college credit; the learner successfully completes a written examination personally administered by an official approved by the presenting entity; and the course meets the requirements for real estate appraisal related courses established by the Appraiser Qualifications Board and is equivalent to the minimum of 15 classroom hours.

H. A teacher of appraisal courses may receive ~~either~~ education credit for the classroom ~~hour(s)~~ *hour or hours* taught ~~or experience credit for the classroom hour(s) taught, but not both~~. These credits shall be awarded only once for courses having substantially equivalent content.

18 VAC 130-20-250. Re-approval of courses required.

Approval letters issued under this chapter for educational offerings shall expire two years from the last day of the month in which they were issued, as indicated in the approval letter. *The re-approval fee shall be equivalent to the original approval fee specified in 18 VAC 130-20-240.*

DOCUMENTS INCORPORATED BY REFERENCE

Transfer Credit Practices of Designated Educational Institutions, American Association of Collegiate Registrars and Admissions Officers.

Uniform Standards of Professional Appraisal Practice, effective January 1, 1997, through December 31, 1997, Appraisal Standards Board, Appraisal Foundation.

FORMS

NOTICE: The forms used in administering 18 VAC 130-20-10 et seq., Real Estate Appraiser Board Rules and Regulations, are listed below. Any amended or added forms are reflected in the listing and are published following the listing.

Real Estate Appraiser *Board* License Application ~~Form~~ *(2/97).*

Real Estate Appraiser Board Experience Log (2/97).

Real Estate Appraiser *Board* Trainee License Application Form (2/97).

Real Estate Appraiser Business Registration Application (eff. 4/29/94).

Application for Approval of Appraisal Course Offering (eff. 9/6/94).

Application for Certification as an Appraisal Instructor (eff. 9/6/94).

Commonwealth of Virginia
Dept. of Professional and Occupational Regulation
3600 West Broad Street
Post Office Box 11066
Richmond, Virginia 23230-1066
(804) 367-2039

DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION

Real Estate Appraiser Board
LICENSE APPLICATION

Please make checks or money orders payable to the "Treasurer of Virginia".
ALL FEES ARE NON-REFUNDABLE.

Check the one license you are requesting.

Initial License	Fee*	✓	Temporary License	Fee	✓	License Upgrade	Fee	✓
Certified General	$191.00		Certified General	$45.00		Certified General	$65.00	
Certified Residential	$191.00		Certified Residential	$45.00		Certified Residential	$65.00	
Licensed Residential	$191.00		Licensed Residential	$45.00				
* Includes $50.00 National Registry Fee Assessment								

1. Name _____
   First Middle Last Generation
2. Social Security Number _____
3. Date of Birth _____
4. Home Street Address (P.O. Box not accepted) _____
   City, State, Zip Code _____
5. Telephone & Facsimile Numbers ( ) _____ ( ) _____ ( ) _____
   Telephone Facsimile Beeper, Cellular, etc.
6. Do you have a current or expired real estate appraiser license issued by the Virginia Real Estate Appraiser Board?
   No ☐
   Yes ☐ License Number _____ Expiration Date _____
7. Do you have a current or expired real estate appraiser license, certification, or registration from another jurisdiction?
   No ☐
   Yes ☐ If yes, list the jurisdiction(s), and license, certification, or registration number(s). Attach a Certification of Licensure/Letter of Good Standing, dated within the last 60 days, from each jurisdiction.

OFFICE USE ONLY	DATE	FEE	CLASS OF FEE	LICENSE NUMBER	ISSUE DATE

APPLIC (2/97)

Real Estate Appraiser Board/LICENSE APPLICATION

1 of 3

8. Have you ever been subject to disciplinary action imposed by any local, state, or national regulatory body that resulted in your real estate appraiser license, certification, or registration being suspended, revoked, or surrendered; a monetary penalty or fine being imposed; or any other sanction being imposed?

   No ☐

   Yes ☐ If yes, list the jurisdiction in which the disciplinary action took place, the license number, and an explanation of events, including a description of the disciplinary proceeding and the type of sanctions that were imposed (i.e., suspension, revocation, fine, etc.). If necessary, please attach a separate sheet of paper, and copies of any correspondence or documentation related to this matter.

   _____

   _____

   _____

9. Have you ever been convicted of any felony, or a misdemeanor involving moral turpitude? *Please note that any plea of nolo contendere shall be considered a conviction for purposes of this application.*

   No ☐

   Yes ☐ If yes, list the felony and/or misdemeanor convictions. Attach a copy of all applicable criminal conviction and court records; a statement concerning your current status with regard to incarceration, parole, probation, etc.; and any other information you wish to have considered in review of your application (i.e., reference letters, documentation of rehabilitation, etc.). *Please note that the record of a conviction authenticated in such form as to be admissible in evidence under the laws of the jurisdiction where convicted shall be admissible as prima facie evidence of such conviction.*

   _____

   _____

   _____

   _____

10. If you are not a Virginia resident, or move outside of Virginia while you hold a Virginia Real Estate Appraiser License, do you understand that this application serves as a written power of attorney, whereby you appoint the Director of the Department of Professional and Occupational Regulation, and his/her successors in office, to be your true and lawful agent and attorney-in-fact, in your stead, upon whom all legal process against and notice to you may be served and who is hereby authorized to enter an appearance in your behalf in any case or proceedings arising out of the trade or profession practiced; and that by submitting this application you hereby agree that any lawful process against you which is duly served on said agent and attorney-in-fact shall be of the same legal force and validity as if served upon you?

    Yes ☐

    No ☐ **If no, this application cannot be processed.**

11. Are you applying for a real estate appraiser license through reciprocity?

    No ☐ If no, skip to #15

    Yes ☐ If yes, please attach an original Certification of Licensure/Letter of Good Standing, dated within the last 60 days, from the jurisdiction where you are currently licensed.

12. Are you applying for a temporary real estate appraiser license?

    No ☐ If no, skip to #15

    Yes ☐ If yes, please attach an original Certification of Licensure/Letter of Good Standing, dated within the last 60 days, from the jurisdiction where you are currently licensed.

13. Temporary Assignment Information

    Location _____

    Street Address _____

    City, State, Zip Code _____

    Project Termination Date _____

Affidavits

Sign the one statement (#14 or #15) which applies to your application.

BOTH STATEMENTS REQUIRE NOTARIZATION!

14. *Reciprocity Affidavit* (to be signed by all reciprocity and temporary license applicants)

    I, the undersigned, certify that the foregoing statements and answers are true; I understand and have complied with all the laws of Virginia affecting Real Estate Appraisers under the provisions of Title 54.1, Chapter 20.1, of the Code of Virginia, the Real Estate Appraiser Board Rules and Regulations; and I understand this affidavit.

    Signature _____ Date _____

15. *Non-Reciprocity Affidavit* (to be signed by all applicants not applying through reciprocity)

    I, the undersigned, certify that the foregoing statements and answers are true. I certify that I understand and have complied with all the laws of Virginia affecting Real Estate Appraisers under the provisions of Title 54.1, Chapter 20.1, of the Code of Virginia; the Real Estate Appraiser Board Rules and Regulations; and the Uniform Standards of Professional Appraisers Practice ©. I certify that I have met the minimum real estate appraiser experience and education requirements established in the Real Estate Appraiser Board Rules and Regulations for the type of license for which I am applying, and understand that the Real Estate Appraiser Board may request proof of this experience in the form of written reports or file memoranda which shall be made available to the Board upon request. I also certify that I understand this affidavit.

    Signature _____ Date _____

Notarization

In the State of _____, City/County of _____, subscribed and sworn before me,

the undersigned Notary Public in and for the City/County aforesaid this _____, day of _____, 19__.

My commission expires the _____, day of _____, _____.

Affix official seal here

_____
Signature of Notary Public

See the Experience Requirements letter for additional information to be submitted with your application package.

Commonwealth of Virginia
Dept. of Professional and Occupational Regulation
3600 West Broad Street
Post Office Box 11066
Richmond, Virginia 23230-1066
(804) 367-2039

DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION

Real Estate Appraiser Board
EXPERIENCE LOG

Page 1 of _____

1. Name _____
   First Middle Last Generation
2. Social Security Number _____
3. Type of license you are applying for (check only one)
   - Certified General ☐
   - Certified Residential ☐
   - Licensed Residential ☐

Please complete the remainder of the Experience Log according to the following instructions:

Month & Year — Enter the month and year of completion for the assignment(s) listed in the second column.

Assignment Identification — Enter a description for the type of assignment (commonly used acronyms are acceptable) and the number of those type of assignments you completed during the month and year listed in the first column

Type of Property — Enter the appropriate code for the type of property.

1	Single family, residential	7	Industrial
2	Multi-family, 2 to 3 units	8	Hotel, motel
3	Vacant lots, 1 to 4	9	Office
4	Farms (non-income producing)	10	Subdivision projects
5	Multi-family, more than 5 units	11	Land
6	Commercial	12	Other

Property Value — Enter the appropriate code number for the dollar value of the property.

1	$ 0 - $ 100,000
2	$ 100,001 - $ 250,000
3	$ 250,001 - $ 1,000,000
4	$ 1,000,001 - $ 5,000,000
5	over $ 5,000,000

Type of Involvement — Enter the appropriate code number which indicates your involvement on the assignment(s). Definitions of each category of involvement are printed in Part I of the Real Estate Appraiser Board Rules and Regulations.

1	Fee/staff appraiser, sole appraiser
2	Fee/staff appraiser, co-signer
3	Ad valorem
4	Reviewer
5	Real estate counseling
6	Teaching

Hours on Assignment(s) — Enter the number of assignments and the total number of hours spent on the assignment(s).

EXPERIENCE LOG

Prior to entering information on this form, please make several photocopies of this blank form to ensure that you have additional forms to accommodate all your experience entries. Please number the pages according to the total number submitted (i.e., 1 of 3, 2 of 3, etc.) in the right-hand corner.

Name _____ Page _____ of _____

Month & Year	Assignment Identification (# of Assignments)	Type of Property	Property Value	Type of Involvement	Hours on Assignment(s)
Example					
9/94	*URAR (48)*	*1*	*2*	*1*	*368*

Commonwealth of Virginia
Dept. of Professional and Occupational Regulation
3600 West Broad Street
Post Office Box 11066
Richmond, Virginia 23230-1066
(804) 367-2039

DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION

Real Estate Appraiser Board
TRAINEE LICENSE APPLICATION
Fee $96.00

Please make checks or money orders payable to the "Treasurer of Virginia".
ALL FEES ARE NON-REFUNDABLE.

1. Name _____
   First Middle Last Generation
2. Social Security Number _____
3. Date of Birth _____
4. Home Street Address (P.O. Box not accepted) _____
   City, State, Zip Code _____
5. Telephone & Facsimile Numbers ( ) _____ ( ) _____ ( ) _____
   Telephone Facsimile Beeper, Cellular, etc.
6. Do you have a current or expired real estate appraiser license issued by the Virginia Real Estate Appraiser Board?
   No ☐
   Yes ☐ License Number _____ Expiration Date _____
7. Do you have a current or expired real estate appraiser license, certification, or registration from another jurisdiction?
   No ☐
   Yes ☐ If yes, list the jurisdiction(s), and license, certification, or registration number(s). Attach a Certification of Licensure/Letter of Good Standing, dated within the last 60 days, from each jurisdiction.
   _____
   _____
8. Have you ever been subject to disciplinary action imposed by any local, state, or national regulatory body that resulted in your real estate appraiser license, certification, or registration being suspended, revoked, or surrendered; a monetary penalty or fine being imposed; or any other sanction being imposed?
   No ☐
   Yes ☐ If yes, list the jurisdiction in which the disciplinary action took place, the license number, and an explanation of events, including a description of the disciplinary proceeding and the type of sanctions that were imposed (i.e., suspension, revocation, fine, etc.). If necessary, please attach a separate sheet of paper, and copies of any correspondence or documentation related to this matter.
   _____
   _____
   _____

OFFICE USE ONLY	DATE	FEE	CLASS OF FEE	LICENSE NUMBER	ISSUE DATE

9. Have you ever been convicted of any felony, or a misdemeanor involving moral turpitude? *Please note that any plea of nolo contendere shall be considered a conviction for purposes of this application.*
   No ☐
   Yes ☐ If yes, list the felony and/or misdemeanor convictions. Attach a copy of all applicable criminal conviction and court records; a statement concerning your current status with regard to incarceration, parole, probation, etc.; and any other information you wish to have considered in review of your application (i.e., reference letters, documentation of rehabilitation, etc.). *Please note that the record of a conviction authenticated in such form as to be admissible in evidence under the laws of the jurisdiction where convicted shall be admissible as prima facie evidence of such conviction.*
   _____
   _____
   _____
   _____
10. If you are not a Virginia resident, or move outside of Virginia while you hold a Virginia Real Estate Appraiser Trainee License, do you understand that this application serves as a written power of attorney, whereby you appoint the Director of the Department of Professional and Occupational Regulation, and his/her successors in office, to be your true and lawful agent and attorney-in-fact, in your stead, upon whom all legal process against and notice to you may be served and who is hereby authorized to enter an appearance in your behalf in any case or proceedings arising out of the trade or profession practiced; and that by submitting this application you hereby agree that any lawful process against you which is duly served on said agent and attorney-in-fact shall be of the same legal force and validity as if served upon you?
    Yes ☐
    No ☐ **If no, this application cannot be processed.**
11. I, the undersigned, certify that the foregoing statements and answers are true. I also certify that I understand and have complied with all the laws of Virginia affecting Real Estate Appraisers under the provisions of Title 54.1, Chapter 20.1, of the Code of Virginia, the Real Estate Appraiser Board Rules and Regulations, and the Uniform Standards of Professional Appraisers Practice ©.
    Signature _____ Date _____

The consideration and approval of this application are conditional upon the supervision of the applicant by a Virginia Licensed Real Estate Appraiser who is in good standing (§2.5.4 of the Real Estate Appraiser Board Rules and Regulations).

THE FOLLOWING INFORMATION MUST BE PROVIDED BY THE APPLICANT'S SUPERVISOR.

12. Name _____
    First Middle Last Generation
13. Social Security Number _____
14. Date of Birth _____
15. Home Street Address (P.O. Box not accepted) _____
    City, State, Zip Code _____
16. Telephone & Facsimile Numbers ( ) _____ ( ) _____ ( ) _____
    Telephone Facsimile Beeper, Cellular, etc.
17. Virginia Real Estate Appraiser License Number _____

18. Type of Virginia Real Estate Appraiser License
    - Certified General ☐
    - Certified Residential ☐
    - Licensed Residential ☐
19. Business Name _____
20. Trade Name of Business _____
21. Business Street Address (P.O. Box not accepted) _____
    City, State, Zip Code _____
22. Business Telephone & Facsimile Numbers ( ) _____ ( ) _____
    Telephone Facsimile
23. Virginia Appraiser Business Registration Number _____
    (If applicable)
24. I, the undersigned, certify that the foregoing statements and answers are true. I also certify that I understand and have complied with all the laws of Virginia affecting Real Estate Appraisers under the provisions of Title 54.1, Chapter 20.1, of the Code of Virginia, the Real Estate Appraiser Board Rules and Regulations, and the Uniform Standards of Professional Appraisers Practice ©.

    Supervisor's Signature _____ Date _____

Please attach verification of 75 hours in pre-licensure educational courses.

APPTR (2/97) Real Estate Appraiser Board/TRAINEE LICENSE APPLICATION

VA.R. Doc. No. R97-716; Filed September 2, 1997, 11:51 a.m.

TITLE 22. SOCIAL SERVICES

CHILD DAY-CARE COUNCIL

Title of Regulation: **22 VAC 15-30-10 et seq. Minimum Standards for Licensed Child Day Centers (amending 22 VAC 15-30-10, 22 VAC 15-30-20, 22 VAC 15-30-30, 22 VAC 15-30-50, 22 VAC 15-30-70, 22 VAC 15-30-80, 22 VAC 15-30-90, 22 VAC 15-30-100, 22 VAC 15-30-110, 22 VAC 15-30-120, 22 VAC 15-30-130, 22 VAC 15-30-140, 22 VAC 15-30-150, 22 VAC 15-30-160, 22 VAC 15-30-170, 22 VAC 15-30-180, 22 VAC 15-30-190, 22 VAC 15-30-200, 22 VAC 15-30-230, 22 VAC 15-30-250, 22 VAC 15-30-260, 22 VAC 15-30-280, 22 VAC 15-30-290, 22 VAC 15-30-310, 22 VAC 15-30-320, 22 VAC 15-30-330, 22 VAC 15-30-340, 22 VAC 15-30-350, 22 VAC 15-30-360, 22 VAC 15-30-370, 22 VAC 15-30-380, 22 VAC 15-30-390, 22 VAC 15-30-410, 22 VAC 15-30-430, 22 VAC 15-30-440, 22 VAC 15-30-490, 22 VAC 15-30-500, 22 VAC 15-30-510, 22 VAC 15-30-520, 22 VAC 15-30-540, 22 VAC 15-30-550, 22 VAC 15-30-560, 22 VAC 15-30-570, 22 VAC 15-30-580, 22 VAC 15-30-590, 22 VAC 15-30-600, 22 VAC 15-30-610, 22 VAC 15-30-620, 22 VAC 15-30-630, 22 VAC 15-30-640, 22 VAC 15-30-650, 22 VAC 15-30-660, 22 VAC 15-30-670; adding 22 VAC 15-30-451, 22 VAC 15-30-461, 22 VAC 15-30-471, 22 VAC 15-30-481, 22 VAC 15-30-484, 22 VAC 15-30-487, 22 VAC 15-30-575; repealing 22 VAC 15-30-40, 22 VAC 15-30-60, 22 VAC 15-30-210, 22 VAC 15-30-220, 22 VAC 15-30-240, 22 VAC 15-30-270, 22 VAC 15-30-300, 22 VAC 15-30-400, 22 VAC 15-30-420, 22 VAC 15-30-450, 22 VAC 15-30-460, 22 VAC 15-30-470, 22 VAC 15-30-480, 22 VAC 15-30-530, 22 VAC 15-30-680, 22 VAC 15-30-690, 22 VAC 15-30-700, 22 VAC 15-30-710, 22 VAC 15-30-720, and 22 VAC 15-30-730).**

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

Public Hearing Date:

November 18, 1997 - 4 p.m. (Fairfax)
November 19, 1997 - 4 p.m. (Norfolk)
November 20, 1997 - 4 p.m. (Richmond)
November 24, 1997 - 4 p.m. (Roanoke)
November 25, 1997 - 4 p.m. (Abingdon)
Public comments may be submitted until November 29, 1997.
(See Calendar of Events section for additional information)

Basis: Section 63.1-202 of the Code of Virginia provides the statutory basis for the Child Day-Care Council to promulgate regulations for child day centers. It states "The State Board or in the case of child day centers, the Child Day-Care Council shall promulgate regulations for the activities, services and facilities to be employed by persons and agencies required to be licensed under this chapter, which shall be designed to ensure that such activities, services and facilities are conducive to the welfare of the children under the custody or control of such persons or agencies." On October 10, 1996, the Child Day-Care Council approved the proposed regulation entitled Minimum Standards for Licensed Child Day Centers (22 VAC 15-30-10 et seq.) for a 60-day public comment period contingent upon approval from the Department of Planning and Budget and the Secretary of Health and Human Resources. On January 17, March 13, and May 8, 1997, the Child Day-Care Council made several amendments to this proposed regulation.

Purpose: The purpose of the proposed regulation is to provide protective oversight of children in child day centers. More specifically the purpose is to ensure that the activities, services, and facilities of the centers are conducive to the well-being of these children and that the risks in the environment of the centers are reduced for these children.

Substance: The following list identifies the proposed substantial changes made to the regulation. It also includes the proposed substantial changes made to the school age requirements contained in the regulation entitled Minimum Standards for Licensed Child Day Centers Serving School Age Children (22 VAC 15-40-10 et seq.) which are being incorporated into this regulation.

1. Changes the definition of "age and stage appropriate" to add that equipment needs to be suitable, deletes applying a knowledge of child development, and deletes reference to staff-parent interactions. Council changed because it is not appropriate to appear to support a single philosophy. Instead of addressing philosophies, the council recommended suitable equipment for developmental stages of children.

2. Changes the definition of "staff" such that volunteers who come once a week or more often no longer need to meet staff requirements unless they are counted in the staff-to-children ratios or are left alone with a child. Volunteers who come less than once a week will now need to meet staff requirements if left alone with a child.

3. No longer requires the center to identify its legal name and provide the names and addresses of individuals who hold primary financial control and the names of officers of the governing body. The application forms require this. The current regulation prescribes a business methodology rather than a safety purpose.

4. No longer requires the sponsor to afford the commissioner or his agents the right to inspect his financial books and records because § 63.1-198 requires the applicant to afford the commissioner's representatives reasonable opportunity to inspect all of the applicant's books and records. Requires the commission's representatives to notify a child's parent before a private interview may be conducted with the child.

5. No longer requires the licensee to develop a written statement of the purpose, scope, and philosophy of the services and written policies under which the center will operate. No longer requires the sponsor to follow other laws and regulations. The current regulation goes beyond safety purposes and begins government intrusion into prescribing business practices.

6. No longer requires the licensee to identify in writing the individuals responsible for the day-to-day operations and implementation of both the regulations and the facility's policies since the application form requires the name of the administrator and program director.

7. Deletes the requirement to make available accident or school insurance. It is not necessary to require accident insurance. Making participant insurance available is costly for programs that are seasonal.

8. Deletes the requirement for the written playground safety plan to include positioning of staff on the playground. Positioning staff on a playground may limit their ability to quickly respond to children's injuries or other needs.

9. Requires centers operated by hospitals to develop a written plan for emergency operations instead of only having one if they plan to exceed their capacity during a natural disaster or catastrophe. In case of emergency, hospitals should be able to respond as needed. In a natural disaster or other catastrophe, hospitals, with their expertise in disasters, should not be limited by this regulation but should have a plan in place.

10. No longer specifies that the parent must receive the following information: center's purpose, scope, philosophy, and any religious affiliations; forms and other written instruments for admission and registration of children; fees and tuition, including whether participation in accident or school insurance is mandatory; phone number of the center where a message can be given to center staff; program and services provided and ages of children accepted; 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 licensing information about child day programs. Much of this could be excessive paperwork in this day of technology. For example, video presentations or other technology could be used. The current regulation prescribes business methodology without enhancing children's welfare.

11. Adds a requirement for the center to give parents a policy on emergency notification and procedures for performing health-related procedures.

12. Requires staff to receive certain policies and procedures by the end of their first day of supervising children instead of before supervising children. The proposed regulation provides some flexibility in instances where a staff person might walk off a job, become suddenly and seriously ill, etc., and the center needs to be able to cover ratios immediately.

13. Adds a requirement that parent volunteers at cooperative preschools must get reference checks if they are counted in the staff-to-children ratios or left alone with children.

14. Deletes the requirement that parents give authorization for emergency medical care if the parent objects on religious grounds or other reasons.

15. No longer requires parents to sign a statement that they will arrange to pick up their child as soon as possible if their child becomes sick at the center. The current regulation is redundant. Other regulations require a child with fever and contagious diseases to be removed from a center.

16. No longer requires parental permission for center transportation and field trips to be kept in the child's record; parental permission is required in the transportation section of the regulation.

17. No longer requires the center to provide parents with the reasons for terminating enrollment of a child. Termination of services is a contractual relationship between a center and the parent.

18. No longer requires personal communication among a staff person, the parent, and a child before admission so there can be discussion about the child's admission.

19. No longer requires therapeutic child day programs and special needs child day programs to obtain information on activities for daily living on each child before agreeing to include the child in the program. These programs need to obtain from parents information on the child's general functioning and any special medical procedures before the child's first day of attendance instead of before agreeing to the child's provisional inclusion in the program.

20. 22 VAC 15-30-120 no longer requires therapeutic child day programs and special needs child day programs to maintain the child's level of general functioning and any special medical procedures in the child's file or to use this information for initial placement of the child. This is covered under 22 VAC 15-30-80 8.

21. For therapeutic child day programs, deletes specificity regarding the content of the child's assessment, deletes requirement that the assessment be maintained in the child's record, and deletes requirement that the director or his designee meet with the child's parent and other professionals as necessary to evaluate program placement and program accommodations for the child.

22. For therapeutic child day programs, deletes specificity regarding the content of the child's individual treatment plan. It requires a plan and allows each program to tailor the plan to meet the child's needs and function of the program.

23. Allows more flexibility with regard to documentation of immunizations. Currently, health departments only accept the MCH 213 form. Parents have trouble getting the form from physicians. This is also a problem for military dependents who use a military health clinic since they do not use the MCH 213 form.

24. Specifies that the TB test must be a PPD. No longer requires TB screenings for volunteers who come once a week or more often unless they are left alone with a child or are counted in the staff-to-children ratios. Requires TB screenings for volunteers left alone with a child and who are not counted in the staff-to-children ratios and who do not come to the center once a week or more often. No longer specifies what type evaluation must be conducted after contact with TB/development of chronic respiratory symptoms but requires a physician or a local health department official determination of non-contagious. This standard was outdated and was revised to reflect current medical thinking. Volunteers are considered staff in these conditions and therefore need to be tested. This standard was written with the help of a physician.

25. Requires that when there is evidence that the safety of children may be jeopardized by the physical or mental health of a staff member or volunteer, that staff member shall not have unsupervised contact with children or participate in the food service program until an exam confirms that any risk has been eliminated or can be reduced to an acceptable level by reasonable accommodations. Current regulations refer to "contact with children."

26. 22 VAC 15-30-200 no longer specifically requires staff to be understanding and sensitive to the varying capabilities, interests, needs and problems of children in care. This provision is now covered in 22 VAC 15-30-484 (proposed).

27. No longer specifically requires staff to understand and apply the minimum standards. Another requirement requires staff to be capable of carrying out assigned responsibilities. The current regulation is redundant. It is unnecessary to make a regulation to require someone to follow the regulation made.

28. No longer specifically requires staff to: communicate effectively and appropriately with the age group to which the staff person is assigned; communicate effectively with parents; provide a stimulating and safe environment for the age group to which the staff person is assigned; and use materials, activities, and experiences to encourage children's growth and development. Another requirement requires staff to be capable of carrying out assigned responsibilities. Staff/parent communications are required in other sections of the regulations.

29. For therapeutic child day programs and special needs child day programs, deletes the requirement for staff to adapt or modify activities based on the assessment of the children's needs and functional abilities and to ensure that each child is always supervised by staff appropriately trained in the form of communication needed because 22 VAC 15-30-310 E 5 already requires staff who work with children to receive training in appropriate intervention strategies.

30. Program Directors. Makes the following changes to the qualifications for program directors at centers serving children of preschool age or younger: (i) deletes two education options (48 semester hours and the Child Development Associate credential or equivalent) for meeting program director qualifications, (ii) adds a new option that requires three years of programmatic experience in the group care of children with one year in a staff supervisory capacity and a high school diploma (or G.E.D. or verification of completion of a home school program approved by the state), and (iii) revises four options to (a) decrease the amount of programmatic experience, (b) delete specificity so the experience does not need to be "age appropriate" (however, other standards require the activities and materials for children to be age and stage appropriate), and (c) allow flexibility so the education does not need to be child related (in three of the four options). Requires program directors at centers serving school age children to meet one of the same qualification options as program directors at centers serving children of preschool age or younger. Revises the exception for the director to be only 19 years of age (instead of at least 21 years of age) so it applies only to short-term programs for school age programs (currently it applies to all school age programs) but the qualifications of the individual who must have daily supervisory contact with the 19 to 20-year-old director are changed. Currently it is an endorsement, bachelor's degree or associate degree in a child-related field and one year of experience. The proposed regulation requires the person to meet one of the program director options which allows for an endorsement, bachelor's degree or associate degree. Requires program directors at Montessori programs to meet the qualifications for regular programs. Incorporates the qualifications for program directors at therapeutic child day programs and special needs child day programs so they meet the regular program director qualifications except that the programmatic experience must be with children with disabilities. Administrators performing program director functions are still required to meet program director qualifications as stated in the program director definition. As proposed, the regulations specify that as the educational levels increase, the amount of experience may decrease. Likewise, as experience increases, there are less restrictive educational requirements. The council recognizes and values both education and experience.

31. Program Leader Qualifications. Makes the following changes to the qualifications for program leaders working with children of preschool age or younger: (i) deletes two of the education options since they are covered by the program director qualifications but require more experience, (ii) revises one option by decreasing the amount of programmatic experience and not specifying that the experience needs to be "age appropriate" (however, other standards require the activities and materials for children to be age and stage

appropriate), (iii) deletes one education option, and (iv) revises one option to (a) decrease the amount of programmatic experience, (b) allow for home schooling, (c) increase the training requirement by two hours, (d) specify the content of the training, and (e) strengthen the time frames in which the training must be received. Requires program leaders working with school age children to meet one of the same qualification options as program leaders working with children of preschool age or younger. The following exception was also added. Program leaders at short-term programs may have only one season of programmatic experience in the care of children. Requires program leaders at Montessori programs to meet the qualifications for regular programs. Incorporates the qualifications for program leaders at a therapeutic child day program or special needs child day program so they meet the regular program leader qualifications except that at least three months of the programmatic experience shall be with children with disabilities. As proposed, the regulations specify that as the educational levels increase, the amount of experience may decrease. As experience increases, there are less restrictive educational requirements. The council recognizes and values both education and experience.

32. Independent Contractors. Allows independent contractors working with children to not meet qualifications if they are within sight and sound supervision of a staff member when in the presence of children.

33. No longer requires that volunteers who come once a week or more often need to meet the qualifications for the applicable position unless they are counted in the staff-to-children ratios or left alone with children. Volunteers must be at least 13 years of age instead of 14 years of age.

34. Back-up Program Directors. Changes the requirement that centers operating more than eight hours a day must have a program director or back-up program director meeting director qualifications present at the facility 50% of the hours of operation instead of just four hours a day.

35. No longer requires a written plan for staff development. Other regulations require annual staff training and orientation.

36. Requires that volunteers counted in the staff-to-children ratios or who are left alone with children to receive eight hours of training a year. No longer requires the eight hours of annual training to consist of some sources outside of the center; be conducted by someone with verifiable expertise or experience when conducted as in-service training; and include the topics of safety for child development, discipline, and playground supervision for staff. Deletes Montessori exception for eight hours of staff training a year.

37. Requires staff at therapeutic child development programs and special needs child day programs to obtain 24 hours of annual training instead of 16 hours of annual training and adds requirement that volunteers counted in the staff-to-children ratios or left alone with children who work at a therapeutic child day program or a special needs child day program meet the annual training requirement. No additional hours are required because this is covered in 22 VAC 15-30-310 C.

38. Adds a requirement that camps notify certain emergency services organizations of the camp location before the first license is issued; deletes the requirement that camps obtain approval from the building official for operation of incinerators and approval from the fire official for any open fires. The building official does not have authority to give approval for operation of incinerators, which are out-dated in most camps. The fire prevention code does not regulate camp fires.

39. Deletes the exception for Montessori programs concerning safe equipment. Standard no longer references "objects small enough to be swallowed" which was the previous concern for Montessori programs. Safety is for all children. All exceptions for Montessori programs have been deleted.

40. Requires that handrails be between 30 inches and 38 inches. No longer requires handrails and guardrails for three or more risers if the total height is less than 20 inches. Specifically requires guardrails for three or more risers with a total height of more than 20 inches. Requires handrails where stair exceeds 20 inches. This requirement comports with the building code.

41. No longer requires fans to be secured.

42. No longer specifically requires camps to be located on ground with good surface drainage and which is free of natural and man-made hazards. No longer specifically requires preventive measures when the camp is located adjacent to swamps, marshes, etc. Camps are sometimes located in state parks as well as on private property. This removes micro-managing of location. Determination from staff is that this has not been a needed regulation. Camps must meet requirements of the local zoning board.

43. Deletes the requirement to have a separate space for children who are tired. It is not possible to measure "tired"; therefore, it cannot be enforced. 22 VAC 15-30-461 and 22 VAC 15-30-471 provide that infants and young children must be allowed to rest as needed and, if they fall asleep, they must be moved if in an unsafe place.

44. Further prohibits smoking in the building by no longer allowing smoking in a room where there is a separate air circulation system from the one used for children's areas and the circulation system is vented directly to the outdoors. Now allows smoking in areas used for residential purposes. This is consistent with the

Code of Virginia. However, the council has also prohibited smoking in the presence of children when outside on playgrounds.

45. Changes the requirement to arrange activity space to protect children from others at more advanced developmental stages so that it only applies to infants.

46. For therapeutic child day programs and special needs child day programs adds a requirement that the mats used for children out of their wheelchairs must be cushioned. This regulation was added for injury prevention.

47. Allows use of air dryers in restrooms instead of paper towels. This provides choice. Centers may use either paper towels or air dryers.

48. Changes the toilet and sink ratio from 1:15 for preschool children to 1:20 for preschool children. Deletes exception for Montessori programs concerning the required number of toilets and sinks. The standard was revised to a 1:20 toilet and sink ratio so Montessori programs should already be meeting the requirement according to the Montessori module. This changes toilet and sink ratios to be comparable to the Montessori module. All exceptions for the Montessori module have been deleted.

49. Adds a requirement that disposable gloves be in the diapering area.

50. Deletes requirement for privacy when changing diapers of school age children. Standards are for the purpose of protective oversight. Providing privacy when changing diapers is not a safety issue.

51. No longer requires a toilet (when only toilet chairs are used) to be located within 10 feet of the area used by the children for the majority of the day. 22 VAC 15-30-575 C requires the toilet area allow sight and sound supervision while maintaining staff-to-children ratios.

52. Requires all playground equipment to have resilient surfacing regardless of whether the equipment is portable. Requires the resilient surfacing to be at least six inches deep unless mats meeting CPSC and ASTM requirements are used. Deletes the exception for Montessori programs concerning resilient surfacing. The Montessori module already requires resilient surfacing. Since a specific depth of resilient surfacing is required, Montessori programs will be affected the same way as other licensed programs.

53. Requires indoor play equipment to meet certain safety requirements (no head entrapment areas, no unclosed S-hooks, and no protrusions, sharp points, shearing points or pinch points).

54. Allows the use of molded swings (such as plastic swings) in a separate infant and toddler play area.

55. Requires that the climbing portion of slides and climbing equipment located indoors not be more than five feet high (currently the limit is seven feet) and requires two inches of padding under slides and climbing equipment located indoors when the climbing portion is more than 36 inches high.

56. No longer requires the unpaved surface in the infant/toddler outdoor area to be suitable for crawling infants and toddlers learning to walk. "Suitable" cannot be measured or enforced.

57. No longer requires aides and volunteers to be under the supervision of a staff member on-site who meets the qualifications of a program director or program leader. 22 VAC 15-30-430 D requires that there be at least one staff member regularly present in each grouping of children who meets the qualifications of a program director or program leader. No longer limits the number of aides a program director or program leader can supervise.

58. No longer requires a staff person and an immediately available second person at the center after closing hours when a child is not picked up before closing time. Requires at least one staff person and an immediately available second person to be on the premises instead of in each building. Adds a requirement that the second person be at least 16 years of age and readily available with direct means for communication with the other staff member. Adds a requirement that the support person receive instruction on how to contact appropriate authorities in the event of an emergency. The proposed regulation offers flexibility to the center by allowing more efficient use of staffing at the end of the day when ratios are low.

59. Provides that child volunteers 13 years of age or older instead of 14 years of age or older do not need to be counted in the staff-to-children ratios. This change is consistent with the change to 22 VAC 15-30-300 B which requires volunteers to be at least 13 years of age.

60. During the summer months only, requires the staff-to-children ratio for a combined group of school age children and four- and five-year-old children who will be entering kindergarten that year be 1:20 instead of the current 1:15. Allows programs other than those operating under the requirements in the current Montessori module to meet a 1:15 staff-to-children ratio in balanced multi-age groupings of children ages three through six years of age if: (i) during any extended absence of the program leader, the staff-to-children ratio is 1:12; (ii) auxiliary persons maintain a 1:10 adult-to-child ratio for all three-year-olds in the group; and (iii) the program leader has received training in classroom management of balanced mixed age groupings. Currently the ratio of a mixed age group of children three through six years of age would be 1:10. Allows current Montessori programs and all future balanced-mixed groups to meet a staff-to-children ratio of 1:15 throughout the day when there is a balanced mixed age group of children three through six years of age and the above-

mentioned criteria are met. Under the current Montessori module, the less restrictive ratio of 1:15 is allowed only during limited "school" hours. The current regulation already requires a 1:20 staff-to-children ratio for five-year-olds eligible to attend school.

61. No longer applies the daily schedule on days occupied a majority of the time by a field trip. Centers must offer at least one hour of outdoor activity per day if the program operates more than five hours per day (instead of 5½ hours per day). Outdoor activity is not required for infants. No longer requires outdoor activity for school age children. 22 VAC 15-30-481 A requires large motor activity 25% of the time and before school programs operating less than two hours a day were already exempt from the outdoor activity requirement. Deletes Montessori exception for outdoor activity. The current regulation requires full daily activities even if children were gone on a field trip most of the day. Most of the daily activity schedule cannot be met if a field trip takes up a substantial part of the day.

62. No longer requires the center to respect the child's primary language or dialect. General respect for ethnicity and culture is still required.

63. No longer requires centers to allow a school age child to sleep or rest as needed. However, regulation does not prevent center from allowing a school age child to sleep or rest.

64. No longer specifies that drama and craft activities are required, but craft material must be available. Deletes requirement for before and after school programs to have art and music activities, but art material and music and sound materials must be available. Current regulations do not consider that school age children may be at a center for a short time. The proposed regulation allows flexibility for before and after school programs.

65. Adds a requirement that a center have the following equipment: arts and crafts materials, construction materials, music and sound materials, books, social living equipment, and manipulative equipment. No longer requires activities for preschool children and toddlers in sensory experiences, water and sand play, construction and imaginative/creative play. Requires art or music activities daily instead of both daily. Deletes Montessori exception for activities. The current regulation is too restrictive, inflexible and specific. "Sensory experiences" is so broad as to encompass almost anything and thus means nothing. The above specified mandated play falls within the categories of large and small motor activities, language and communication experience, art and music activities and play acting (social living) which are required daily under 22 VAC 15-30-471.

66. Adds a requirement that staff encourage language development (by personal conversations, describing objects/events, and expanding language) for toddler and preschool children.

67. No longer specifically requires staff to put feelings into words for toddlers. 22 VAC 15-30-471 B and 22 VAC 15-30-490 C encourage language development. Requiring staff to encourage language development by personal conversations, giving toddlers time to initiate and respond, labeling and describing objects and events and expanding on toddler language should be enough without specifically requiring staff to put feelings into words for toddlers.

68. Requires staff daily to inform parents of preschoolers (who pick up their child from the center) about the child's daily activities, physical well-being and developmental milestones. Staff no longer needs to inform parents of toddlers, when individuals other than the parents pick up their children from the center, about the child's daily activities, physical well-being and developmental milestones. The intent is to have direct communication with parents, not with people picking up other people's children.

69. Adds a requirement that preschool children (not just infants and toddlers) be moved when they fall asleep in a play space other than their own cot, bed, etc., if they are uncomfortable or unsafe.

70. Adds a requirement that the center inform parents of persistent behavioral problems and any disciplinary steps taken in response.

71. No longer requires the center to encourage parental involvement but must provide opportunities for parental involvement.

72. Instead of requiring immeasurable "frequent and in person communication," requires that a daily record of infant activities be posted and that daily feedback be given for parents who pick up their toddler or preschool age child. In addition, there must be a formal oral or written report on the child's development, behavior, and adjustment and needs given to the parent every six months. Although "health" of the child is not a specified subject of the report, any health issues relevant to the center's provision of care would fall into the development and needs subjects.

73. No longer requires the arrangement and use of materials and equipment to be age and stage appropriate. Equipment requirements are covered in other sections of the regulations.

74. Allows slides and climbing equipment located indoors when the climbing portion is 18 inches or less to be placed over bare flooring such as wood, masonry or vinyl.

75. No longer specifically requires disposable dishes and utensils to be sturdy enough to contain food without leakage and to prevent harm and injury to children. This regulation was rewritten to accomplish the same intent

without being specific as to the type of containers used. It permits new and innovative utensils and equipment.

76. No longer requires storage space for personal belongings of children of preschool age or younger to be "individualized space" (i.e., cubby, locker) as long as some type of provision is made. This regulation was amended to allow children to use joint spaces if desired.

77. No longer specifically requires that classrooms of children of preschool age or younger have at least one shelf/cupboard space where materials can be readily and freely chosen by children during active play periods.

78. No longer specifically requires balls, busy boards, books, rattles, dolls, play mats, soft blocks, nesting and stacking toys, squeeze toys, music boxes and mirrors for infants. This was moved to 22 VAC 15-30-500 B 1 and more flexibility regarding the types of toys was added.

79. Allows use of play yards if: (i) they meet JPMA and ASTM requirements, (ii) pillows and filled comforters are not used, (iii) they are not used for sleeping areas, and (iv) not more than one child uses a play yard at one time. Recent surveys and technology in the industry indicate play yards are appropriate to be used if occupied by only one child at a time.

80. Changes the required distance between cots, beds, etc., to 12 inches instead of 15 inches. Since children interact together throughout the day, disease transmission in cot spacing is not an issue. It was determined that nothing was submitted to prove a safety factor, or that 15 inches is necessary when 12 inches is adequate.

81. Prohibits the use of filled comforters with children under two years of age.

82. Clarifies that cribs, cots, and beds need linens, but linens are not required for mats.

83. Requires crib sheets to be sanitized daily (instead of just cleaned). There is no definition for "cleaned."

84. Deletes the following: discipline limits to be fair; providing children with reasons for limits; giving positively worded directions when disciplining; requiring behavior problems of children of preschool age or younger be dealt with promptly; and arranging equipment, materials, activities, and schedules in a way that promotes desirable behavior. Prohibits the use of noxious substances for discipline. Deletes requirement that the center follow its own discipline policy. The requirement that discipline be age and stage appropriate (22 VAC 15-30-484 B) covers the current requirement that when separation for discipline occurs that it be brief and appropriate to the child's level and circumstances (22 VAC 15-30-530 F). Proposed subdivision 4 of 22 VAC 15-30-487, which prohibits separation from the group which is out of the hearing and vision of a staff member, covers the requirement that when separation is used, it be in a place that is lighted and well-ventilated (22 VAC 15-30-530 F). Not all discipline problems need to be dealt with promptly. If there is a persistent problem, staff should talk with the parent. Proposed 22 VAC 15-30-484 B, requiring that discipline be intended to redirect children to appropriate behavior and resolve conflicts, covers the current requirement to help children to constructively express their feelings to resolve conflict (22 VAC 15-30-530 A 5). Current 22 VAC 15-30-530 A 6, regarding arranging equipment, materials, activities, and schedules in a way that promotes desirable behavior, is intrusive and subjective. When standards are vague, it facilitates inconsistent enforcement.

85. No longer requires at least two staff members to be present during swimming activities with school age children. A designated water safety instructor must also be present if the water is more than two feet deep.

86. Requires fences around pools to meet the BOCA National Building Code of 1993.

87. No longer requires specific safety equipment to be available for swimming in a lake or other large body of water as long as "appropriate" safety equipment is available. The current regulation was unclear. A boat of any kind is not necessary as they are not a part of mandatory equipment. This was an antiquated regulation. Any managed body of water designated for swimming has certified and capable lifeguards. Areas are usually identified with proper barrels, ropes, floats, etc.

88. Safety procedures for swimming do not need to be given to parents of children participating in swimming/wading activities. There is no need to provide information to staff and parents if swimming is done at the center and rules are posted. No longer requires staff to receive these procedures because they must know them so they can explain them to the children participating in swimming activities. Specifies that when necessary the parent shall be the person who determines the child's swimming skills. Teachers are not trained to assess a child's swimming ability.

89. Requires centers to exclude children according to the Department of Health's communicable disease chart unless otherwise directed by the child's physician.

90. Adds a requirement that staff wash hands before diapering and helping a child use the toilet. Washing hands before diapering is as important as after regarding contagion control.

91. Allows use of sanitized washcloths instead of just disposable wipes when diapering a child. Disposable wipes are not environmentally friendly and limit options. Sanitized washcloths are used only one time and then resanitized.

92. Adds a requirement that centers keep a record of and inform parents immediately of any adverse reactions to medication administered and any medication error.

93. Adds a requirement that the first aid course include rescue breathing as appropriate to the age of the children in care (or take another course that includes rescue breathing). Deletes specific requirements for department's acceptance of first aid courses not listed in the standard. The council does not recommend advising one course over another.

94. For therapeutic child day programs and special needs child day programs, the standard adds a requirement that a staff person be trained in CPR (appropriate to the age of the child in care) when there is a child whose disability results in increased medical risk.

95. No longer requires documentation of children's minor injuries. No longer requires documentation of the method of notifying parents of a serious injury as long as there is documentation of when parents were notified. No longer needs to specify the staff members present during a serious injury but needs to describe the action to be taken to prevent the injury from happening again.

96. Changes the requirement for constant attention to the fluid needs of children in environments of 80°F or above so this attention is now required to be offered at regular intervals.

97. Changes the requirement that menus must be kept for one week instead of six weeks. This change reduces paperwork.

98. Requires that all food preparation, instead of just food prepared during cookouts, must be done in a clean and sanitary manner.

99. Prohibits serving children any contaminated or spoiled food but allows perishable food prepared during cookouts to be served again to children (as long as it is not contaminated or spoiled).

100. Adds a requirement that school age children be encouraged to feed themselves. Removes the prohibition on eating and drinking while walking around for preschool and school age children.

101. No longer requires staff to sit with preschoolers and toddlers during meal and snack times. Sitting with children does not ensure staff is interacting with children. Interactions should be taking place throughout the day, not just at meal times.

102. Adds a requirement that staff test the temperature of heated formula and baby food before serving it to children.

103. No longer requires centers to allow mothers to breastfeed at the center. This is a center's decision. It can choose to allow breastfeeding at the center if it wishes.

104. No longer requires an additional contact number (besides the center) to be kept in the vehicle during transportation.

105. No longer requires parental permission at least 24 hours before transportation or before field trips as long as the permission is obtained before these activities occur. Time restriction may prevent some wonderful experiences for children. This reduces the workload substantially. Some use blanket permission.

106. Deletes the requirement and variations in the Montessori module. Center regulations are to be written in a fair and equitable manner and not for a specific philosophy.

Issues: This regulation protects children in care at licensed child day centers. These standards also support families by helping them to locate safe and appropriate child care, which may support parents' striving to become more self-sufficient. According to recent research, most child care is mediocre in quality and sufficiently poor to interfere with children's emotional and intellectual development; additionally, states with more demanding licensing standards have fewer poor-quality centers (Cost, Quality, and Child Outcomes in Child Care Centers, January 1995). The advantage of this regulation for the Department of Social Services is that it allows the department to comply with statutory intent.

Some may see a disadvantage to providers in the new requirements. Earlier proposed revisions were less intrusive and burdensome for providers and may have resulted in cost savings. However, this version does represent cost savings from the current regulations. Public opinion on earlier versions of the draft regulation has been mixed and has focused primarily on staff-to-children ratios and staff qualifications. Some express concern about the potential adverse impact the proposals will have on children's learning and safety while others support the proposal because it allows for parental involvement, reduced government intrusion, and opens the field to those without a high school diploma. The most recent draft has not yet been exposed for public comment. There are no disadvantages of this regulation for the Department of Social Services.

Department of Planning and Budget's Economic Impact Analysis: The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 9-6.14:7.1 G of the Administrative Process Act and Executive Order Number 13 (94). Section 9-6.14:7.1 G requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. The analysis presented below represents DPB's best estimate of these economic impacts.

Summary of the proposed regulation. This proposal makes a number of significant changes in the regulations governing the operation of child day care centers. A number of the

changes reduce or eliminate certain requirements that day care centers must meet, while others either add to existing requirements, generally in the area of child safety, or clarify language in the existing version of the regulations. This proposal revises the preschool standards and incorporates the school-age center requirements into this section.

Estimated economic impact. Regulatory strategies: Each change in the child day care regulations should each be judged by whether it enhances the net economic value of day care services. These regulations can be seen as having one or more of three key regulatory functions: providing information to consumers, directing minimum standards for center activities that would be difficult or impossible for consumers to monitor, and protecting children from what the laws of the Commonwealth determine to be unreasonable levels of risk.

In considering the first two regulatory functions, it is generally preferable, other things equal, to see to it that consumers are fully informed and then let them make their own choices in the marketplace. The main purpose is to make sure that consumers are getting what they think they are getting. This is important because, in the absence of good information, there is no reason to believe that the voluntary transaction will lead to an improvement in economic welfare. If the consumer is frequently confronted with situations where the quality of day care services is unknown and is difficult to determine, the market for day care services could be seriously undermined. The regulations, then, can actually increase the demand for day care services even if they increase costs somewhat.

The information asymmetry between the provider and parent may, to some extent, be due to the inexperience of parents in purchasing day care services. Because some of the choices that parents make involve the health, safety and security of their children, the cost of making a mistake is potentially very high. A parent's assessment that he or she lacks basic information concerning what dimensions of day care center quality are important may limit demand for what would otherwise be a valuable service. In this case, a number of different regulatory responses may be appropriate. The center could be required to provide accurate information either by posting it, making it available on request or by requiring an affirmative duty to disclose.

All day care providers are subject to the normal standards of civil liability under the negligence standard. Civil liability for damages does provide an important avenue for maintaining acceptable standards of care for children in day care centers. It is well known, however, that civil liability may provide insufficient incentive to take precaution when the potential liability is greater than the assets of the potentially liable party. In the context of day care centers, it is not at all unlikely that the assets at risk will be much smaller than the reasonably foreseeable liability. When financial constraints limit potential liability, one common response is to require the responsible party to purchase insurance to cover foreseeable damages. The insurance premium acts to increase the level of care closer to the level that would be considered optimal.

Minimum standards are appropriate where the strategies previously mentioned are either ineffective or too costly. That said, minimum standards generally should be considered the last resort. Whenever possible, the greatest dependence should be placed on voluntary transactions, provision of information, insurance, and private civil law.

Specific provisions of the proposed changes: Many of these proposed changes are designed to allow day care centers more flexibility in the hopes of reducing operating costs. It is often the case that a regulation will state as a requirement what all responsible operators would do anyway, in which case those provisions would have a minimal economic impact.

Some of the proposed language may somewhat reduce the cost of providing day care services. Lower costs give rise to economic benefits in two ways: first, those already using the services will eventually pay less for the services offered. Second, some people who had not been using the services because of their cost will now do so and will receive some net benefit. The provisions in this proposal are a mix of reductions and increases in the requirements for the operation of day care centers. Because of the number and complexity of the changes, it would be impractical to develop a single point-estimate of the net economic impact of the proposal. Instead, we will concentrate on a few of the provisions that merit special attention.

A number of the proposed changes will clearly help lower the costs of operating centers more flexibility. For example, among other things, the proposal:

- Deletes the requirement that schools make available accident insurance,[1]
- Allows flexibility in the way parental permission is recorded for center transportation and field trips,
- Allows the use of air hand dryers in lieu of paper towels,
- Allows all centers to use the 1:20 toilet and sink ratio that is allowed in Montessori schools,
- While newly requiring that age-appropriate rescue breathing be included in the first aid course, the proposal expands the number of allowed providers of first-aid training.

A number of other provisions add requirements that seem appropriate measures for protecting child safety and security. For example, the proposal requires:

- That parents be informed of adverse medical reactions and medication errors,
- Staff to wash hands before as well as after diapering,
- Further restrictions on smoking in the presence of children,

[1] This was a potentially costly and duplicative requirement. Such insurance is available from private insurance firms for parents who wish to purchase it.

• That parent volunteers at cooperative preschools must now get reference checks if they are left alone with children or are counted in the staff-to-children ratio,

• The center to inform parents of persistent behavioral problems and any disciplinary actions taken in response, and

• That staff encourage language development in toddler and preschool children.

While these provisions do add somewhat to costs, they all seem reasonably designed to protect health and safety and are likely to produce net economic benefits.

A few of the changes require a closer look to assess their likely economic impact. These will be discussed in turn in the succeeding paragraphs.

1. VAC 15-30-490: The day care center no longer is required to provide parents with information about its religious affiliation. The board maintains the requirement that day care centers provide parents with information about the center operations that might otherwise be hard for parents to discover or verify. The ready availability of this information may have significant economic value. However, the proposed rules remove the requirement that day care centers provide parents with information about the center's religious affiliation. There is little doubt that this information would be of considerable interest to most parents. Getting this information into the hands of consumers strengthens market mechanisms by enhancing parents' ability to make informed consumer choices. Given that other information regarding the operation of day care centers is given to parents, the cost of providing an indication of religious affiliation, if any, is essentially zero.

Given that this information would almost certainly have significant economic value to parents, but there would be little or no cost to providing it, the removal of this requirement can be expected to have a small but negative impact.

2. 22 VAC 15-30-180: No longer requires TB screenings for volunteers who come once a week or more often unless they are left alone with a child or counted in the staff-to-children ratios. The current version of the regulation appears to require volunteers as well as staff to undergo TB screening. Requiring all volunteers to undergo screening may be more costly than necessary because some volunteers may have little contact with children and hence pose little risk. Volunteers are now considered staff if they can be left alone with children without direct supervision of paid staff or if they are counted in the staff-to-child ratio. While this would appear to be an improvement, it is still true that the standard for determining whether a volunteer needs TB screenings appears to be only loosely related to the risk of disease transmission. Some improvement could probably be achieved by making sure that the need for TB screenings be as closely as possible related to the risk of contagion.

3. The proposal changes the training requirements for staff and volunteers at child care centers. There is no longer a requirement for a written plan for staff development. The proposal also deletes the specific criteria for training, giving the centers much wider latitude in defining their training requirements. Finally, the proposal requires that all staff, both paid and volunteer, who are authorized to be alone with children or are counted in the staff/child ratio must have eight hours of training. Since it is not known how centers will respond to the increased flexibility with respect to the content of training, there is no way to estimate the economic impact of this change.

4. 22 VAC 15-30-440 E 6: The proposed language changes the staff/child ratio requirements for balanced mixed age groupings of children. Previously, the ratio had to reflect the ratio requirement for the lowest age group represented in the class. The proposal changes that to a 1:15 ratio if three conditions are met: (i) it is a balanced age grouping of 3- to 6-year-old children, (ii) the leader must have training in classroom management of mixed age groupings, and (iii) staff is available to reduce the ratio in the event of extended teacher absence or emergency. The flexibility offered by this change will allow these classes to be offered at a lower price. The lower price may increase use of day care centers. To the extent that this induces people to move their children from other, lower quality day care arrangements, there could be a net improvement in the level of care children receive. This change will also result in some reduction in the average staff/child ratio in mixed age groupings. The impact of this change on class quality is unknown. There will not necessarily be a reduction in class quality since the increase in the ratio will be accompanied by increased training requirements for the teachers in these classes. However, not enough is known about these factors to know to measure with any reliability whether the ratio change will result in a net economic gain.

5. 22 VAC 15-30-630 I (current version): The language in the current regulation requires that centers allow mothers to breastfeed at the center. The proposal drops this requirement. The agency argues that this is the center's decision and that it may allow breastfeeding if it wishes. This change will probably have a negative economic impact on Virginia. The data on the value of breastfeeding for the health of small children is compelling and incontrovertible.

This change will not have an impact on most day care consumers. A consumer dissatisfied with the center's policy on breastfeeding will simply choose another day care center. However, for the poor, the choice of which day care center to use is often quite limited. Lower income families also have the least exposure to prenatal care where information about the benefits of

breastfeeding is made available and the most difficulty to get expressed milk to their children at a day care center. Many of the benefits of breast feeding accrue to society at large, in addition to the parents and their children. Other things equal, children who are breastfed are healthier than children who are not. Since medical care for poor children is likely to be paid for by the state, encouraging breastfeeding can help reduce government medical expenses and can contribute to lower taxes.

While § 18.2-387 of the Code of Virginia explicitly exempts breastfeeding from rules prohibiting indecent exposure, this provision does not ensure that a woman can breastfeed at her child's day care center.

This provision imposes de minimis costs on day care centers. It is likely that this change in the regulations would have a negative economic impact on Virginia.

Businesses and entities affected. This regulation applies to all licensed day care centers in Virginia. The net impact of these regulations may be to lower the costs somewhat of offering day care services. This would tend to increase the quantity of services demanded and increase the revenues of day care centers. Because of the substantial competition in this market, profitability will probably not rise in the medium and long run. Rather, most of the savings should eventually be passed along to consumers of day care services.

Localities particularly affected. No locality will experience a disproportionate share of the costs or benefits of this regulation.

Projected impact on employment. There should be little impact on total employment from this regulation. There could be, however, some shifting of employment to lower skilled workers. If the net impact of these regulations is to reduce the cost of providing day care services, there could be an indirect impact on employment. The increased supply of day care could induce some parents who would not otherwise do so to enter the job market. On the other hand, if these changes are perceived to lower the quality of available day care, the effect could be to reduce the willingness of some parents to enter the job market. Since these regulations are not expected to greatly reduce the costs of day care, the magnitude of the cost effect should be quite small. The data on the perceptions-of-quality issue is not available. Any estimates of the magnitude of this effect would be purely speculative.

Effects on the use and value of private property. There will be no significant impact on the use and value of private property.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis:

Subheading	Paragraph	DPB Comment	Council Response
Specific provisions of the proposed changes	3	Lower cost of operating centers by deleting availability of accident insurance	The current regulation does not state who must pay for the accident insurance. The new regulation could be a cost saver for parents if the center does not provide the accident insurance. Ultimately, the cost savings could be: (i) for the parents if they pay directly or indirectly for the insurance or (ii) to the taxpayer or granting source, if center provides accident insurance through those funding mechanisms.
		Allows all centers to use 1:20 toilet and sink ratio	The new regulation could have positive impact on the use and value of private property since it may improve the availability of additional child care slots if other regulations regarding square footage can be met.
	last paragraph item #1	Removal of information requirement regarding center's religious affiliation	Parents who are concerned may ask for this information.
	item #2	Improvement could be achieved by making sure the need for TB screening be related as closely as possible to the risk of contagion.	May need to revisit this regulation since centers have no control of limiting exposure by parents entering center daily or other visitors to the center.

	item #3	Specific criteria for training	Because the child day care regulations guide a wide range of child care programs, the flexibility offered in this proposed regulation may have a positive impact. For example, infant and preschool programs vary from school age programs in training needs in developmental stages of children, academic content and first-aid training. To require one specific training criteria could negatively impact and weaken specialized programs.
	item #5	Breastfeeding at centers	The current regulation requires centers to allow mothers to breastfeed at the center. However, it provides no guidance on how centers are to meet the regulation. Small centers may not have adequate space to provide privacy for nursing mothers. The council recognizes the benefits of breastfeeding for infants. Breast milk can be brought to the center and frozen for future use; the removal of this regulation does not limit the mother's ability to continue to provide breast milk for her child. Therefore, the council does not consider this to have a negative impact on government medical expenses or to result in the raising of taxes.
Projected impact on employment	1st paragraph	"There could, however, be some shifting of employment to lower skilled workers."	The proposed standards will improve the skill level of teachers in child care centers because the proposed regulations now require some level of experience in the group care of children in addition to any level of training requirements. Actual work experience enhances the skill level of the employee thereby raising the quality of care.
Effects on the use and value of private property	last paragraph	There will be no significant impact on the use and value of private property.	See comment above regarding ratios for toilets/sinks. This regulation will positively impact the use of private property.

Summary:

The Child Day Care Council made numerous changes to this regulation for the purpose of increasing clarity, decreasing intrusiveness, and ensuring the protection of Virginia's children. In an attempt to streamline the center regulations, the requirements from the regulation entitled "Minimum Standards for Licensed Child Day Centers Serving School Age Children" were incorporated into this regulation and the "school age" regulation is being repealed. Many of the changes simplify the wording or decrease the specificity of the standards since a more

general standard fulfills the intent of the original standard. These types of changes are intended to allow more flexibility to centers as well as comporting with Executive Orders 13 and 15 to decrease the intrusiveness of regulations. Also, the format of the regulations was considered and resulted in a reorganization of the standards in the program area.

Changes made to enhance the safety of children:

1. Requires volunteers who come less than once a week to meet staff requirements (including TB screening and eight hours of annual training) if left alone with a child. Requires volunteers counted in the staff-to-children ratios to meet the eight hours of annual training.

2. Specifies that the TB examination must be a PPD.

3. Requires centers operating more than eight hours a day to have a program director or back-up program director meeting director qualifications present at the facility 50% of the hours of operation instead of just four hours a day.

4. Specifies that the required resilient surfacing under playground equipment must be at least six inches deep unless a mat meeting the standards of the Consumer Product Safety Commission and American Society for Testing Materials is used.

5. Requires a formal oral or written report on the child's development, behavior, and adjustment which needs to be given to the parent every six months.

6. Requires staff to wash their hands before diapering and helping a child use the toilet.

7. Requires the first aid course to include rescue breathing as appropriate to the age of the children in care.

Changes made to relieve regulatory burden on centers:

1. Deletes the requirement to make accident or school insurance available.

2. Eliminates some of the required documentation that centers must give to parents.

3. Deletes specificity regarding the program director qualifications so programmatic experience with children does not need to be "age appropriate" and education does not need to be child related. (One option under current regulations allows education not to be child related if the person has two years of programmatic experience with one year in a staff supervisory capacity.)

4. No longer requires volunteers who come once a week or more often to meet staff requirements (which includes a TB screening) unless they are left alone with a child or counted in the staff-to-children ratios.

5. Changes the toilet and sink ratio from 1:15 for preschool children to 1:20 for these children.

6. No longer requires a toilet (when only toilet chairs are used) to be located within 10 feet of the area used by children for the majority of the day.

7. Changes the staff-to-children ratio from 1:15 to 1:20 during the summer months for a group of school children and four- and five-year-old children who will be entering kindergarten that year.

8. Allows programs other than those operating under the requirements in the current Montessori module to meet a 1:15 staff-to-children ratio in a balanced multi-age grouping of children ages three through six years of age if they meet certain requirements.

9. Deletes the requirements in the Montessori module.

CHAPTER 30.
MINIMUM STANDARDS FOR LICENSED CHILD DAY CENTERS ~~SERVING CHILDREN OF PRESCHOOL AGE OR YOUNGER~~.

PART I.
INTRODUCTION.

22 VAC 15-30-10. 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~~ *this chapter*, shall have the following meanings unless the context *clearly* 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.~~ *the curriculum, environment, equipment, and adult-child interactions are suitable for the ages of the children within a group and the individual needs of any 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~~ *eligible* to attend public school ~~and older~~, age five or older by September 30 *of that same year*. 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.

"Attendance" means the actual presence of an enrolled child.

"Balanced mixed-age grouping" means a program planned for three- through six-year-old children in which the enrollment in the group is comprised of 1/3 of each of three ages and is designed for children and staff to remain for three years.

"Camp" means a child day camp.

"Center" means a child day center.

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

"Child day camp" means a child day center for school age children that operates during the summer vacation months only. Four-year-old children who will be five by September 30 of that same year may be included in a camp for school age children.

"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 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 1½ 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 (20 USC § 1470 et seq.), 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~~ *under the child day center definition in* 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 (20 USC § 1470 et seq.), 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 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 ~~shall comply~~ *complies* with the provisions of § 63.1-196.3:1 of the Code of Virginia; or

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.

~~*"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~~ *after* 7 p.m. ~~and 1 a.m., inclusively~~ *but not through the night.*

"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~~ *if the child falls* 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.

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

"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. The service, education or treatment plan clearly ~~indicates~~ *shows* 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, Association Montessori Internationale, National 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~~ *after 7 p.m. and through the night.*

"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 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.).

"Resilient surfacing" means (i) for outdoor use underneath and surrounding equipment, mats manufactured for such use that meet the guidelines of the Consumer Product Safety Commission and the standards of the American Society for Testing Materials or at least six inches of materials, such as, but not limited to, loose sand, wood chips, wood mulch, or pea gravel, and (ii) for indoor use underneath and surrounding equipment, padding of two or more inches. Natural grass and compacted materials do not qualify as resilient surfacing.

"Sanitized" means washed with soap, detergent or abrasive cleaners to remove filth or soil and small amounts of certain bacteria.

"Short-term program" means a child day center that operates less than 12 weeks a year.

"Special needs child day program" means a program exclusively serving children with disabilities.

"Specialty camps" means those centers which have an educational or recreational focus on one subject such as dance, drama, music, or 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, *and* service~~, and volunteer~~ personnel including the licensee when the licensee is an individual who works in the ~~facility~~ *center, and any persons counted in the staff-to-children ratios or any persons working with a child without sight and sound supervision of a staff member.*

"Staff positions" are defined as follows:

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

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

"Program director" means the primary, on-site director 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 or training or program development functions if the administrator meets the qualifications of ~~22 VAC 15-30-220~~ *22 VAC 15-30-230* 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~~ day program" means a specialized program, including but not limited to therapeutic recreation programs, exclusively serving children with disabilities 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 who 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.~~

"Volunteer" means a person who works at the center and:

1. Is not paid;

2. Is not counted in the staff-to-children ratios; and

3. Is in sight and sound supervision of a staff member when working with a child.

Any unpaid person not meeting this definition shall be considered "staff."

22 VAC 15-30-20. 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.

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.

C. Nothing in this chapter shall be construed to contradict or to negate any provisions of the Code of Virginia which may apply to child day centers.

22 VAC 15-30-30. Purpose *and applicability.*

A. The purpose of these minimum standards is to protect children ~~of preschool age~~ *ages 12 years* 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.

~~**22 VAC 15-30-40. Applicability.**~~

B. The minimum standards ~~in Part I through VIII (22 VAC 15-30-10 et seq. through 22 VAC 15-30-2160 et seq.) and the Montessori Module in Part IX of this chapter (22 VAC 15-30-2630 et seq.) for Montessori preschools wanting to meet alternative standards,~~ *in this chapter* apply to child day centers serving children ~~of preschool age~~ *ages 12 years* or younger as defined in 22 VAC 15-30-10.

PART II.
ADMINISTRATION.

22 VAC 15-30-50. ~~Sponsorship;~~ Operational responsibilities.

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

~~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.~~

A. Applications for licensure shall conform with Chapter 10 (§ 63.1-195 et seq.) of Title 63.1 of the Code of Virginia.

~~C.~~ *B. Pursuant to §§ 63.1-198 and 63.1-198.1 of the Code of Virginia,* the sponsor, who may be represented by the individual proprietor, partners, officers, and managers delegated authority to act for 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.

~~D. As required in § 63.1-198 of the Code of Virginia,~~ *C.* 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, *provided that no private interviews may be conducted with any child without prior notice to the parent of such child.*

~~E.~~ *D.* The license shall be posted in a place conspicuous to the public~~, near the main entrance of the building or the main office~~ *(§ 63.1-196 of the Code of Virginia).*

~~F.~~ *E.* 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~~ *ensuring* that the center's activities, services, and facilities are maintained in compliance with~~:~~ these minimum standards~~;~~ *and* 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. 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.~~

~~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).~~

F. Every center shall ensure that any advertising is not misleading or deceptive as required by § 63.1-201.1 of the Code of Virginia.

~~H.~~ *G.* The 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. A public sponsor may have equivalent self-insurance which is in compliance with the Code of Virginia. Evidence of insurance coverage shall be made available to the department's representative upon request.

~~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.~~

~~J.~~ *H.* The center shall develop written procedures for injury prevention. These procedures shall be based on documentation of injuries and a review of the activities and services.

~~K.~~ *I.* The center shall develop written playground safety procedures which shall include:

1. Provision for active supervision by staff; *and*

~~2. Positioning of staff on the playground to help meet the safety needs of children; and~~

~~3.~~ *2.* Method of maintaining resilient surface.

~~L.~~ *J.* Hospital operated centers may temporarily exceed their licensed capacity during a natural disaster or other catastrophe ~~if~~ *or emergency situation. Such centers shall develop a written plan for emergency operations, for submission to and approval by the Department of Social Services.*

~~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.~~

~~M. If~~ *K. When* 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.

22 VAC 15-30-60. ~~Policies and procedures.~~ *(Repealed.)*

~~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 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 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. Discipline policies including acceptable and unacceptable discipline measures;~~

~~b. Food policies; and~~

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

~~4. Health and emergencies:~~

~~a. Procedures for storing and giving children's medications 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 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).~~

~~B. Before staff are allowed to supervise children, staff shall be provided in writing with the information listed in subsection A of this section and the following:~~

~~1. Procedures for supervising a child who may arrive after 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 procedures to assure that all children are accounted for before leaving a field trip site and upon return to center;~~

~~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.~~

22 VAC 15-30-70. General recordkeeping; reports

A. ~~All~~ *Staff and* children's records ~~and personnel records~~ shall be treated confidentially. EXCEPTION: Children's records shall be made available to the custodial parent ~~upon~~ *on* request.

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

22 VAC 15-30-80. 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 22 VAC 15-30-150 through 22 VAC 15-30-170;

Exception: 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.

10. Written agreements between the parent and the center as required by 22 VAC 15-30-110 A and 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~~ *First and last* dates *of attendance.*

22 VAC 15-30-90. Staff records.

The following staff records shall be kept for ~~paid~~ *each* staff ~~and volunteer personnel which shall include the following~~ *person*:

1. Name, address, verification of age requirement, job title, and date of employment or volunteering; *and name, address and telephone number of a person to be notified in an emergency which shall be kept at the center.*

2. *For staff hired after March 1, 1996,* 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.~~ *4.* Written information to demonstrate that the individual possesses the education, orientation training, staff development, certification, and experience required by the job position;

~~6.~~ *5.* First aid and other certification as required by the responsibilities held by the staff member;

~~7.~~ *6.* Health information as required by 22 VAC 15-30-180 and 22 VAC 15-30-190;

~~8.~~ *7.* Information, to be kept at the center, about any health problems which may interfere with fulfilling the job responsibilities; and

~~9.~~ *8.* Date of ~~termination when applicable~~ *separation from employment.*

~~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.~~

22 VAC 15-30-100. Attendance records; reports.

A. The center shall keep a written record of children in attendance each day.

B. Reports shall be filed and maintained as follows:

1. The center shall inform the commissioner's representative as soon as practicable but not to exceed one working day of the circumstances surrounding the following ~~incidences~~ *incidents*:

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~~ *incidents* of child abuse shall be reported in accordance with § 63.1-248.3 of the Code of Virginia.

22 VAC 15-30-110. ~~Enrollment and termination procedures~~ *Parental agreements.*

A. A written agreement between the parent and the center shall be in each child's record ~~at the time~~ *by the first day* of the child's ~~enrollment~~ *attendance*. 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~~,~~ *unless the parent states an objection to the provision of such care on religious or other grounds;* 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~~.

~~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.~~

~~C. Reserved.~~

~~D. When a center decides to terminate the enrollment of a child, the center shall provide the parent the reasons for termination.~~

~~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.~~

B. If a parent wishes a school age 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.

22 VAC 15-30-120. Enrollment procedures of therapeutic child ~~development~~ *day* programs and special needs child day programs.

~~A.~~ Before ~~admission of a child~~ *the child's first day of attendance*, 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; *and*

~~2. Activities for daily living; and~~

~~3.~~ *2.* 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.~~

~~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.~~

22 VAC 15-30-130. Individual assessment for therapeutic child ~~development~~ *day* programs.

A. An individual assessment ~~for each newly enrolled child shall be obtained or~~ completed within six months before ~~enrollment~~ *the child's attendance* or 30 days after ~~enrollment~~ *the first day of attendance shall be maintained for each child.*

~~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 needed.~~

~~C.~~ *B.* An individual assessment shall be 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.~~

~~E. For therapeutic child development programs, upon 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.~~

22 VAC 15-30-140. Individual service, education or treatment plan for therapeutic child ~~development~~ *day* programs.

A. An individual service, education or treatment plan ~~for each newly enrolled child~~ shall be developed ~~and~~ *for each child by the director or his designee and primary staff responsible for plan* implementation. *Implementation of the plan* shall begin within 60 days after ~~enrollment~~ *the first day of the child's attendance.*

~~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.~~ *B.* The child's individual service, education or treatment plan shall be developed ~~and~~, reviewed, *and revised every three months and rewritten annually by the director or his designee and primary staff responsible for plan*

implementation. This shall be done in partnership with the parent*, residential care provider or advocate.*

~~F.~~ *C.* A copy of the initial plan and subsequent or amended service, education or treatment plans shall be *maintained in the child's record and a copy* given to the child's parent.

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

22 VAC 15-30-150. Immunizations for children.

A. The center shall obtain documentation ~~before each child's enrollment in the center~~ that ~~the~~ *each* child has received ~~all~~ *the* immunizations required by the State Board of Health *before the child can attend the center.*

Exemptions (subsection C of § 22.1-271.2 of the Code of Virginia and 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 *additional* immunizations ~~received~~ shall be obtained once every six months for children under the age of two years.

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

22 VAC 15-30-160. 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 22 VAC 15-30-150 and this section.

2. *Pursuant to* 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.

22 VAC 15-30-170. Form and content of immunizations and physical examination reports for children.

A. The current form required by the Virginia Department of Health *or a physician's form* shall be used to report immunizations received and the results of the required physical examination. ~~See Appendix 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~~ *and* shall be signed by a physician, his designee, or an official of a local health department.

22 VAC 15-30-180. Tuberculosis ~~examination~~ *screening* 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 21 days after employment or volunteering and shall:~~

~~1. Be dated within two years before or 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 March 1, 1996, that is dated no more than two years before 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.~~

~~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.~~

A. Each staff member shall obtain a screening for tuberculosis and submit documentation of a negative Purified Protein Derivative (PPD) screening conducted within the last two years. The screening shall be submitted no later than 21 days after employment or volunteering.

Exceptions: For staff who have a contraindication to a Purified Protein Derivative screening, documentation of the contraindication and a determination of noncommunicable tuberculosis status from a physician, his designee, or an official of a local health department shall be obtained and submitted every two years to the center. Staff who test positive to the Purified Protein Derivative screening shall meet the requirements of subsection D of this section.

B. Documentation of tuberculosis screenings shall include:

1. Negative results of the Purified Protein Derivative screening;

2. The signature of the physician, the physician's designee, or an official of the local health department; and

3. The date the screening was evaluated.

C. Each staff member shall obtain and submit a negative Purified Protein Derivative screening in accordance with subsections A and B of this section at least every two years from the date of the first screening or more frequently as recommended by a licensed physician or the local health department.

~~C.~~ *D.* Any staff member who comes in contact with a known case of tuberculosis ~~or~~, who develops ~~chronic~~ *progressive* respiratory symptoms ~~shall within one month after exposure or development receive an evaluation in accordance with subsections A and B of this section~~ *or who tests positive to the tuberculosis screening shall, regardless of the date of the last screening, obtain and submit within one month of such incident, a determination of noncontagious by a physician or a local health department official. Until such determination is made, that staff member shall not have direct contact with children or food served to the children.*

22 VAC 15-30-190. 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 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.~~

~~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 the physician or 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.~~

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, the licensee shall, at a minimum, prohibit the employee or volunteer from engaging in unsupervised contact with the children or participation in the food service program until a physician or a clinical psychologist skilled in the diagnosis and treatment of mental illness confirms that any risk has been eliminated or can be reduced to an acceptable level by reasonable accommodations. This requirement should not be construed as a mandatory precondition to any other employment action that an employer may otherwise take.

PART III.
~~PERSONNEL~~ *STAFF QUALIFICATIONS AND TRAINING.*

22 VAC 15-30-200. 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.

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

~~C. All~~ *B.* Staff shall be:

1. Of good character and reputation;

2. Capable of carrying out assigned responsibilities;

3. ~~Willing and able to accept~~ *Capable of accepting* training and supervision; *and*

4. ~~Able to communicate~~ *Capable of communicating* 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.~~

~~D. All~~ *C.* Staff who work directly with children shall ~~have the ability to: 1. Communicate~~ *be capable of communicating* with emergency personnel and ~~understand~~ *understanding* 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.~~

~~E.~~ *D.* For therapeutic child ~~development~~ *day* programs and special needs child day programs, staff who work with children shall have knowledge of the groups being served and 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.

~~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.~~

22 VAC 15-30-210. ~~Qualifications by job responsibility.~~ *(Repealed.)*

~~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.~~

22 VAC 15-30-220. ~~Administrator qualifications.~~ *(Repealed.)*

~~A. There shall be an administrator designated to be in charge of the total operation of the center. Administrators who assume the administrator responsibilities on or after November 1, 1993, who also perform responsibilities of the program director shall be at least 21 years of age and meet one of the program director qualification options listed in 22 VAC 15-30-230 C 1 through 4.~~

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

~~B. In addition to the requirements under subsection A of this section, the administrator of a therapeutic child development program 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, or 60 hours of training and education in areas related to special needs children.~~

22 VAC 15-30-230. 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.~~

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

~~C.~~ *A.* Program directors shall be at least 21 years of age and shall ~~possess one of the following~~ *have*:

1. A graduate degree ~~in a child related field~~ from an accredited college or university and ~~six~~ *three* 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~~ *six months* 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~~ *nine months* of ~~age appropriate,~~ programmatic experience in the group care of children; or

4. ~~Two years~~ *One year* of ~~age appropriate,~~ programmatic experience in the group care of children~~, of which one year~~ *that* 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.~~ *a* 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.~~

5. Three years of programmatic experience in the group care of children with one year in a staff supervisory capacity and a high school diploma or G.E.D. or verification of completion of a home school program approved by the state.

B. For program directors of therapeutic child day programs and special needs child day programs, programmatic

experience shall be in the group care of children with disabilities.

C. Notwithstanding subsection A of this section, a person between 19 and 21 years of age may serve as a program director at a short-term program serving only school age children if the program director has daily supervisory contact by a person at least 21 years of age who meets one of the program director qualification options.

22 VAC 15-30-240. ~~Program directors for therapeutic child development programs and special needs child day programs.~~ ***(Repealed.)***

~~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. 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~~

~~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 22 VAC 15-30-230 B and C.~~

22 VAC 15-30-250. 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 22 VAC 15-30-230 or for therapeutic child development programs or special needs child day programs, 22 VAC 15-30-240. 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 22 VAC 15-30-230 or for therapeutic child development programs or special needs child day programs, 22 VAC 15-30-240.~~

~~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 22 VAC 15-30-230 or for therapeutic child development programs or special needs child day programs, 22 VAC 15-30-240.~~

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

The qualified program director or a back-up program director who meets one of the director qualifications shall regularly be on site at least 50% of the center's hours of operation.

22 VAC 15-30-260. Program leader and child care supervisor qualifications.

A. 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 November 1, 1993,~~ shall meet one of the program director qualifications in 22 VAC 15-30-230 ~~C~~ or ~~possess one of the following~~ *have:*

~~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.~~ *1.* A one year early childhood certificate from an accredited college or university that consists of at least 30 semester hours and ~~six~~ *three* 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 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.~~

2. A high school diploma or G.E.D. or verification of completion of a home school program approved by the state, and six months of supervised programmatic experience in the group care of children. Within one month after being promoted or beginning work, a minimum of 12 hours of training related to the care of children including child development, playground safety, and health and safety issues including child abuse and neglect shall be received. Such training may take place on site while not supervising children.

B. For program leaders and child care supervisors of therapeutic child day programs and special needs child day programs, at least three months of programmatic experience shall be in the group care of children with disabilities.

C. Notwithstanding subsection A of this section, program leaders at short term programs may have only one season of programmatic experience in the group care of children.

22 VAC 15-30-270. ~~Program leaders and child care supervisors of therapeutic child development programs and special needs child day programs.~~ *(Repealed.)*

~~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 March 1, 1996, shall meet one of the program director qualifications in 22 VAC 15-30-240 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 12 semester hours or 18 quarter hours are in subjects relating to group care of children, and six months of programmatic experience in the group care of individuals with disabilities; or~~

~~3. One year of 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 22 VAC 15-30-260.~~

22 VAC 15-30-280. Aides.

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

22 VAC 15-30-290. ~~Contract staff~~ *Independent contractors; volunteers.*

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

A. Independent contractors shall not be counted in the staff-to-children ratios unless they meet the qualifications for the applicable position.

B. Independent contractors who do not meet staff qualifications shall, when in the presence of children, be within sight and sound supervision of a staff member.

~~22 VAC 15-30-300. Volunteer personnel; volunteers.~~

~~A. Volunteer personnel shall meet the qualifications for the applicable position.~~

~~Exception: Volunteer personnel only need to meet the health requirements of 22 VAC 15-30-180 and 22 VAC 15-30-190 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.~~

~~B. The duties of volunteers shall be clearly defined.~~

C. Volunteers who work with children shall be at least ~~14~~ *13* years of age.

22 VAC 15-30-310. Staff orientation training and development.

A. ~~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 ~~22 VAC 15-30-60~~ *subsection B of this section and 22 VAC 15-30-490 A* that relate to the staff member's responsibilities;

3. The center's playground safety 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~~ *chapter* which relate to the staff member's responsibilities.

~~B. The center shall have a written plan for staff development.~~

B. By the end of the first day of supervising children, staff shall be provided in writing with the information listed in 22 VAC 15-30-490 A and the following:

1. Procedures for supervising a child who may arrive after scheduled classes or activities including field trips have begun;

2. Procedures to confirm absence of a child when the child is scheduled to arrive from another program or from

an agency responsible for transporting the child to the center;

3. Procedures for identifying where attending children are at all times including procedures to ensure that all children are accounted for before leaving a field trip site and upon return to the center;

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

5. Policy for any administration of medication; and

6. Procedures for response to natural and man-made disasters.

C. In addition to first aid and orientation training required elsewhere in ~~these regulations, employed~~ *this chapter,* 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.~~

~~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.~~

D. There *always* 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~~ *intervals.* Staff with this training shall observe daily each child for signs and symptoms of illness.

E. ~~In addition to the topics required elsewhere in these standards,~~ Before assuming job responsibilities, *staff who work with children in* therapeutic child ~~development~~ *day programs* and special needs child day ~~staff working directly with children~~ *programs* 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. *Appropriate* intervention strategies.

F. For therapeutic child ~~development~~ *day* programs and special needs child day programs, ~~employed~~ staff who work directly with children shall annually attend ~~16~~ *24* hours of staff development activities. ~~In addition to the requirements of 22 VAC 15-30-310 C, staff shall attend~~ At least eight hours of *this* training *shall be* on topics related to the *care of children with* disabilities ~~of the children in care~~.

PART IV.
PHYSICAL PLANT.

22 VAC 15-30-320. Approval from other agencies; requirements prior to initial licensure.

A. Before issuance of ~~initial~~ *the first* 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 *and fire* codes or that ~~the center has an approved~~ *a* plan of correction *has been approved*; and

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 1 of this subsection when housing a center only serving children two and a half years of age or older.

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~~ *For buildings built* before 1978, a written statement from a *person licensed in* Virginia ~~licensed~~ *as an* asbestos inspector and management planner shall be submitted before ~~initial licensure in order to~~ *the first license is issued. The statement shall* comply with § 63.1-198.01 of the Code of Virginia~~. The statement shall include:~~ *and the requirements of the Asbestos Hazard Emergency Response Act (15 USC § 2641 et seq.).*

~~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 friable asbestos;~~

~~b. Verification of completion of the management plan; and~~

~~c. Response actions recommended by the inspector.~~

~~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 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 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 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:~~

~~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. 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 notice shall be submitted to the department.~~

~~Note: The department may request that the complete asbestos inspection report and 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.~~

C. The administrator shall post a notice regarding the presence and location of asbestos containing materials and advising that the asbestos inspection report and management plan are available for review.

Exception: The provisions of subsections B and C of this section do not apply to centers located in buildings required to be inspected according to Article 5.2 (§ 2.1-526.12 et seq.) of Chapter 32 of Title 2.1 of the Code of Virginia.

D. Before the first license is issued, camps shall notify the closest fire department and the closest rescue squad or similar emergency service organization of the camp location.

22 VAC 15-30-330. Approval from other agencies; requirements subsequent to initial licensure.

A. ~~Every 12 months, written documentation~~ *An annual fire inspection report* 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 *annual* fire inspection report ~~may~~ *shall* be accepted ~~in lieu~~ *instead* of the requirements ~~of subsection A~~ of this ~~section if the inspection was completed within the past 12 months~~ *subsection.*

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

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 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;~~

~~3. 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 posted notice shall be maintained at the center; and~~

~~4. The administrator shall submit to the department a signed, written statement that the 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 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 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.~~

C. For those buildings where asbestos containing materials are detected and not removed, the administrator shall:

1. Submit to the department a signed, written statement that the center is following the recommendations of the management plan; and

2. Post a notice regarding the presence and location of asbestos containing materials and advising that the asbestos inspection report and management plan are available for review.

Exception: The provisions of this subsection do not apply to child day centers located in buildings required to be inspected according to Article 5.2 (§ 2.1-526.12 et seq.) of Chapter 32 of Title 2.1 of the Code of Virginia.

22 VAC 15-30-340. ~~General requirements; heating and cooling equipment~~ *Building maintenance.*

A. ~~The facility's~~ Areas and equipment *of the center*, inside and outside, shall be~~:~~ *maintained in a clean, safe and operable condition.*

~~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.~~

B. Heat shall be supplied from an officially approved heating system *except for camps*. The heating system shall:

1. Be installed to prevent accessibility of children to the system; and

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 heaters may be used in accordance with the manufacturer's instructions.

C. In *inside* areas ~~used~~ *occupied* by children, the temperature shall be maintained no lower than 68°F.

D. Fans or other cooling systems shall be used when the temperature of *inside* areas ~~used~~ *occupied* by children exceeds 80°F.

E. Drinking ~~water~~ fountains or individual disposable cups~~, or both, shall be provided.~~ *with safe* drinking water shall be ~~available and~~ accessible at all times.

~~F. Reserved.~~

~~G. Reserved.~~

~~H. Reserved.~~

~~I.~~ *F.* 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~~ *An in-service*, nonpay telephone.

22 VAC 15-30-350. 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 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 or insecticides shall not be stored in areas used by children 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.

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.

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.

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

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

J. Smoking shall be prohibited inside the center in areas not used for residential purposes and shall be prohibited outside the center in the presence of children.

22 VAC 15-30-360. 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 *and a total height of more than 20 inches* shall have~~:~~ *a guardrail or barrier and a handrail having a minimum and maximum height of 30 inches and 38 inches respectively. The distance between any posts shall be no greater than 3½ inches.*

~~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~~ *covers that are* of a size that cannot be swallowed by children.

22 VAC 15-30-370. ~~[Reserved Section].~~ *General physical plant requirements for centers serving school age children.*

A. Any building which is currently approved for school occupancy and which houses a 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.

B. 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.

C. No cooking or heating shall occur in tents.

22 VAC 15-30-380. ~~Indoor~~ Areas.

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

~~Exception: 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.~~

~~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.~~

1. Areas not routinely used for children's activities shall not be calculated as available space. Space not calculated shall include, but not be limited to, offices, hallways, restrooms, kitchens, storage rooms or closets.

2. Space in areas used by infants shall be calculated separately from space for older children. There shall be a minimum of 25 square feet of space per infant excluding space occupied by cribs and changing tables or a minimum of 35 square feet of available space per infant including space occupied by cribs and changing tables.

3. Camps for school age children are not required to meet this space requirement. However, when weather prevents outdoor activities, 25 square feet of indoor space per child shall be provided either at the program site or at a predesignated, approved location off site.

B. When children are on the outdoor play area, at least 75 square feet of space per child shall be provided at any one time.

C. 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 space may be counted as part of the 75 square feet required in subsection B of this section.

~~C.~~ *D.* A ~~place away from the children's activity area~~ *separate space* shall be designated for children who are ill, injured, ~~tired,~~ or emotionally upset.

~~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.~~

~~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.~~

~~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.~~

~~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 available to use when activities call for children to be out of their wheelchairs.~~

22 VAC 15-30-390. Restroom areas and furnishings.

A. Centers shall ~~have~~ *be provided with* at least two toilets and two sinks.

B. Each restroom *area* provided for children shall:

1. Be within a ~~confined~~ *contained* area~~; 2. Be accessible~~, *readily available* and within the building used by the children *(Exception: Restrooms used by school age children at camps are not required to be located within the building)*;

~~3.~~ 2. Have toilets that are ~~all~~ flushable;

~~4.~~ *3.* Have sinks *near the toilets and* that are ~~all equipped~~ *supplied* with running water which does not exceed 120°F; and

~~5.~~ *4.* Be equipped with soap, toilet paper, and disposable towels *or an air dryer within reach of children.*

C. For restrooms available to ~~boys~~ *males*, urinals ~~may~~ *shall not* be substituted for ~~not~~ more than one-half the required number of toilets~~, provided at least one toilet is available to boys~~.

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

Exception: Primitive camps are not required to have a toilet with privacy for staff.

E. ~~Restroom areas~~ *Centers* shall ~~have~~ *be provided with* at least one toilet and one sink ~~for every 15~~ *per 20* preschool children *or at least one standard size toilet and one sink per 30 school age children.* When sharing restroom areas with other programs, the children in ~~the other~~ *those* 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 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.~~

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~~ *platforms* or ~~set~~ *sets* of steps shall be ~~available so that children may use adult size toilets and sinks without help or undue delay~~ *provided.*

G. ~~Reserved.~~ *School age children of the opposite sex shall not use the same restroom at the same time.*

H. ~~Reserved.~~ *A restroom used for school age children that contains more than one toilet shall have at least one toilet enclosed.*

I. ~~Reserved.~~ *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 subsection E of this section. No privy or outdoor toilet shall be located within 75 feet of other buildings or camp activities.

22 VAC 15-30-400. ~~Requirements for centers with children who are not toilet trained.~~ *(Repealed.)*

~~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 22 VAC 15-30-440 E are maintained in the classroom. The diapering area shall have at least the following:~~

~~1. A sink with running warm water not to exceed 120°F;~~

~~2. A changing table or counter equipped with a nonabsorbent surface for changing diapers of children below the age of three;~~

~~3. A nonabsorbent surface for changing diapers of children three years of age or older;~~

~~4. A leakproof storage system for diapers that is not hand generated;~~

~~5. A covered receptacle for soiled bed linens; and~~

~~6. Soap and disposable towels.~~

~~B. For every 10 children in the process of being toilet trained there shall be at least one toilet chair, or one child-sized toilet, or at least one adult sized toilet with a platform or steps and an available adapter seat. The location of these items shall allow for sight and sound supervision of children in the classroom or be accessible and within the building used by children if the staff to children ratios required by subdivisions 1 through 4 of 22 VAC 15-30-440 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.~~

22 VAC 15-30-410. ~~Outdoor~~ *Play* areas.

~~A. 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 subsections B through J of this section.~~

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

~~C.~~ *A.* Playgrounds shall be located and designed ~~in a way~~ to protect children from hazards.

~~D. While 22 VAC 15-30-500 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~~ *B. Where* 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 V.~~

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

~~E.~~ *C.* Ground supports shall be covered with materials ~~which would~~ *that* protect children from injury.

~~F. Equipment used by children shall meet the following requirements:~~

~~1. All bounded openings which allow a 3½ 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 VI for additional information.~~

~~2. Have closed S-hooks when provided; and~~

~~3. Have no protrusions, sharp points, shearing points, or pinch points.~~

~~G. All~~ *D.* Swing seats shall be ~~made of~~ *constructed with* flexible material. *Molded swing seats may be used only in a separate infant or toddler play area.*

~~H.~~ *E.* Sandboxes with bottoms which prevent drainage shall be covered when not in use.

~~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.~~

~~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 subsection B of this section.~~

PART V.
STAFFING AND SUPERVISION.

22 VAC 15-30-420. ~~Supervision of staff and volunteers.~~ *(Repealed.)*

~~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.~~

~~B. Each person serving in the 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 22 VAC 15-30-440 E shall not be included in the above requirement.~~

22 VAC 15-30-430. Supervision of children.

A. ~~All staff assigned responsibility for supervision of children~~ *When staff are supervising children, they* shall *always* ensure their care, protection, and guidance ~~at all times~~.

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.

C. *During the stated hours of operation,* there *always* shall be ~~in each building of the center~~ *on the premises* 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~~ *an immediately* available ~~designated support person~~ *staff member, volunteer or other employee who is at least 16 years of age,* with direct means for communication between the two of them. *The volunteer or other employee shall have received instruction in how to contact appropriate authorities if there is an emergency.*

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.

E. Children under 10 years of age *always* 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.

F. ~~Reserved.~~ *Children 10 years of age and older shall be within actual sight and sound supervision of staff except when the following requirements are met:*

1. Staff can hear or see the children (video equipment, intercom systems, or other technological device 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 ensure that staff know where the children are and what they are doing;

4. There is a system to ensure that individuals who are not staff members or persons allowed to pick up children in care do not enter the areas where children are not under sight supervision; and

5. Staff provide sight and sound supervision of the children at variable and unpredictable intervals not to exceed 15 minutes.

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

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

~~I. Staff shall ensure the immediate safety of a child during diapering.~~

22 VAC 15-30-440. Staff-to-children ratio requirements.

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

B. A child volunteer ~~14~~ *13* years of age or older not enrolled in the program shall not be counted as a child in the staff-to-children ratio requirements.

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.~~

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 *and 6* of 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~~ *building* and available to ~~assure~~ *ensure* safe evacuation in an emergency; and

3. An additional person is present at the center to help, if necessary.

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.~~

5. For school-age children, one staff member for every 20 children; and

6. Notwithstanding subdivisions 3 through 5 of this subsection and subsection C of this section, the ratio for balanced mixed-age groupings of children ages three through six years of age shall be one staff member for every 15 children, provided:

a. If the program leader or child care supervisor has an extended absence, there shall be sufficient substitute staff to meet a ratio of one staff member for every 12 children;

b. The center shall have readily accessible and in close classroom proximity auxiliary persons sufficient to maintain a 1:10 adult-to-child ratio for all three-year-olds who are included in balanced mixed-age groups to be available in the event of emergencies.

c. The program leader or child care supervisor has received training in classroom management of balanced mixed-age groupings.

~~F. Reserved.~~

~~G.~~ *F.* 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 *and the staff-to-children ratio shall be for the established age group.* 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.

~~H.~~ *G.* For therapeutic child ~~development~~ *day* programs, in each grouping of children *of preschool age or younger*, 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 *or diagnosed with attention deficit/hyperactivity disorder (AD/HD)*: one staff member to five children.

~~4. For children diagnosed with attention deficit/hyperactivity disorder (AD/HD): one staff member to five children.~~

~~5.~~ *4.* For children diagnosed with specific learning disabilities: one staff member to six children.

~~6.~~ *5.* When children with varied disabilities are regularly in ongoing groups, ~~the ratios indicated in subdivisions 1 through 5 of this ubsection shall be maintained for each level~~ *the staff-to-children ratio applicable to the child with the most significant disability in the group shall apply to the entire group.*

Note: Whenever 22 VAC 15-30-440 E requires more staff than 22 VAC 15-30-440 ~~H~~ *G* because of the children's ages, 22 VAC 15-30-440 E shall take precedence over 22 VAC 15-30-440 ~~H~~ *G*.

H. For therapeutic child day programs, in each grouping of school age 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 four children.

2. For children diagnosed as trainable mentally retarded (TMR), or with physical and sensory disabilities; attention deficit/hyperactivity disorder (AD/HD), or other health impairments: one staff member to five children.

3. For children diagnosed as educable mentally retarded (EMR), or developmentally delayed: one staff member to six children.

4. For children diagnosed with specific learning disabilities, or speech or language impairments: one staff member to eight children.

5. When children with varied disabilities are regularly in ongoing groups, the staff-to-children ratio applicable to the child with the most significant disability in the group shall apply to the entire group.

PART VI.
PROGRAMS.

22 VAC 15-30-450. ~~Daily schedule.~~ *(Repealed.)*

~~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.~~

~~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 subsection.~~

~~C. Staff shall provide opportunities for children to engage in self-chosen tasks and activities.~~

~~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.~~

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

~~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.~~

~~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.~~

22 VAC 15-30-460. ~~Activities.~~ *(Repealed.)*

~~A. The daily activities shall be 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.~~

~~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.~~

~~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.~~

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

~~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~~

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

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

~~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.~~

~~G. The center shall provide a balance of active and quiet activities.~~

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

~~I. Reserved.~~

22 VAC 15-30-470. ~~Activities for preschool age children.~~ *(Repealed.)*

~~Daily activities and experiences for preschool children, which are explained in Appendix VII, 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.~~

~~EXCEPTION: Montessori preschools may meet the alternative requirements in the Montessori Module.~~

22 VAC 15-30-480. ~~Activities for infants and toddlers.~~ *(Repealed.)*

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

~~B. Daily activities and experiences for toddlers, which are explained in Appendix 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.~~

~~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.~~

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

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

~~F. Parents of toddlers shall receive daily verbal feedback about:~~

~~1. Daily activities;~~

~~2. Physical well-being; and~~

~~3. Developmental milestones.~~

~~G. For infants, the center shall provide daily equipment and opportunities for sensory and perceptual experiences,~~

~~large and small motor development, and language development.~~

~~H. Staff shall promptly respond to infants' needs for food and comfort.~~

~~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.~~

~~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.~~

~~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.~~

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

~~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.~~

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

22 VAC 15-30-451. Daily activities.

A. The variety of daily activities for all age groups shall be age and stage appropriate and provide opportunities for teacher-directed, self-directed, and self-chosen tasks and activities; a balance of active and quiet activities; individual and group activities; and curiosity and exploration.

Exception: Specialty camps do not need to provide opportunities for self-chosen tasks and curiosity and exploration.

B. For a child who cannot move without help, staff shall offer to change the places and position of the child at least every 30 minutes or more frequently depending on the child's individual needs.

22 VAC 15-30-461. Daily activities for infants.

There shall be a flexible daily schedule for infants based on their individual needs. During the day, infants shall be provided with:

1. Sleep as needed.

a. Resting or sleeping infants shall be individually checked every 30 minutes; and

b. An infant who falls asleep in a play space not his crib, cot, mat, or bed shall be moved to his own crib, cot, mat or bed if he is uncomfortable or unsafe.

2. Food as specified in 22 VAC 15-30-620 and 22 VAC 15-30-630.

3. Comfort as needed.

4. Play spaces.

a. Play spaces may include, but are not limited to, cribs, infant seats, play yards, exercise chairs or saucers (but not walkers), infant swings, high chairs, and floor space.

b. The variety of play spaces shall cumulatively offer:

(1) Room for extensive movement (rolling, crawling, or walking) and exploration;

(2) A diversity of sensory and perceptual experiences; and

(3) Equipment and toys that support large and small motor development.

c. Staff shall provide frequent opportunities for infants to creep, crawl, toddle and walk.

d. Infants shall be protected from older children.

e. Staff shall provide awake infants not playing on the floor or ground a change in play space at least every 30 minutes or more often as determined by the individual infant's needs.

f. Staff shall change the position of an awake infant playing on the floor or ground and the selection of toys available to the infant every 30 minutes or more often as determined by the individual infant's needs.

5. Stimulation and language development activities, including but not limited to, staff reading, talking to, cuddling, and playing with infants.

22 VAC 15-30-471. Daily activities for toddlers and preschoolers.

A. There shall be a posted daily schedule that allows for flexibility as children's needs require. The daily schedule need not apply on days occupied a majority of the time by a field trip or other special event. The daily schedule shall include opportunities for:

1. Outdoor activity, weather allowing, for at least:

a. Thirty minutes per day or session if the center operates between two and five hours per day or session; or

b. One hour per day or session if the center operates more than five hours per day or session.

2. Sleep or rest.

a. Centers operating five or more hours per day shall have a designated rest period for at least one hour but no more than two hours. Cots, beds, or mats shall be used. After the first 30 minutes, children not sleeping may engage in quiet activities.

b. Children shall be allowed to sleep or rest at other times as individually needed.

c. A child who falls asleep in a place other than his designated sleeping location shall be moved to such location if uncomfortable or unsafe.

d. Sleeping toddlers shall be individually checked every 30 minutes.

3. Meals and snacks as specified in 22 VAC 15-30-620 and 22 VAC 15-30-630.

4. Small and large motor activities, language and communication experiences, art or music activities, and play acting (social living).

B. Staff shall encourage language development by personal conversations giving children time to initiate and respond, labeling and describing objects and events, and expanding their language.

22 VAC 15-30-481. Daily activities for school age children.

A. Before or after school, the center shall provide an opportunity for children to do homework or projects or hobbies in a suitable area. In the afternoon, there shall be an opportunity for large motor activities at least 25% of the time.

B. On nonschool days, the daily activity shall include opportunities for large motor activities at least 25% of the time; small motor activities; projects, hobbies, or homework in a suitable place; art or music activities; and food as specified in 22 VAC 15-30-620 and 22 VAC 15-30-630.

Exception: Specialty camps are not required to meet this subsection.

22 VAC 15-30-484. Behavioral guidance.

A. In order to promote the child's physical, intellectual, emotional, and social well-being and growth, staff shall interact with the child and one another to provide needed help, comfort, support and:

1. Respect personal privacy;

2. Respect differences in cultural, ethnic, and family backgrounds;

3. Encourage decision-making abilities;

4. Promote ways of getting along;

5. Encourage independence and self-direction; and

6. Use consistency in applying expectations.

B. Behavioral guidance shall be constructive in nature, age and stage appropriate, and shall be intended to redirect children to appropriate behavior and resolve conflicts.

22 VAC 15-30-487. Forbidden actions.

The following actions are forbidden:

1. Physical punishment, striking a child, roughly handling or shaking a child, restricting movement through binding or tying, forcing a child to assume an uncomfortable position, or exercise as punishment;

2. Enclosure in a small confined space or any space that the child cannot freely exit himself; however, this does not apply to the use of equipment such as cribs, play yards, high chairs, and safety gates when used with children preschool age or younger for their intended purpose;

3. Punishment by another child;

4. Separation from the group so that the child is away from the hearing and vision of a staff member;

5. Withholding or forcing of food or rest;

6. Verbal remarks which are demeaning to the child;

7. Punishment for toileting accidents; and

8. Punishment by applying unpleasant or harmful substances.

22 VAC 15-30-490. 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.~~

A. Before the child's first day of attending, parents shall be provided in writing the following:

1. Operating information, including the hours and days of operation and holidays or other times closed;

2. Transportation safety policies and those for the arrival and departure of children. Such policies shall include procedures for picking up children after closing, for when a child is not picked up, for release of children only to those who have been authorized in writing, and street safety;

3. The center's policy regarding any medication or medical procedures that will be given;

4. Description of established lines of authority for persons responsible for center management;

5. Policy for paid staff to report suspected child abuse as required by § 63.1-248.3 of the Code of Virginia;

6. Policy for communicating an emergency situation with parents;

7. The appropriate general daily schedule for the age of the enrolling child;

8. Food policies; and

9. Discipline policies including acceptable and unacceptable discipline measures.

B. Staff shall promptly inform parents when persistent behavioral problems are identified; such notification shall include any disciplinary steps taken in response.

C. A custodial parent shall be admitted to any child day program. Such right of admission shall apply only while the child is in the child day program (§ 63.1-210.1 of the Code of Virginia).

~~B.~~ *D.* The center shall ~~encourage~~ *provide opportunities for* parental involvement ~~on a volunteer basis~~ in ~~appropriate~~ center activities.

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

E. Communication.

1. For each infant, the center shall post a daily record which can be easily accessed by both the parent and the staff working with the child. The record shall contain the following information:

a. The amount of time the infant slept;

b. The amount of food consumed and the time;

c. A description and time of bowel movements; and

d. Developmental milestones.

2. Staff shall provide daily feedback about daily activities, physical well-being, and developmental milestones to those parents who pick up their toddlers and preschool children.

3. Parents shall be provided at least semiannually, either orally or in writing, information on their child's development, behavior, adjustment, and needs.

22 VAC 15-30-500. Equipment and materials.

A. ~~All~~ Furnishings, equipment, and materials shall be of an appropriate size for the child using it.

B. ~~The amount and variety of~~ Materials and equipment available ~~and the arrangement and use of the materials and equipment~~ shall be age and stage appropriate for the children and shall include ~~equipment and materials which:~~ *an adequate supply as appropriate for each age group of arts and crafts materials, texture materials, construction materials, music and sound materials, books, social living equipment, and manipulative equipment.*

~~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.~~

~~C. Indoor slides and climbing equipment shall not be over bare flooring constructed of wood, masonry or vinyl.~~

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

C. Play equipment used by children shall meet the following requirements:

1. Openings above the ground or floor which allow a 3½ inch by 6¼ inch rectangle to fit through shall also allow a nine inch circle to fit through;

2. Have closed S-hooks where provided; and

3. Have no protrusions, sharp points, shearing points, or pinch points.

D. The climbing portion of slides and climbing equipment used by toddlers and preschool children shall not be more than seven feet high where outdoors and shall not be more than five feet high where indoors. The climbing portions of indoor slides and climbing equipment over 18 inches shall not be over bare flooring constructed of wood, masonry or vinyl. The climbing portions of indoor slides and climbing equipment 36 inches or more shall be located over a resilient surface.

E. If combs, toothbrushes, or other personal articles are used, they shall be individually assigned.

F. ~~All~~ Disposable products shall be used once and discarded.

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

~~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.~~

~~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.~~

~~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.~~

G. Provision shall be made for a place for each child's personal belongings.

~~K. Playpens and~~ *H. Infant* walkers shall not be used.

I. Play yards where used shall:

1. Meet the Juvenile Products Manufacturers Association (JPMA) and the American Society for Testing and Materials (ASTM) requirements;

2. Not use any pillows or filled comforters;

3. Not be used for sleeping areas; and

4. Not be occupied by more than one child.

J. Where portable water coolers are used, they shall be of 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.

K. Drinking water which is transported to camp sites shall be in closed containers.

L. Therapeutic child day programs and special needs child day programs serving children who use wheelchairs shall provide cushioned vinyl-covered floormats for use when activities require children to be out of their wheelchairs.

22 VAC 15-30-510. Cribs, cots, rest mats, and beds.

A. Cribs, cots, rest mats or beds shall be provided ~~to~~ *for* children ~~present~~ during the designated rest period and ~~no~~ *not* more than one child at a time shall occupy a crib, cot, rest mat, or bed.

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

C. Double decker cribs, cots, or beds, or other sleeping equipment when stacked shall not be ~~used~~ *permitted.*

D. Occupied cribs, cots, rest mats, and beds shall be at least 2½ feet from any heat ~~source in use~~ *producing appliance.*

E. There shall be at least ~~15~~ *12* inches of space between ~~sides and ends of~~ occupied cots, beds, and rest mats.

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

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

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.

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~~ *There shall be no more than 1½ inches between the mattress and* the crib; and

4. End panel cut-outs in cribs shall be of a size not to cause head entrapment.

I. ~~No~~ Cribs shall be placed where objects outside the crib such as cords from blinds or curtains are ~~in~~ *not within* reach of infants or toddlers.

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~~ *where* that space is the walkway for staff to gain access to ~~any child in~~ any *occupied* crib.

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.

L. Pillows *and filled comforters* shall not be used by children under two years of age.

22 VAC 15-30-520. Linens.

A. ~~Linens for~~ Cribs, cots, ~~rest mats, or~~ *and* beds *used by children* shall ~~consist~~ *have linens consisting* 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 *and sanitized* daily.

D. ~~When pillows are~~ *Pillows when* 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.

22 VAC 15-30-530. ~~Behavior guidance.~~ *(Repealed.)*

~~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.~~

~~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.~~

~~C. A child shall not be shaken at any time.~~

~~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.~~

~~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.~~

~~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.~~

~~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.~~

~~H. Staff shall not give a child authority to punish another child nor shall staff consent to a child punishing another child.~~

~~I. Staff shall follow the center's policy on acceptable and unacceptable discipline methods.~~

~~J. Behavior problems of children of preschool age and younger shall be dealt with promptly.~~

22 VAC 15-30-540. Swimming and wading activities; staff and supervision.

A. The ~~staff-child~~ *staff-to-children* ratios required by ~~subdivisions 1 through 4 of~~ 22 VAC 15-30-440 E, *G and H* 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 *of preschool age or younger* during swimming or wading activities when one or more children are in the water.

22 VAC 15-30-550. 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 ~~appraisal~~ *approval* is required;

3. Outdoor swimming pools shall be enclosed by safety fences and gates which shall *meet the BOCA National Building Code of 1993 and shall* be kept locked when the pool is not in use;

4. Entrances to *indoor* 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 *and there shall be appropriate water safety equipment.*

C. ~~All~~ Piers, floats, and platforms shall be in good repair and where used for diving, the minimum water depth shall be ~~indicated~~ *stated* 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.~~ *D.* 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.

22 VAC 15-30-560. 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; *and*

~~2. Given to staff involved in swimming or wading activities;~~

~~3. Given to parents of children participating in swimming or wading activities; and~~

~~4.~~ 2. 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, *which shall include a statement advising of a child's swimming skills before the child is allowed in water above the child's shoulder height.*

C. Staff shall have a system for accounting for all children in the water.

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

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

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

PART VII.
SPECIAL CARE PROVISIONS AND EMERGENCIES.

22 VAC 15-30-570. Preventing the spread of disease.

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

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

1. *If he has* a temperature over 100°F~~, or~~*;*

2. *If he has* recurrent vomiting or diarrhea~~.~~*; or*

3. As recommended in the Virginia Department of Health's current communicable disease chart.

C. If a child needs to be excluded according to 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.

D. When a child at the center has been exposed to a ~~reportable~~ communicable disease *listed in the Department of Health's current communicable disease chart*, the parent shall be informed *unless forbidden by law.*

22 VAC 15-30-575. Hand washing and toileting procedures.

A. Hand washing.

~~E.~~ *1.* Children's hands shall be washed with soap and water before eating meals or snacks, after toileting, and after any contact with body fluids.

~~F.~~ *2.* Staff shall wash their hands with soap or germicidal cleansing agent and water *before and* after helping a child ~~with toileting~~ *use the toilet or a diaper change*, after the staff member uses the toilet, after any contact with body fluids, and before feeding or helping children with feeding.

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

~~H. Children not toilet trained.~~

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

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

~~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. Toilet chairs shall be emptied promptly and sanitized after each use.~~

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

~~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.~~

B. Diapering; soiled clothing.

1. The diapering area shall allow for sight and sound supervision of other children in the classroom or be accessible and within the building used by children if the required staff-to-children ratios are maintained while children are being diapered.

2. The diapering area shall be provided with the following:

a. A sink with running water not to exceed 120°F;

b. Soap or germicidal cleaning agent, disposable gloves, and disposable towels;

c. A nonabsorbent surface for diapering which, for children younger than three years, shall be a changing table or countertop;

d. The appropriate disposal container as required by subdivision 5 of this subsection; and

e. A covered receptacle for soiled linens.

3. When a child's clothing or diaper becomes wet or soiled, it shall be changed immediately. The child's soiled area shall be thoroughly cleaned with a disposable wipe or washcloth sanitized for each use.

4. Disposable diapers shall be used unless the child's skin reacts adversely to disposable diapers.

5. Disposable diapers shall be disposed in a leakproof or plastic-lined storage system that is not hand operated.

When cloth diapers are used, a separate leakproof storage system that is not hand operated shall be used.

6. The diapering surface shall only be used for diapering or cleaning children, and it shall be washed with soap and warm water or a germicidal cleansing agent after each use. ~~7.~~ Tables used for children's activities or meals shall not be used for changing diapers.

7. Staff shall ensure the immediate safety of a child during diapering.

C. Toilet training. 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 adaptor seat. The location of these items shall allow for sight and sound supervision of children in the classroom if necessary for the required staff-to-children ratios to be maintained. Toilet chairs shall be emptied promptly and sanitized after each use.

22 VAC 15-30-580. 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.

B. The center's procedures for administering medication 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 allowed with written authorization from the child's physician and parent.

3. Methods to prevent use of outdated medication.

~~B.~~ *C.* The medication authorization shall be available to staff during the entire time it is effective.

~~C.~~ *D.* ~~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.

~~D.~~ *E.* ~~All~~ Medication shall be in the original container with the prescription label or direction label attached.

~~E.~~ *F.* 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.

~~F.~~ *G.* ~~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.

~~G.~~ *H.* Centers shall keep a 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;

5. Any adverse reactions; and

6. Any medication error.

I. Staff shall inform parents immediately of any adverse reactions to medication administered and any medication error.

~~H.~~ *J.* Medication shall be returned to the parent as soon as the medication is no longer being administered.

22 VAC 15-30-590. First aid training, *cardiopulmonary resuscitation (CPR) and rescue breathing.*

A. There shall be at least one staff member ~~who is~~ trained in first aid *and rescue breathing as appropriate to the age of the children in care who is* on the premises during the center's hours of operation and also one person on ~~all~~ field trips 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;~~ *Has a current certification by the American Red Cross, American Heart Association, National Safety Council, or other designated program approved by the Department of Social Services; or*

~~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 which meets the criteria described in Appendix IX; or~~

~~4. Be~~ *2. Is* a R.N. or L.P.N. with a current license from the Board of Nursing.

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.

C. For therapeutic child day programs and special needs child day programs, when a child in care has a known seizure disorder or neurological, genetic or physiological disability causing increased medical risk, there shall be at least one staff member with a current cardiopulmonary resuscitation (CPR) certificate as appropriate to the age of the child in care. This staff member shall be on the premises during the center's hours of operation or wherever the child is in care.

22 VAC 15-30-600. First aid and emergency supplies.

A. A first aid kit shall be:

1. On each floor of each building used by children;

2. Accessible to outdoor play areas;

3. On ~~all~~ field trips; and

4. Wherever children are in care.

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. Thermometer;

8. ~~Two or more~~ Triangular bandages;

9. ~~Disposable~~ *Single use* gloves *such as surgical or examination gloves*; and

10. The first aid instructional manual.

C. Each first aid kit shall be stored so that it is not ~~available~~ *accessible* to children but is easily ~~available~~ *accessible* to staff.

D. The following emergency supplies shall be required *at the center* and be available on field trips:

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

2. ~~Chemical~~ *An ice pack or* cooling ~~agents, zip-lock bags, and sponges readily available for icing down contusions, sprains, and breaks~~ *agent.*

E. The following emergency supplies shall be required:

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

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

22 VAC 15-30-610. 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.

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

C. The center shall implement these emergency evacuation procedures through monthly practice drills and shall maintain a 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.

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.

E. The number of a regional poison control center shall be posted in a conspicuous place near each phone.

F. If an ambulance service is not readily available within 10 to 15 minutes, other transportation, *such as a private automobile,* shall be available ~~at all times~~ in case of emergency.

G. The center or other appropriate official shall notify the parent immediately if a child is lost, ~~experiences~~ *has* a serious ~~accident~~ *injury*, 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~~ *injury* 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~~ *injury* might include a small scratch, cut or scrape; minor bruise or discoloration of the skin.

H. The center shall maintain a written record of children's *serious* injuries in which entries are made the day of occurrence. The record shall include the following:

1. Date and time of injury;

2. Name of injured child;

3. Type *and circumstance* of *the* injury;

~~4. Circumstances of the injury;~~

~~5. Names of staff present during the injury;~~

~~6.~~ *4.* Treatment; ~~and~~

~~7.~~ *5.* ~~Method of notifying~~ *When* parents~~.~~ *were notified; and*

6. Any future action to prevent recurrence of the injury.

I. The camp shall have a warning system. Staff and campers shall be trained in this warning system.

PART VIII.
SPECIAL SERVICES.

22 VAC 15-30-620. Nutrition and food services.

A. Centers shall 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~~ *schedule* an afternoon snack; a center open from 7 a.m. to 1 p.m. shall ~~serve~~ *schedule* a morning snack and midday meal.

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

C. The center shall schedule snacks or meals 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.

D. Drinking water or other beverage not containing caffeine shall be offered at regular intervals to nonverbal children.

E. In environments of 80°F or above, ~~constant~~ attention shall be given to the fluid needs of ~~all~~ children *at regular intervals*. Children in such environments shall be encouraged to drink fluids.

F. When centers choose to provide meals or snacks, the following shall apply:

1. Centers shall ~~comply with~~ *follow* the *most recent* 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 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 XI 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. *Be* dated;

b. *Be* posted in a location conspicuous to parents or given to parents;

c. ~~Indicate~~ *List* any substituted food; and

d. *Be* kept on file for ~~six weeks~~ *one week* at the center.

4. Powdered milk shall not be used except for cooking.

G. When food is brought from home, the following shall apply:

1. The food *container* shall be clearly labeled in a way that identifies the owner;

2. The center shall have extra food or shall have ~~a plan available~~ *provisions* 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

3. ~~All~~ Unused portions of food shall be discarded by the end of the day or returned to the parent.

H. If a catering service is used, it shall be approved by the local health department.

I. ~~All food during cookouts~~ *Food* shall be prepared in a clean and sanitary manner.

J. ~~Unused, perishable food during cookouts shall be discarded and not served again.~~ *Contaminated or spoiled food shall not be served to children.*

K. Children ~~of preschool age and younger~~ shall be encouraged to feed themselves. *Infants and toddlers shall not be allowed to drink or eat while walking around.*

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

22 VAC 15-30-630. ~~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. *Children using infant seats or high chairs shall be supervised during snacks and meals. When a child is placed in an infant seat or high chair, the protective belt shall be fastened securely.*

B. Bottle fed infants who cannot hold their own bottles shall be held when fed. Bottles shall not be propped.

~~B.~~ *C.* The record of each child on formula shall contain:

1. The brand of formula~~,~~; and

2. The child's feeding schedule.

~~C.~~ *D.* Infants shall be fed on demand or in accordance with parental instructions.

~~D.~~ *E.* Prepared infant formula shall be refrigerated and ~~clearly labeled in a way that identifies the child. See Appendix XII for recommendations about the safe use of microwaves to heat infant formula~~ *labeled with the child's name. Heated formula and baby food shall be stirred or shaken and tested for temperature before serving to children.*

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

~~F. No child shall be allowed to drink or eat while walking around.~~

~~G.~~ *F.* 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.

~~H.~~ *G.* 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~~ *center.*

~~I. Mothers shall be allowed to breastfeed their infants at the facility.~~

~~J. Unless written instructions from a physician indicate differently,~~ *H.* Staff shall feed semisolid food with a spoon *unless written instructions from a physician state differently.*

~~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.~~

~~L.~~ *I.* For therapeutic child ~~development~~ *day* 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.

22 VAC 15-30-640. 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~~ *If the center provides transportation, the center shall be responsible from the time the child boards the vehicle until returned to the parents or person designated by the parent.*

B. Any vehicle used by the center for the transportation of children shall meet the following requirements:

1. The vehicle shall be manufactured for the purpose of transporting ~~human beings~~ *people* 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 established by 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~~ *ensuring* that the requirements of this subsection are met.

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 22 VAC 15-30-610 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~~ *5. The following information is in transportation vehicles:*

a. Emergency numbers as specified in 22 VAC 15-30-610 D and E;

b. The center's name, address, and phone number; and

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

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.

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.

F. The staff-to-children ratios of ~~subdivisions 1 through 4 of~~ 22 VAC 15-30-440 E, *G and H* shall be followed on all field trips ~~but not necessarily in each vehicle~~. The staff-to-children ratios ~~may~~ *need* not be followed during transportation of children to and from the center.

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

G. The center shall make provisions for providing children on field trips with adequate food and water.

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.

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.

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

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.

22 VAC 15-30-650. Transportation for nonambulatory children.

A. For therapeutic child ~~development~~ *day* 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.

D. For therapeutic child ~~development~~ *day* 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.

E. For therapeutic child ~~development~~ *day* 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.

22 VAC 15-30-660. 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.

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.

C. If a ~~child~~ *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.

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.

22 VAC 15-30-670. 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.

Exception: Camps providing evening or overnight care to school age children on an occasional basis are not required to meet the requirements of this subsection 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 who are not required to sleep in cribs.

Exception: Camps providing evening or overnight care to school age children on an occasional basis are not required to meet the requirements of this subsection 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 22 VAC 15-30-520 about linens, bedding appropriate to the temperature and other conditions of the rest area shall be provided.

E. ~~Reserved.~~ *For evening and overnight care, separate sleeping areas shall be provided for children of the opposite sex eight years of age or older.*

F. ~~Reserved.~~ *If sleeping bags are used, 22 VAC 15-30-510 A through E about rest furnishings shall also apply to the use of sleeping bags.*

G. ~~Reserved.~~ *Camps may use bunk beds if children are at least eight years of age.*

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.

I. When bath towels are used, they shall be assigned for individual use.

J. Activities for children in evening or overnight care shall include, as time allows, age-appropriate activities as described in ~~22 VAC 15-30-470 through 22 VAC 15-30-480 E and 22 VAC 15-30-480 G through L~~ *22 VAC 15-30-451 through 22 VAC 15-30-481.*

K. Quiet activities and experiences shall be available immediately before bedtime.

L. For children receiving evening and overnight care, the provider shall offer ~~a regularly scheduled~~ *an* evening ~~meal and~~ snack.

~~PART IX.~~
~~MONTESSORI MODULE.~~

22 VAC 15-30-680. ~~Qualifications of a Montessori preschool.~~ *(Repealed.)*

~~A. Montessori preschools are educational programs wherein the teacher training and subsequent pedagogy are approved by either American Montessori Society, Association Montessori Internationale, National Center of Montessori Education, or Saint Nicholas Montessori, thus verifying that~~

~~the school meets the Montessori standards as outlined in the Montessori Module.~~

~~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.~~

~~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 2½ through four and beyond 6½ 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.~~

22 VAC 15-30-690. ~~Specific alternatives for qualifying Montessori preschools.~~ ***(Repealed.)***

~~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, Association Montessori Internationale, National 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 subsection.~~

~~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, Association Montessori Internationale, National Center of Montessori Education, or Saint Nicholas Montessori; or~~

~~4. Five years of Montessori programmatic experience.~~

~~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, Association Montessori Internationale, National Center of Montessori Education, or Saint Nicholas Montessori for the level the teacher is teaching.~~

~~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.~~

~~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.~~

~~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.~~

~~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 the Montessori curriculum standard.~~

~~H. A Montessori preschool shall have restrooms that are easily accessible with a ratio of one toilet and one sink for every 20 children.~~

~~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.~~

~~J. A Montessori preschool shall maintain a balanced multi-age grouping, with a ratio of one staff member for every 15 children.~~

~~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.~~

~~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 2½ to four year olds or 1:15 for balanced mixed age groupings of 2½ to six year olds, to be available in the event of emergency evacuation.~~

~~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.~~

~~N. In a Montessori preschool program operating between five and 6½ hours per day there shall be at least one-half hour of outdoor activity per day.~~

~~O. A Montessori preschool shall abide by the pedagogy and curriculum guidelines in the Montessori Module.~~

~~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.~~

22 VAC 15-30-700. ~~Hours and scope of operation.~~ *(Repealed.)*

~~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 2½ 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 five hours a day but no more than 6½ 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.~~

22 VAC 15-30-710. ~~Montessori class structure and supervision.~~ *(Repealed.)*

~~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 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 2½ 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 2½ 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.~~

22 VAC 15-30-720. ~~Classroom materials.~~ *(Repealed.)*

~~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.~~

22 VAC 15-30-730. ~~Curriculum.~~ *(Repealed.)*

~~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, Association Montessori Internationale, National Center of Montessori Education, and Saint Nicholas Montessori teacher training.~~

~~PRACTICAL LIFE~~

~~Preliminary Exercises~~	~~Purpose:~~
~~Spooning;~~	~~To teach the child muscular control,~~
~~Pouring rice;~~	~~care, exactness, how to pour.~~
~~Pouring water~~	

~~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;~~	~~To teach the child how to~~
~~Polishing wood; Polishing metal; Arranging flowers;~~	~~care for his environment so that he might adapt to his environment and gain independence.~~
~~Sweeping~~	~~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~~
~~Pressing frames;~~	~~To teach the child to care~~
~~Polishing shoes;~~	~~for himself, to take pride~~
~~Washing hands~~	~~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~~	~~To help the child develop understanding or rules of grace and courtesy, to adapt and be accepted into a social group.~~
~~How to greet, introduce oneself, offer a chair, take a cookie, serve others, carry scissors, etc.~~	

~~Age: 2 1/2 and up~~

~~Movement~~	~~Purpose~~
~~How to walk, move around the room~~	~~To learn control of movement,~~
~~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 games, respect silence, etc.~~	~~self awareness of ones self, purposeful activity order, respect for persons and property, attention to details, and environment.~~

~~Age: 2 1/2 and up~~

~~SENSORIAL~~

~~Visual Discrimination~~	~~Purpose:~~
~~Pink Tower~~	~~Aid to child's processes~~
~~Broad Stair~~	~~of classification.~~
~~Long Stair~~	~~To teach visual discrimination~~
~~Solid Cylinders~~	~~of dimension (length, width,~~
~~Color tablets~~	~~height).~~
~~Geometric Cabinet~~	~~Indirect preparation~~
~~Biology Cabinet~~	~~for number work, algebra and~~
~~Binomial & trinomial cube~~	~~proof of formulas, geometry, art, biology.~~
~~Constructive triangles~~	~~Indirect preparation for writing.~~
~~Super imposed geometric figures~~	~~Development of vocabulary.~~
~~Knobless Cylinders~~	
~~Solid Geometric shapes~~	
~~Mystery bag~~	
~~Progressive Exercises~~	

~~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~~

~~Tacticle Sense~~	~~Purpose:~~
~~Rough and smooth boards, Rough and smooth tablest, 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 award 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; 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.~~

~~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~~

~~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 song; 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~~	~~To teach the concepts of the~~
~~Introduction of cards~~	~~decimal system through 1000s.~~
~~Cards and beads together~~	~~To give the child the overall~~
~~Processes of Addition,~~	~~picture of the workings of~~
~~Substraction,~~	~~the decimal system and all~~
~~Multiplication, division~~	~~its processes.~~

~~Age: 4 1/2 to 5 1/2 +~~

~~Further Exercises in Math~~	~~Purpose:~~
~~Linear and skip counting~~	~~To give the child opportunity~~
~~Teen board, Tens board,~~	~~for further exploration with~~
~~Stamp game, Dot game,~~	~~numbers, the opportunity for~~
~~Snake game, Addition~~	~~repetition and perfection in~~
~~strip board, Negative~~	~~executing the processes in~~
~~snake game, Negative~~	~~math.~~
~~strip board, Bead bar~~	~~The opportunity to commit to~~
~~layouts, Multiplication~~	~~memory the math facts.~~
~~bead board, Division~~	~~Steps to total abstraction.~~
~~unit board, Charts, Small bead frame, Hierarchical materials, Large bead frame, Racks and tubes, Fractions~~	

~~Age: 5 - 6 1/2 and up~~

~~GEOGRAPHY~~	~~Purpose:~~
~~Sandpaper globe; Land~~	~~To introduce the child to the~~
~~and water forms; Painted~~	~~concepts of physical political,~~
~~globe; Puzzle maps;~~	~~economic geography, inter-~~
~~Pictures; Definition~~	~~dependence of man and related~~
~~cards; Stories; Simple~~	~~language.~~
~~reference books~~	

~~Age: 2 1/2 +~~

~~HISTORY~~	~~Purpose:~~
~~Artifacts, Pictures~~	~~To introduce the child to world~~
~~Definition cards,~~	~~cultures, physical and spiritual~~
~~Simple reference books,~~	~~needs of man throughout~~
	~~history,~~
~~Stories~~	~~famous persons, holidays, etc.~~

~~Age: 2 1/2 +~~

~~MUSIC~~	~~Purpose~~
~~Songs, records, tapes,~~	~~To give the child a variety of~~
~~Rhythm and movement,~~	~~musical experiences, including~~
~~Tone bells, Tone charts~~	~~pitch, tone, rhythm, movement,~~
~~Composers/famous music~~	~~auditory comparisons, related~~
	~~symbols and language.~~

~~Age: 2 1/2 +~~

~~CREATIVITY~~	~~Purpose~~
~~Appropriate media,~~	~~To indroduce the child to~~
~~Pictures, Stories,~~	~~concepts of color, tone, light,~~
~~Reference books,~~	~~form, history and art~~
~~Practical life,~~	~~appreciation; and, afford the~~
~~Sensorial lessons~~	~~child appropriate opportunities~~
	~~for self expression.~~

~~Age: 3 +~~

~~BOTANY/BIOLOGY~~	~~Purpose~~
~~Botany leaf cabinet,~~	~~To introduce the child to nature,~~
~~Plants, Pictures/~~	~~the vast variety of plants and~~
~~plants and animals,~~	~~animals, the characteristics~~
~~Definition cards,~~	~~and functions; simple~~
~~Classifications~~	~~classification of the plant~~
~~materials, Stories,~~	~~and animal kingdom;~~
~~Simple reference books,~~	~~interdependence and ecology.~~
~~Opportunities to explore nature~~	

~~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.~~

DOCUMENTS INCORPORATED BY REFERENCE

~~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)~~

Communicable Disease Reference Chart for School Personnel, Virginia Department of Health, rev. 2/92.

Standard Consumer Safety Specification for Play Yards, American Society for Testing and Materials, ASTM designation: F 406-89, January 1990.

The BOCA National Building Code/1993, 12th Edition, Building Officials and Code Administrators International, Inc.

FORMS

Initial Application for a License to Operate a Child Day Center (032-05-512/10, ~~6/94~~ 3/96)

Renewal Application for a License to Operate a Child Day Center (032-05-225/9, ~~6/94~~ 3/96)

DIVISION OF LICENSING PROGRAMS
VIRGINIA DEPARTMENT OF SOCIAL SERVICES
INITIAL APPLICATION FOR A LICENSE TO OPERATE A CHILD DAY CENTER

This application shall be signed by the individual responsible for operation of the child day center(s) or, if the center(s) is/are to be operated by a board, by an officer of the board or person designated authority by the board. It shall be filed 60 days before opening date. The licensing study will begin when a completed application is received.

Application is hereby made for one or more licenses to operate one or more child day centers pursuant to Section 63.1-195 of the Code of Virginia. (If there is more than one center location to be licensed by this application, please copy and complete Sections II and III of this form as many times as needed.)

Name of Center: _____

Type of Center (please check all that apply):

- ☐ Child Day Center for Preschool or Younger
- ☐ Child Day Center for School Age Children
- ☐ Therapeutic Child Development Program for:
  - ☐ Preschool Age or Younger Children
  - ☐ School Age Children
- ☐ Special Needs Child Day Program:
  - ☐ Preschool Age or Younger Children
  - ☐ School Age Children

Center Location: _____
Street or Route No. City State Zip

Mailing Address: _____
Street or Route No. City State Zip

In making this application, the applicant:

1. Is in receipt of and has read a copy of the minimum standards applicable to the type of center to be operated.

2. Certifies that it is his intent to comply with the aforementioned minimum standards and statutes and to remain in compliance with them if he is so licensed.

3. Grants permission to the Department of Social Services and its authorized agents to make all necessary investigation of the circumstances surrounding this application and any statement made herein, including financial status, inspection of the facility(ies), revi of records, and interviewing his agents, employees, and any child or other person within his custody or control. The applicant understands that, following licensure, authorized agents of the department will make announced and unannounced visits to the center(s) to determine its compliance with standards and to investigate any complaints received.

4. Understands that he will be requested to supply reports from the local health department and appropriate fire prevention officials and he may be requested to supply a Certificat of Occupancy from the local building official.

5. Understands that an application for a license is subject to either issuance or denial. the event of denial, it is understood that the applicant has appeal rights which are explained in the General Procedures regulation.

032-05-512/10 (3/96)

6. Understands that a license is required for each center site and the application fee is calculated according to the capacity at each site.

7. Is aware that it is a misdemeanor for any person to operate a child day center defined in Section 63.1-195 of the Code of Virginia without a license.

8. Has to the best of his knowledge and belief, given to the Department of Social Services and its authorized agents on this form and during any pre-application conference information which is true and correct. The applicant agrees to supply true and correct information requested during all subsequent investigations.

_____
(Date)

_____
(Name of Applicant (Individual or Organization))

by: _____
(Signature)

_____
(Applicant's Mailing Address if different from the center)

_____
(Name and Title)

_____
(City, State, Zip Code)

( )
_____
(Business Telephone)

Directions: Please provide all requested information. If completing this form for centers located at different sites, please copy and complete Sections II and III of this form as many times as needed.

I. SPONSORSHIP AND GENERAL INFORMATION

A. Center(s) is/are to be operated by

____Individual ____Corporation ____Public Agenc

____Partnership ____Association

B. Name of sponsor if not an individual proprietorship: _____

Address: _____

Telephone: ( ) _____

Name and title of contact person (if applicable) _____

C. For centers sponsored by either corporations, partnerships, unincorporated associations, or public agencies, list the names and addresses of individuals who hold primary financial control and officers of the sponsoring/governing body:

President or Chairperson: _____ Telephone Number: ( )

Address: _____
(City) (State) (Zip Code)

Office	Name	Address

D. References

List the names and addresses of three persons who are not related to the applicant(s) an who can knowledgeably and objectively certify to the applicant's(s') character and reputation. For center(s) sponsored by corporations, partnerships, unincorporated associations, or public agencies provide three references for each individual who holds primary financial control and each officer of the sponsoring/governing body.

Name of Individual Owner, Partner, or Officer _____

References	Phone Numbers	Addresses
		(Street Address) (City) (State) (Zip)
		(Street Address) (City) (State) (Zip)
		(Street Address) (City) (State) (Zip)

Name of Individual Owner, Partner, or Officer _____

References	Phone Numbers	Addresses
		(Street Address) (City) (State) (Zip)
		(Street Address) (City) (State) (Zip)
		(Street Address) (City) (State) (Zip)

Name of Individual Owner, Partner, or Officer _____

References	Phone Numbers	Addresses
		(Street Address) (City) (State) (Zip)
		(Street Address) (City) (State) (Zip)
		(Street Address) (City) (State) (Zip)

Name of Individual Owner, Partner, or Officer _____

References	Phone Numbers	Addresses
		(Street Address) (City) (State) (Zip)
		(Street Address) (City) (State) (Zip)
		(Street Address) (City) (State) (Zip)

E. How many center sites do you want licensed by this application? _____

II. INFORMATION FOR EACH CENTER SITE

Directions: As necessary, please make copies of this section of the form and complete for each center site.

A. Name of Center	B. Phone Number of Center (Area Code) ( )
C. Name of Administrator	D. Name of Center Director

E. Directions to the Center:

_____

_____

_____

F. Asbestos

Section 63.1-198.01 of the Code of Virginia, requires asbestos inspections in child day centers based on the date of construction of the building(s) housing your center(s). Written statements required by the minimum standards applicable to your center must be submitted before a license can be issued.

When was your center built? ☐ Before 1978 (requires asbestos inspection)

☐ In 1978 or after (does not require DSS asbestos review.)

Is your center located in a currently operating public school building or state owned building?

☐ Yes (does not require DSS asbestos review.)

☐ No (DSS asbestos review required.)

Do you operate (plan to operate) a nonprofit school for children five years of age and older on site?

☐ Yes (the complete asbestos inspection report must be submitted to the Department of Education - (804) 225-2035. If the building was constructed before 1978, written statements as required by minimum standards must be submitted to your licensing representative before a license can be issued.)

☐ No

Note: Please provide this information for each separate building of your child day center.

Directions: As necessary, please make copies of this section of the form and complete for each center site. List all employees and volunteers. Place an asterisk (*) by the names of employees and volunteers who have received training in first-aid. If staff not yet hired, indicate positions to be used, anticipating hours of employment, etc.

Name of Center: _____ III. STAFF INFORMATION

Location of Center: _____

Staff Member	Date of Employment	Position	Education/Related Experience (Indicate highest grade, diploma or degree and related experience)	Weekly Work Schedule (Specify actual hours worked each day)	Age Group For Which Responsible

G. Hours of Operation and Requested, Licensed Capacity

Child Day Center	Hours of Operation (days and times)	Months Operated During the Year	Requested Licensed Capacity	Age Range
Preschool or Younger				
School Age				

H. What is your total, requested licensed capacity (the number of children that can be present at any one time)? _____

I. Does the program operate fewer than four months in a 12 month period? _____Yes _____No

J. Proposed Enrollment by Age Groups and Type of Care Offered. Please indicate if multiple sessions during a one week time period are offered (i.e. morning session and afternoon session).

Infants and Toddlers (birth to 16 mo.)	Infants and Toddlers (16 mos. to 2 yrs.)	Preschool (2 and 3 yr. olds)	Preschool (4 to age of eligibility to attend school)	School Age

K. State the purpose and scope of your services (EXAMPLES: What will be the major goal of your center(s)? What will be the emphasis and philosophy of your center(s) to carry out this goal? What are the specific services to be provided as part of your center(s) and how do these services vary according to the age group in care?):

_____

_____

_____

_____

_____

IV. ATTACHMENTS

A. Required Attachments

1. Attach the appropriate fee(s) for application processing.

2. For each site, floor plans indicating exact dimensions of rooms to be used, including:

   a) room length and width;
   b) functions of each room;
   c) toilet facilities, including number of basins and toilets; and
   d) position of any fixed equipment and furniture.

3. For each site, a site plan or sketch showing the following:
   a) outdoor play areas, including dimensions;
   b) location of the building on the site;
   c) adjacent streets and parking areas;
   d) all fences, fixed equipment and secondary buildings or structures.

   Note: Floor plans and sketch of available outdoor play areas are not required if plans have previously been submitted for functional design approval and no changes have been made to the plans.

4. a) For centers operated by a partnership

	Attached	Not Applicable
Articles of Partnership	☐	☐
b) For centers operated by an association:		
1) Copy of Constitution, or	☐	☐
2) Copy of By-Laws	☐	☐
c) For centers operated by a corporation:		
Copy of Charter or certificate of authority to transact business in the Commonwealth	☐	☐

5. Budget plans for the operation of the center (a copy of your proposed budget for the first year's operation is preferred since technical assistance can be provided on this topic).

6. A written statement regarding the sponsorship and organization of the center(s), with information showing who is responsible for policy making, operation and management decisions.

7. Samples of all forms developed, such as application form, agreement form, etc., if different from the model forms provided by the Department of Social Services.

8. Sample menu for one month if food is provided by the center.

9. A list of indoor and outdoor play equipment available to children.

10. A copy of the daily activity schedule(s) for the center(s).

11. A copy of all brochures and policies required by the minimum standards applicable to your center.

B. Additional Attachments

Attachments requested in this section may be provided with this application or at a late date in the review period prior to licensure. Review of these documents is required before a license can be issued and early submission may shorten the amount of time needed for the visit.

1. Evidence of required insurance coverage.

2. Documentation that the building meets applicable building codes.

3. Required asbestos statements (if building built before 1978).

DIVISION OF LICENSING PROGRAMS
VIRGINIA DEPARTMENT OF SOCIAL SERVICES
RENEWAL APPLICATION FOR A LICENSE TO OPERATE A CHILD DAY CENTER

This application shall be signed by the individual responsible for operation of the child day center(s) or, if the center(s) is/are to be operated by a board, by an officer of the board or person designated authority by the board. It shall be filed 60 days before the expiration of the current license. The licensing study will begin when a completed application is received. Application is hereby made for one or more licenses to operate one or more child day centers pursuant to Section 63.1-195 of the Code of Virginia. (If there is more than one center location to be licensed by this application, please copy and complete Sections II and III of this form as many times as needed.)

Name of Center: _____

Type of Center (please check all that apply):

☐ Child Day Center for Preschool or Younger

☐ Child Day Center for School Age Children

☐ Therapeutic Child Development Program for:
☐ Preschool Age or Younger Children
☐ School Age Children

☐ Special Needs Child Day Program:
☐ Preschool Age or Younger Children
☐ School Age Children

Center Location: _____
Street or Route No. City State Zip

Mailing Address: _____
Street or Route No. City State Zip

In making this application, the applicant:

1. Is in receipt of and has read a copy of the minimum standards applicable to the type of center to be operated.

2. Certifies that it is his intent to comply with the aforementioned minimum standards and statutes and to remain in compliance with them if he is so licensed.

3. Grants permission to the Department of Social Services and its authorized agents to make all necessary investigation of the circumstances surrounding this application and any statement made herein, including financial status, inspection of the facility(ies), revie of records, and interviewing his agents, employees, and any child or other person within his custody or control. The applicant understands that, following licensure, authorized department will make announced and unannounced visits to the center(s) to determine its compliance with standards and to investigate any complaints received.

4. Understands that he will be requested to supply reports from the local health department and appropriate fire prevention officials.

5. Understands that an application for a license is subject to either issuance or denial. the event of denial, it is understood that the applicant has appeal rights which are explained in the General Procedures regulation.

032-05-225/9 (3/96)

6. Understands that a license is required for each center site and the application fee is calculated according to the capacity at each site.

7. Is aware that it is a misdemeanor for any person to operate a child day center defined in Section 63.1-195 of the Code of Virginia without a license.

8. Has to the best of his knowledge and belief, given to the Department of Social Services and its authorized agents on this form and during any pre-application conference information which is true and correct. The applicant agrees to supply true and correct information requested during all subsequent investigations.

_____
(Date)

_____
(Name of Applicant (Individual or Organization))

by: _____
(Signature)

_____
(Applicant's Mailing Address if different from the center)

_____
(Name and Title)

_____
(City, State, Zip Code)

( )
_____
(Business Telephone)

Directions: Please provide all requested information. If completing this form for centers located at different sites, please copy and complete Sections II and III of this form as many times as needed.

I. SPONSORSHIP AND GENERAL INFORMATION

A. Center(s) is to be operated by

____Individual ____Corporation ____Public Agenc

____Partnership ____Association

B. Name of sponsor if not an individual proprietorship: _____

Address: _____

Telephone: [___] _____

C. For centers sponsored by either corporations, partnerships, unincorporated associations, or public agencies, list the names and addresses of individuals who hold primary financia control and officers of the sponsoring/governing body:

President or Chairperson: _____ Telephone Number: __(____) _____

Address: _____
(City) (State) (Zip Code)

Office	Name	Address

D. How many center sites do you want licensed by this application? _____

II. INFORMATION FOR EACH CENTER SITE

As necessary, please make copies of this section of the form and complete for each center site.

A. Name of Center	B. Phone Number of Center (Area Code) ( )
B. Name of Administrator	D. Name of Center Director

E. Hours of Operation and Requested, Licensed Capacity

Child Day Center	Hours of Operation (days and times)	Months Operated During the Year	Requested Licensed Capacity	Age Range
Preschool or Younger				
School Age				

F. What is your total, requested licensed capacity (the number of children that can be present at any one time)? _____

G. Does the program operate fewer than four months in a 12 month period? ___Yes ___No

H. Current Enrollment By Age Groups. Please indicate if multiple sessions during a one week time period are offered (i.e. morning session and afternoon session).

Infants and Toddlers (birth to 16 mos.)	Infants and Toddlers (16 mos. to 2 yrs.)	Preschool (2 and 3 yr. olds)	Preschool (4 to age of eligibility to attend school)	School Age

IV. ATTACHMENTS

A. A list of indoor and outdoor play equipment available to children, if it has changed since the last licensing study.

☐ no change ☐ has changed

B. A copy of the daily activity schedule(s) for the center(s), if it has changed since the last licensing study.

☐ no change ☐ has changed

C. A copy of all brochures and policies required by the minimum standards if they have changed since the last licensing study.

☐ no change ☐ has changed

Directions: As necessary, please make copies of this section of the form and complete for each center site. List all employees and volunteers. Place an asterisk (*) by the names of the employees and volunteers who have received training in first-aid.

III. STAFF INFORMATION

Name of Center: _____

Location of Center: _____

Staff Member	Date of Employment	Position	Education/Related Experience (Indicate highest grade, diploma or degree and related experience)	Weekly Work Schedule (Specify actual hours worked each day)	Age Group For Which Responsible

VA.R. Doc. No. R97-670; Filed September 10, 1997, 10:09 a.m.

* * * * * * * *

Title of Regulation: **22 VAC 15-40-10 et seq. Minimum Standards for Licensed Child Day Centers Serving School Age Children (REPEALING).**

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

Public Hearing Date: N/A -- Public comments may be submitted until November 29, 1997.
(See Calendar of Events section for additional information)

Basis: Section 63.1-202 of the Code of Virginia provides the statutory basis for the Child Day-Care Council to promulgate regulations for child day centers. It states: "The State Board or in the case of child day centers, the Child Day-Care Council shall promulgate regulations for the activities, services and facilities to be employed by persons and agencies required to be licensed under this chapter, which shall be designed to ensure that such activities, services and facilities are conducive to the welfare of the children under the custody or control of such persons or agencies." On October 10, 1996, the Child Day-Care Council approved the proposed repeal of the regulation entitled Minimum Standards for Licensed Child Day Centers Serving School Age Children (22 VAC 15-40-10 et seq.) for a 60-day public comment period contingent upon approval from the Department of Planning and Budget and the Secretary of Health and Human Resources.

Purpose: The purpose of repealing this regulation is to incorporate its requirements into the regulation entitled Minimum Standards for Licensed Child Day Centers Serving Children of Preschool Age or Younger (22 VAC 15-30-10 et seq.) which will be renamed Minimum Standards for Licensed Child Day Centers. Many of the requirements in the preschool and school age regulation are the same so the combined regulation would result in only several additional pages to the preschool regulation. This change could save the state money since many parents and programs request regulation information concerning both younger and older children. This approach would also reduce duplicative efforts in the regulation process.

Substance: This regulation will be incorporated into the regulation entitled Minimum Standards for Licensed Child Day Centers Serving Children of Preschool Age or Younger which will be renamed Minimum Standards for Licensed Child Day Centers. The following areas of the regulation will continue to be addressed: administration, staff qualifications and training, physical plant, staffing and supervision, programs, special care provisions and emergencies, and special services.

Issues: By incorporating the requirements of this regulation into the existing preschool regulation, the regulatory process will be streamlined for most providers and for the Department of Social Services. The disadvantage of combining the preschool and school age regulations is that providers offering care to only preschool children or only school age children will need to sort through requirements that would not apply to their program. There are no disadvantages of incorporating the school age requirements into the preschool regulation for the Department of Social Services.

Department of Planning and Budget's Economic Impact Analysis: The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 9-6.14:7.1 G of the Administrative Process Act and Executive Order Number 13 (94). Section 9-6.14:7.1 G requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. The analysis presented below represents DPB's best estimate of these economic effects.

Summary of the proposed regulation. The current regulation sets the minimum standards that child day care centers serving school age children must meet to be licensed by DSS. DSS is proposing to combine the provisions of this regulation with regulations governing minimum standards for licensed day care centers serving children of preschool age or younger in a proposed regulation entitled Minimum Standards for Licensed Child Day Centers. As a result, DSS is proposing to repeal the current regulation governing minimum standards for child day care centers serving school age children.

Estimated economic impact. The provisions of this regulation will largely remain in force as part of a proposed regulation entitled Minimum Standards for Licensed Child Day Centers. As a result, the repeal of this regulation should have no economic impact.

Businesses and entities particularly affected. The proposed regulation particularly affects day care centers licensed to serve school age children, school age children, their parents and guardians, and the citizens of the Commonwealth.

Localities particularly affected. No localities are particularly affected by the proposed regulation.

Projected impact on employment. The proposed regulation is not anticipated to have a significant effect on employment.

Effects on the use and value of private property. The proposed regulation is not anticipated to have a significant effect on the use and value of private property.

Summary of Analysis. DPB anticipates that the repeal of this regulation will have no economic impact.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The Child Day-Care Council concurs with the Department of Planning and Budget's economic impact analysis on the regulation entitled Minimum Standards for Licensed Child Day Centers Serving School Age Children (22 VAC 15-40-10 et seq.).

Summary:

This regulation lists the standards child day centers must meet to be licensed by the Department of Social Services. While this regulation is being repealed, the requirements will be incorporated in the regulation entitled Minimum Standards for Licensed Child Day Centers Serving Children of Preschool Age or Younger (22 VAC 15-30-10-et seq.) which will be renamed Minimum Standards for Licensed Child Day Centers. Changes made to the current school age requirements during this incorporation process are included in the summary of changes prepared for 22 VAC 15-30-10 et seq.

VA.R. Doc. No. R97-671; Filed September 10, 1997, 10:16 a.m.

FINAL REGULATIONS

For information concerning Final Regulations, see Information Page.

Symbol Key

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

TITLE 8. EDUCATION

STATE BOARD OF EDUCATION

Title of Regulation: **8 VAC 20-130-10 et seq. Regulations Establishing Standards for Accrediting Public Schools in Virginia (Repealed).**

VA.R. Doc. No. R97-322; Filed September 12, 1997, 11:53 a.m.

Title of Regulation: **8 VAC 20-131-10 et seq. Regulations Establishing Standards for Accrediting Public Schools in Virginia.**

Statutory Authority: §§ 22.1-16, 22.1-19 and 22.1-253.13:3 of the Code of Virginia.

Effective Date: October 29, 1997.

Summary:

The amendments as adopted:

1. Clearly define the academic expectations for students and the methods to be used to determine the level of academic achievement;

2. Strengthen the requirements for standard and advanced studies diplomas including the requirement that students pass certain Standards of Learning (SOL) tests to earn verified credit for courses required for graduation;

3. Clearly define the expectations for school-level student academic achievement and how schools will be evaluated to determine their compliance with those expectations. Schools will be evaluated primarily on student performance on the new statewide SOL assessment program. Individual students' results on the assessments will be available to the board through the Department of Education in accordance with the contract awarded early in 1997.

4. Require local school boards to certify compliance with facilities, staffing, and safety standards as a precondition of accreditation;

5. Promote improved parent/school relations by requiring that each school annually issue report cards on school performance and other information to parents and the community;

6. Clearly inform schools of the procedures for accreditation and requirements for school improvement. Schools will be provided the opportunity to operate under locally developed and approved improvement plans during the implementation years from 1999-2002; and

7. Introduce new accreditation ratings: fully accredited; conditionally accredited (the initial status for new schools); accredited with warning (for schools that do not meet the requirements for full accreditation); accreditation denied; and provisionally accredited (a temporary status for all schools beginning in the Fall of 1998 and expiring in 2002). During the implementation years between 1998 and 2003, schools may attain the rating of fully accredited if the level of expected student academic achievement is reached or schools may be accredited with warning if no improvement is made toward the level of expected achievement.

Phase-in of the implementation of some of the components of the regulations is as follows:

1. The course requirements for the standard and advanced studies diplomas will be effective with the ninth grade class of 1998-99 (the graduating class of 2002);

2. The requirements for verified units of credit (i.e., the requirement that students pass SOL tests for certain courses for graduation) will be effective with the ninth grade class of 2000-01 (the graduating class of 2004); and

3. The assigning of an accreditation rating based on student academic achievement on the SOL tests with consequences leading to denial of accreditation will begin with the 2003-2004 accrediting cycle.

Finally, to increase local flexibility, the regulations make provisions for waivers of some of the requirements of these regulations and other regulations of the board upon submission of a request from the division superintendent and the local school board. No substantive changes to the proposal published on June 11 have been made. All changes are of a technical or conforming nature.

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 Charles W. Finley, Department of Education, P.O. Box 2120, Richmond, VA 23218-2120, telephone (804) 225-2092.

CHAPTER 131.
REGULATIONS ESTABLISHING STANDARDS FOR ACCREDITING PUBLIC SCHOOLS IN VIRGINIA.

PART I.
PURPOSE.

8 VAC 20-131-10. Purpose.

The standards for accreditation of public schools in Virginia are designed to ensure that an effective educational program is established and maintained in Virginia's public schools. The mission of the public education system, first and foremost, is to educate students in the essential academic knowledge and skills in order that they may be equipped for citizenship, work, and a private life that is informed and free. The accreditation standards are designed to:

1. Provide an essential foundation of educational programs of high quality in all schools for all students.

2. Encourage continuous appraisal and improvement of the school program for the purpose of raising student achievement.

3. ~~Earn~~ Foster public confidence.

4. Assure recognition of Virginia's public schools by other institutions of learning.

5. Establish a means of determining the effectiveness of schools.

Section 22.1-253.13:3 B of the Code of Virginia requires that the Board of Education promulgate regulations establishing standards for accreditation.

The statutory authority for these regulations is delineated in § 22.1-19 of the Code of Virginia that includes the requirement that the Board of Education shall provide for the accreditation of public elementary and secondary schools in accordance with regulations prescribed by it.

PART II.
PHILOSOPHY, GOALS, AND OBJECTIVES.

8 VAC 20-131-20. Philosophy, goals, and objectives.

A. Each school shall have current philosophy, goals, and objectives that shall serve as the basis for all policies and practices and shall be developed using the following criteria:

1. The philosophy, goals, and objectives shall be developed with the advice of professional and lay people who represent the various populations served by the school and in consideration of the needs of the community and shall serve as a basis for the creation and review of the biennial school plan.

2. The school's philosophy, goals and objectives shall be consistent with the Standards of Quality.

3. ~~Primary among the objectives, those for students shall be stated in terms of student achievement in the disciplines of English/reading, mathematics, science, and history/social science.~~ The goals and objectives shall (i) be written in plain language so as to be understandable to noneducators, including parents; (ii) to the extent possible, be stated in measurable terms; and (iii) consist primarily of measurable objectives to raise student and school achievement in the core Standards of Learning disciplines, to improve student and staff attendance, to reduce student drop-out rates, and to increase the quality of instruction through professional staff development and [~~certification~~ licensure].

4. The school staff and community representatives shall review biennially the ~~philosophy, goals, and objectives of the school and shall revise them as needed.~~ extent to which the school has met its prior goals and objectives, analyze the school's student performance data including data by grade level or academic department as necessary, and report these outcomes to the school community and the division superintendent. A report delivered [in writing or given orally in accordance with local school board policy] during a regularly scheduled parent-teacher meeting at the school may be used to satisfy the [~~school community~~] reporting requirement [~~in~~ of] this section. This report shall be in addition to the school report card required by 8 VAC 20-131-270 B.

B. Copies of the school's philosophy, goals and objectives shall be available upon request.

PART III.
STUDENT ACHIEVEMENT.

8 VAC 20-131-30. Student achievement expectations.

A. Each student should ~~be proficient in~~ learn the relevant ~~grade/subject~~ grade level subject matter before promotion to the next grade. For ~~years~~ grades in which the SOL tests are given, ~~proficiency~~ achievement of a passing score on the SOL tests ~~should~~ shall be considered in ~~addition to~~ promotion/retention policies adopted by the local school board. Achievement expectations and participation in SOL testing of students with disabilities will be guided by provisions of their Individualized Education Plan (IEP) or 504 Plan. [Participation of students identified as limited English proficient shall be determined by a committee convened to make such determinations. Limited English proficient students may be exempted from the SOL tests for one grade level only in grades 3, 5, and 8. In order to be granted verified credit, all students must meet the clock hour and testing requirements set forth in this chapter.]

B. Each student at grades 3, 5, and 8 shall take and be expected to achieve a passing score ~~of proficient or better~~ on the SOL tests for the student's respective ~~grades~~ grade. Schools ~~should~~ shall use the SOL test results as part of a multiple set of criteria for determining advancing or retaining students in grades 3, 5, and 8. ~~In addition, all students shall be expected to achieve a score of proficient or better on the appropriate high school SOL tests as a condition of graduation.~~ [No promotion/retention policy shall be written in a manner as to systematically exclude students from membership in a grade or participation in a course in which SOL tests are to be administered.]

C. ~~Students graduating from high school shall have achieved proficiency on the SOL tests for the relevant subject matter related to courses taken to satisfy the requirements for a high school diploma outlined in 8 VAC 20-131-50.~~ Each student in middle and secondary schools shall take all applicable end-of-course SOL tests following course instruction. Students who achieve a passing score on an end-of-course SOL test shall be awarded a verified unit of credit in that course. Students may earn verified credits in any courses for which end-of-course SOL tests are available. [~~In years prior to 2003-2004,~~] Middle and secondary schools may consider the student's end-of-course SOL test score in determining the student's final course grade.

[D. Students with disabilities for whom participation in the SOL testing program is deemed inappropriate according to their IEP or 504 plan and who cannot participate in the SOL tests shall be expected to demonstrate proficiency on an alternative assessment prescribed by the board in accordance with federal laws and regulations beginning with school year 2000-2001.]

8 VAC 20-131-40. Literacy Passport Test.

The SOL assessments shall constitute the primary evaluation of student academic achievement for the purpose of this chapter. Students shall also pass the literacy tests prescribed by the Board of Education in reading, writing, and mathematics in order to be promoted to the ninth grade except for students with disabilities who are progressing according to the objectives of their Individualized Education Plan (IEP) or 504 plan. Students transferring to a Virginia public school prior to the ninth grade shall also be required to pass the literacy tests in order to be promoted to the ninth grade. Students who are not promoted shall be enrolled in alternative programs leading to one or more of the following:

1. Passing the literacy tests;
2. High school graduation;
3. General Educational Development (GED) Certificate;
4. Certificate of Program Completion; and
5. Job entry skills.

8 VAC 20-131-50. Requirements for graduation.

A. To ~~graduate from high school~~ receive a high school diploma, a student shall pass all components of the Literacy Passport Test as required by the Standards of Quality and prescribed by the Board of Education and meet the minimum requirements for one of the two diplomas outlined in subsection B or C of this section for grades 9 through 12. These shall be the only requirements for a diploma [, except that a local school board may prescribe additional requirements for a diploma if such requirements have been approved by the Board of Education. All additional requirements prescribed by local school boards and in effect as of June 30, 1997, are approved to continue through June 30, 1999, without further action by the board].

B. Requirements for a standard diploma.

1. ~~Students shall earn the credits outlined in subdivision 2 of this subsection and have achieved proficiency on the SOL tests for subject matter herein described:~~ Beginning with the ninth grade class of 1998-99 (graduating class of 2001-02), students shall earn the standard credits outlined in subdivision 2 of this subsection. Beginning with the ninth grade class of 2000-01 (graduating class of 2003-04), students shall earn standard units of credit described in subdivision 2 of this subsection and, of the standard units of credit earned, students shall earn the following number of verified units of credit (see 8 VAC 20-131-110): English—two, mathematics—one, science—one, history/social science—one, and one additional verified unit of credit of the student's own choosing. [~~These shall be the only requirements for a diploma.~~]

~~a. Beginning with the graduating class of 2001, students shall demonstrate proficiency on the SOL tests as follows: English—two tests of English 9, 10, or 11; mathematics—one of Algebra I, Geometry or Algebra II; science—one of Earth Science, Biology, or Chemistry; and history—two of World History and Geography I, World History and Geography II, or U.S. History for a total of six of 12 available tests.~~

~~b. Beginning with the graduating class of 2003, students shall demonstrate proficiency on the SOL tests as follows: English—three tests of English 9, 10, and 11; mathematics—two of Algebra I and Geometry or Algebra II; science—two of Earth Science, Biology, or Chemistry; and history—three of World History and Geography I, World History and Geography II, and U.S. History for a total of 10 of 12 available tests.~~

2. Credits required for graduation.

Discipline Area	Units of Credit	No. of Credits Required to be Verified
English	4	2
Mathematics[1]	3	1
Laboratory Science[2]	3	1
History and Social Sciences[3]	~~4~~ 3	1
Health and Physical Education	2	
Fine Arts or Practical Arts	1	
Electives	6	
Student Selected Test		1
Total	~~23~~ 22	6

[1] ~~Beginning with the ninth grade class of 1997-98, the courses completed to meet this requirement shall include Algebra I. Beginning with the ninth grade class of 1999-00, the courses shall include Algebra I and Geometry.~~ Courses completed to satisfy this requirement shall [~~include two different course selections from among the following~~ be at or above the level of Algebra and shall include at least two course selections from among]:

Algebra I, Geometry, Algebra II, or other mathematics courses above the level of Algebra and Geometry. [The Board of Education may approve additional courses to satisfy this requirement.]

[2] Courses completed to satisfy this requirement shall include ~~Earth Science and Biology~~ [~~two different~~] course selections from [~~among the following~~ at least two different science disciplines]: Earth [~~Science~~ Sciences], Biology, Chemistry, [or] Physics [~~, or other science courses above the level of Biology~~ . The Board of Education may approve additional courses to satisfy this requirement] .

[3] Courses completed to satisfy this requirement shall include [~~World History and , World Geography,~~] U.S. and Virginia History, [~~and~~] U.S. and Virginia Government [~~. Other acceptable courses include: (i) World History and Geography to 1000 A.D. and World History and Geography 1000 A.D. to Present or (ii) a semester course of World History to 1000 A.D., a semester course of World Geography, and a year-long course of World History 1000 A.D. to Present~~ , and one world history/geography course. Courses which satisfy the world history/geography course are: (i) World History, (ii) World Geography, (iii) World History and Geography to 1000 A.D., (iv) World History and Geography 1000 A.D. to the Present, or (v) a semester course of World History to 1000 A.D. and a semester course of World Geography. The Board of Education may approve additional courses to satisfy this requirement].

Students completing the requirements for the standard diploma may be eligible to receive a Board of Education seal or other honor deemed appropriate by the local school board as described in subsection ~~D~~ E of this section.

C. Requirements for an advanced studies diploma.

1. ~~Students shall earn the credits outlined in subdivision 2 of this subsection and have achieved proficiency on the SOL tests for subject matter herein described:~~ Beginning with the ninth grade class of 1998-99 (graduating class of 2001-02), students shall earn the standard credits outlined in subdivision 2 of this subsection. Beginning with the ninth grade class of 2000-01 (graduating class of 2003-04), students shall earn the standard credits outlined in subdivision 2 of this subsection and, of the total credits earned, students shall earn the following number of verified units of credits (see 8 VAC 20-131-110): English—two, mathematics—two, science—two, history/social science—two, and one additional verified unit of credit of the student's own choosing.

~~a. Beginning with the graduating class of 2001, students shall demonstrate proficiency on the SOL tests as follows: English three tests in English 9, 10, and 11; mathematics two tests of Algebra I, Geometry or Algebra II; science two of Earth Science, Biology, or Chemistry; and history two of World History and Geography I, World History and Geography II, or U.S. History for a total of nine of 12 available tests.~~

~~b. Beginning with the graduating class of 2003, students shall demonstrate proficiency on the SOL tests as follows: English three tests of English 9, 10, and 11; mathematics three of Algebra I, Geometry and Algebra II; science three of Earth Science, Biology, and Chemistry; and history three of World History and Geography I, World History and Geography II, and U.S. History for a total of 12 of the 12 available tests.~~

2. Credits required for graduation.

Discipline Area	Units of Credit	No. of Credits Required to be Verified
English	4	2
Mathematics[1]	4	2
Laboratory Science[2]	4	2
History and Social Sciences[3]	4	2
Foreign Language[4]	~~3/4~~ 3	
Health and Physical Education	2	
Fine Arts or Practical Arts	1	
Electives	~~1/4~~ 2	
Student Selected Test		1
Total	~~23/27~~ 24	9

[1] ~~Beginning with the ninth grade class of 1997-1998, courses completed to satisfy this requirement shall include Algebra I, Geometry, and two units above the level of Geometry.~~ Courses completed to satisfy this requirement shall [~~include four different course selections from among the following~~ be at or above the level of Algebra and shall include at least three different course selections from among]: Algebra I, Geometry, Algebra II, or other mathematics courses above the level of Algebra [~~and Geometry~~]. [The Board of Education may approve additional courses to satisfy this requirement.]

[2] Courses completed to satisfy this requirement shall include [~~four~~] ~~units among the following subjects: Earth Science, Biology, Chemistry, Physics and advanced placement courses~~ [~~different~~] course selections from [at least three different science disciplines from] among [~~the following~~]: Earth [~~Science~~ Sciences], Biology, Chemistry, [or] Physics [~~, or other science courses above the level of Biology including International Baccalaureate and Advanced Placement courses~~ . The Board of Education may approve additional courses to satisfy this requirement] .

[3] Courses completed to satisfy this requirement shall include [~~World History and , World Geography, U.S. and Virginia History, and U.S. and Virginia Government. Other acceptable courses include: (i) World History and Geography to 1000 A.D. and World History and Geography 1000 A.D. to Present or (ii) a semester~~

~~course of World History to 1000 A.D., a semester course of World Geography, and a year-long course of World History 1000 A.D. to Present.~~ U.S. and Virginia History, U.S. and Virginia Government, and two world history/geography courses. Acceptable courses to satisfy the world history/geography requirements include: (i) World History and World Geography; (ii) World History and Geography to 1000 A.D., and World History and Geography from 1000 A.D. to the Present; or (iii) a semester course of World Geography, a semester course of World History to 1000 A.D., and a year-long course of World History 1000 A.D. to the Present. The Board of Education may approve additional courses to satisfy this requirement.]

[4] Three years of one language or two years of two languages.

Students completing the requirements for the advanced studies diploma may be eligible to receive a Governor's seal or other honor deemed appropriate by the local school board as described in subsection ~~D~~ E of this section.

D. When students below the ninth grade successfully complete courses offered for credit in grades 9 through 12, credit shall be counted toward meeting the standard units required for graduation provided the courses meet SOL requirements or are equivalent in content and academic rigor as those courses ~~when~~ offered at the secondary level, or verified units provided students achieve a passing score on end-of-course SOL tests.

E. Awards for exemplary performance.

1. Students who complete the requirements for a standard diploma with an average grade of "B" or better in the required courses will receive a Board of Education seal on the diploma.

2. Students who complete the requirements for an advanced studies diploma with an average grade of "B" or better and successfully complete at least one advanced placement course (AP) or one college-level course for credit will receive a Governor's seal on the diploma.

3. Students may receive other seals or awards for exceptional academic, vocational, citizenship, or other exemplary performance in accordance with criteria defined by the local school board.

F. Students completing graduation requirements in a summer school accredited under this chapter shall be eligible for a diploma. The last school attended by the student during the regular session shall award the diploma unless otherwise agreed upon by the principals of the two schools.

G. Students who complete a prescribed course of study as defined by the local school board but who do not qualify for diplomas shall be awarded a Certificate of Program Completion by the local school board.

H. Students who complete [~~the requirements~~ honors, advanced, advanced placement, or college-level courses or courses required] for an International Baccalaureate Diploma shall be deemed to have completed the requirements for [~~high school~~] graduation under these standards provided they have [~~achieved a passing score on~~ passed] the end-of-course tests required [to earn verified credits as required] of students earning [either a standard or] an advanced studies diploma [or, in the case of a completed International Baccalaureate Diploma program, the number of verified credits required for an advanced studies diploma].

8 VAC 20-131-60. Transfer of ~~credit~~ credits.

A. A secondary school shall accept credits received from other accredited secondary schools, including summer schools, special sessions, schools accredited through the Virginia Council for Private Education, and educational programs operated by the state. Credit also shall be accepted for courses satisfactorily completed in accredited colleges and universities when prior written approval of the principal has been granted.

B. Records of transferred students shall be sent directly to the school receiving the student upon request of the receiving school in accordance with the provisions of the 8 VAC 20-150-10 et seq., Management of the Student's Scholastic Records in Virginia.

C. The transcript of a student who graduates or transfers from a Virginia secondary school shall show the minimum units of credit [earned and] required for [~~the~~ graduation with a] standard or advanced studies diploma [~~required for graduation~~].

D. Students transferring into a Virginia school division ~~from schools described in subsection A of this section, a nonaccredited school, or home instruction~~ shall be required to ~~meet credit unit requirements for graduation as well as test requirements for courses taken while in Virginia schools~~ earn a minimum of 22 standard credits (6 of which must be verified credits) for graduation. Each student's prior record shall be evaluated to determine the number ~~and content~~ of credits previously earned and the number of additional credits required for graduation. Specified courses normally taken at lower grade levels shall not be required provided the student has completed the courses required at those grade levels by the school division or state from which the student transferred. Students transferring from states not giving credit for health and physical education shall not be required to repeat these courses. Students transferring after the beginning of their senior or twelfth grade year shall be given every opportunity to earn a standard or advanced studies diploma. If it is not possible for the student to meet the requirements for a diploma, arrangements should be made for the student's previous school to award the diploma. If this arrangement cannot be made, a waiver of the verified credit requirements may be available to the student. [~~In no event will any of the standard credit requirements of 8 VAC 20-131-50 be waived; however, the test requirements may be waived (in whole or in part) in the case of a documented extreme~~

~~hardship for an individual student.~~] The Department of Education may [~~make an exception~~ grant such waivers] upon request by the local school board.

PART IV.
SCHOOL INSTRUCTIONAL PROGRAM.

8 VAC 20-131-70. Program of instruction and learning objectives.

A. Each school shall provide a program of instruction that promotes individual student academic achievement in the essential academic disciplines and shall provide additional instructional opportunities that meet the abilities, interests, and educational needs of students. Each school shall establish learning objectives to be achieved by students at successive grade levels that meet or exceed the knowledge and skills contained in the Standards of Learning for English, mathematics, science, and history/social science adopted by the Board of Education in June 1995 and shall continually assess the progress of each student in relation to the objectives.

B. Instruction shall be designed to accommodate all students, including those with disabilities, those identified as gifted/talented and those who have limited English proficiency. Each school shall provide students identified as gifted with instructional programs taught by teachers with special training or experience in working with gifted students. Students with disabilities shall have the opportunity to receive a full continuum of education services, in accordance with 8 VAC 20-180-10 et seq., Regulations Governing Special Education Programs for Children with Disabilities in Virginia, the "Special Education Program Standards," and other pertinent federal and state regulations.

8 VAC 20-131-80. Instructional ~~programs~~ program in elementary schools.

A. Each elementary school shall provide each student a program of instruction which corresponds to the Standards of Learning for English, mathematics, science, and history/social science. In addition, each school shall provide instruction in art, music, and physical education and health.

B. In grades K through 3, reading, writing, spelling, and mathematics shall be the core of the program. [Schools shall maintain, in a manner prescribed by the board,] an early skills and knowledge achievement record in reading and math [~~shall be maintained~~] for [~~students~~ each student] in grades ~~1 and 2~~ K through 3 to monitor student progress and to promote successful achievement in the third grade [~~Standards of Learning test~~ SOL tests]. This record [~~will be provided by the Department of Education and~~] shall be included with the student's records if the student transfers to a new school.

C. To provide students with sufficient opportunity to learn, a minimum of 75% of the annual instructional time of 990 hours shall be given to ~~the~~ instruction in the disciplines of English, mathematics, science, and history/social science. Students who are not successfully progressing in early reading proficiency or who are unable to read the materials necessary for instruction with comprehension shall receive additional instructional time in reading.

8 VAC 20-131-90. Instructional ~~programs~~ program in middle schools.

A. Each middle level school shall provide each student a program of instruction which corresponds to the Standards of Learning for English, mathematics, science, and history/social science. In addition, each school shall provide instruction in art, music, foreign language, physical education and health, and career and vocational ~~education~~ exploration.

B. The ~~eighth grade~~ middle school shall provide a minimum of eight offerings [to students in eighth grade]: ~~five in academic areas~~ four required courses (English, mathematics, science, and history/social science ~~, and foreign language~~), and four elective courses (one in foreign language, one in health and physical education, one in fine arts, and one in career and vocational exploration).

C. Level one of a foreign language ~~and Algebra I~~ shall be available to all eighth grade students. In any high school credit-bearing course taken in middle school, parents may request that grades be omitted from the student's transcript and the student not earn high school credit for the course. Notice of this provision must be [~~sent~~ provided] to parents [~~at the close of the semester or school year~~] with a deadline and [~~Parents shall be advised of this provision and provided a~~] format for making such a request [~~, the deadline for which shall be prior to the scheduled end-of-course SOL testing~~]. Nothing in this chapter shall be construed to prevent a middle school from offering any appropriate credit-bearing course for graduation.

D. To provide students a sufficient opportunity to learn, each student shall be provided 140 clock hours per year of instruction in each of the four disciplines of English, math, science, and history/social science. Sixth grade students may receive an alternative schedule of instruction provided each student receives at least 560 total clock hours of instruction in the four academic disciplines.

8 VAC 20-131-100. Instructional ~~programs~~ program in secondary schools.

A. Each secondary school shall provide each student a program of instruction in the academic areas of English, mathematics, science, and history/social science that enables each student to meet the graduation requirements described in 8 VAC 20-131-50 and shall offer opportunities for students to pursue a program of studies in several academic and vocational areas including:

1. Vocational education choices that prepare the student as a vocational program completer in one of three or more occupational areas and that prepare the student for technical or preprofessional postsecondary programs;

2. Course work and experiences that prepare the student for college-level studies including access to at least two advanced placement courses or two college-level courses for credit; and

3. Preparation for scholastic aptitude tests.

B. Minimum course offerings for each secondary school, grades 9 through 12, shall provide that students can meet the graduation requirements stated in this chapter and must include:

Academic Subjects		23
English	(4)	
Mathematics	(4)	
Science (Laboratory)	(4)	
History and Social Sciences	(4)	
Foreign Language	(3)	
Electives	(4)	
Vocational Education		11
Fine Arts		2
Health and Physical Education		2
Total Units		38

C. Classroom driver education may count for 36 class periods of health education. Students shall not be removed from classes other than health and physical education for the in-car phase of driver education.

8 VAC 20-131-110. Standard ~~unit~~ and verified units of credit.

A. The standard unit of credit for graduation shall be based on a minimum of ~~150~~ 140 clock hours of instruction. When credit is awarded in less than whole units, the increment awarded must be no greater than the fractional part of the ~~150~~ 140 hours of instruction provided. If a school division elects to award credit in a noncore academic course on a basis other than the standard unit of credit, the locality shall develop a written policy approved by the superintendent and school board which ensures:

1. That the content of the course for which credit is awarded is comparable to ~~150~~ 140 clock hours of instruction; and

2. That upon completion, the student will have met the aims and objectives of the course.

B. A verified unit of credit for graduation shall be based on a minimum of 140 clock hours of instruction and the achievement by the student of a passing score on the end-of-course Standards of Learning test for that course.

~~B.~~ C. A school employing a scheduling configuration of less than ~~150~~ 140 clock hours per course in the 1996-97 school year may retain that scheduling configuration provided such school [~~continues to meet student achievement accreditation expectations~~ is rated "Fully Accredited." Schools rated "Accredited with Warning" may be required to address their scheduling configuration in their corrective action plan required by 8 VAC 20-131-310 D].

8 VAC 20-131-120. Summer school.

A. The summer school program shall be equal in quality to the program offered during the regular school term.

B. Credit for repeated work ordinarily will be granted on the same basis as that for new work. With prior approval of the principal, certain students may be allowed to enroll in two repeat subjects to be completed in not less than 75 clock hours of instruction per unit of credit.

C. Summer school instruction which is provided as part of a remedial program shall be designed to improve specific identified student deficiencies.

8 VAC 20-131-130. Elective courses.

Locally developed elective courses offered for credit toward high school graduation shall be approved by the division superintendent and school board.

8 VAC 20-131-140. College preparation programs and opportunities for postsecondary credit.

Each middle and secondary school shall provide for the early identification and enrollment of students in a college preparation program with a range of educational and academic experiences in and outside the classroom, including an emphasis on experiences that will motivate disadvantaged and minority students to attend college.

Beginning in the middle school years, students shall be counseled as to opportunities for beginning postsecondary education prior to high school graduation. Students taking advantage of such opportunities shall not be denied participation in school activities for which they are otherwise eligible. Wherever possible, students shall be encouraged and afforded opportunities to take college courses simultaneously for high school graduation and college degree credit, under the following conditions:

1. Prior written approval of the high school principal for the cross registration must be obtained;

2. The college must accept the student for admission to the course or courses; and

3. The course or courses must be given by the college for degree credits (hence, no remedial courses will be accepted).

Schools that comply with this standard shall not be penalized in receiving state appropriations.

8 VAC 20-131-150. Standard school year and school day.

A. The standard school year shall be 180 days. The standard school day for students in grades 1 through 12 shall average at least 5½ hours, excluding intermissions for meals, and a minimum of three hours for kindergarten. School divisions may develop alternative schedules for meeting these requirements as long as a minimum of 990 hours of instructional time is provided for grades 1 through 12 and 540 hours for kindergarten. Such alternative plans must be approved by the local school board and by the Board of Education under guidelines established by the Board of Education. No alternative plan which reduces the instructional time in the core academics shall be approved.

B. All students in grades 1 through 12 shall maintain a full day schedule of classes (5½ hours), unless a waiver is granted by the local superintendent of schools. Conditions of such waivers shall be defined by the local school board.

8 VAC 20-131-160. Additional reading instruction.

Each school shall ensure that students who are unable to read with comprehension the materials necessary for instruction receive additional instruction in reading, which may include summer school.

8 VAC 20-131-170. Family Life Education.

Each school ~~shall~~ may implement the Standards of Learning for the Family Life Education program promulgated by the Board of Education or a Family Life Education program consistent with the guidelines developed by the Board of Education, which shall have the goals of reducing the incidence of pregnancy and sexually-transmitted diseases and substance abuse among teenagers.

8 VAC 20-131-180. Off-site instruction.

A. Homebound instruction shall be made available to students who are confined for periods that would prevent normal school attendance based upon certification of need by a licensed physician or licensed clinical psychologist. For students eligible for special education or related services, the Individualized Education Program or 504 Plan committee must revise the IEP, as appropriate. Credit for the work shall be awarded when it is done under the supervision of a certified teacher, a person eligible to hold a Virginia certificate, or other appropriately licensed professional employed by the local school board.

B. Students may enroll in and receive [a standard or verified unit of] credit for supervised correspondence courses in subjects not available to them through the school's schedule with prior approval of the principal. Credit shall be awarded for the successful completion of such courses when [the course is equivalent to that offered in the regular school program and] the work is done under the supervision of a [~~certified~~ licensed] teacher, or a person eligible to hold a Virginia [~~certificate~~ license], approved by local school authorities. [Verified credit may be earned when the student has passed the SOL test associated with the correspondence course completed.]

8 VAC 20-131-190. Library media, materials and equipment.

A. Each school shall maintain an organized library media center as the resource center of the school and provide a unified program of media services and activities for students and teachers before, during, and after school. The library media center shall contain hard copy, electronic technological resources, materials and equipment that are sufficient to meet research, inquiry, and reading requirements of the instructional program and general student interest.

B. Each school shall provide a variety of materials and equipment to support the instructional program.

8 VAC 20-131-200. Extracurricular and other school activities.

A. School sponsored extracurricular activities shall be under the direct supervision of the staff and shall contribute to the educational objectives of the school. Extracurricular activities must be organized to avoid interrupting the instructional program. Extracurricular activities shall not be permitted to interfere with the student's required instructional activities. Extracurricular activities and eligibility requirements shall be established and approved by the superintendent and the school board.

B. Competitive sports of a varsity nature (scheduled league games) shall be prohibited as a part of the elementary school program.

PART V.
SCHOOL AND INSTRUCTIONAL LEADERSHIP.

8 VAC 20-131-210. Role of the principal.

A. The principal shall be responsible for instructional leadership and effective school management that promotes positive student achievement, a safe and secure environment in which to teach and learn, and efficient use of resources. As part of this responsibility, the principal shall ensure the development and implementation of the biennial school plan approved by the superintendent.

B. Instructional leadership. The principal, responsible for ensuring students are provided an opportunity to learn, shall:

1. Protect the academic instructional time from unnecessary interruptions and disruptions and enable the professional teaching staff to spend the maximum time possible in the teaching/learning process by keeping to a minimum clerical responsibility and the time students are out of class;

2. Ensure that the school division's student code of conduct is enforced and that the school environment is safe and secure;

3. Analyze the school's test and subtest scores annually by grade and by discipline to:

a. Direct and require appropriate remediation/intervention to those students performing below grade level or not [~~achieving proficiency on~~ passing] the SOL tests;

b. Involve the staff of the school in identifying the types of staff development needed to improve student achievement and ensure that the staff participate in those activities; and

c. Analyze classroom practices and methods for improvement of instruction;

4. Ensure that students' records are maintained and that criteria used in making placement and promotion decisions, as well as any instructional interventions used to improve the student's performance, are included in the record;

5. Monitor and evaluate the quality of instruction and provide for in-service training, professional assistance and support designed to improve instruction [and ensure successful attainment of the knowledge and skills required for students by the SOLs tests]; and

6. Maintain records of students who drop out of school, including their reasons for dropping out and actions taken to prevent students from dropping out.

C. School management leadership. The principal, responsible for effective school management, shall:

1. Work with staff to create an atmosphere of mutual respect and courtesy and to facilitate ~~construction~~ constructive communication by establishing and maintaining a current handbook of personnel policies and procedures;

2. Work with the community to involve parents and citizens in the educational program and facilitate communication with parents by maintaining and disseminating a current student handbook of policies and procedures that includes the school division's standards of student conduct and procedures for enforcement, along with other matters of interest to parents and students;

3. Maintain a current record of licensure, endorsement, and in-service training ~~of~~ completed by staff; and

4. Maintain records of receipts and disbursements of all funds handled. These records shall be audited annually by a professional accountant approved by the local school board.

8 VAC 20-131-220. Role of professional teaching staff.

The professional teaching staff shall be responsible for providing instruction that is educationally sound in an atmosphere of mutual respect and courtesy, which is conducive to learning and in which all students are expected to achieve [the objectives of the Standards of Learning for the appropriate grade level or discipline]. The staff shall:

1. Serve as leadership models ~~for~~ of effective oral and written communication with special attention to the correct use of language and spelling;

2. Strive to strengthen the basic skills of students in all subjects;

3. Establish teaching objectives to achieve the following:

a. Identify what students are expected to learn; and

b. Inform students of the achievement expected and keep them engaged in learning tasks;

4. Provide for individual differences of students through the use of differentiated instruction, varied materials, and activities suitable to their interests and abilities; and

5. Assess the progress of students and report promptly and constructively to them and their parents.

8 VAC 20-131-230. Role of support staff.

The school's support staff shall work with the principal and professional teaching staff to promote student achievement and successful attainment of the school's goals.

8 VAC 20-131-240. Administrative and support staff; staffing requirements.

A. Each school shall have the required staff with proper ~~license~~ licenses and ~~endorsement~~ endorsements. The following shall be the minimum administrative and support staffing according to type of school and student enrollment:

1. Position: principal; elementary: one half-time to 299, one full-time at 300; middle: one full-time; secondary: one full-time.

2. Position: assistant principal; elementary: one half-time at 600, one full-time at 900; middle: one full-time each 600; secondary: one full-time each 600.

3. Position: librarian; elementary: part time to 299, one full-time at 300; middle: one half-time to 299, one full-time at 300, two full-time at 1,000; secondary: one half-time to 299, one full-time at 300, two full-time at 1,000.

4. Position: guidance counselors or reading specialists; elementary: one hour per day per 100, one full-time at 500, one hour per day additional time per 100 or major fraction ~~; middle: one period per 80, one full-time at 400, one additional period per 80 or major fraction; secondary: one period per 70, one full-time at 350, one additional period per 70 or major fraction~~ .

5. Position: guidance counselor; middle: one period per 80, one full-time at 400, one additional period per 80 or major fraction; secondary: one period per 70, one full-time at 350, one additional period per 70 or major fraction.

~~5.~~ 6. Position: clerical; elementary: part time to 299, one full-time at 300; middle: one full-time and one additional full-time for each 600 beyond 200 and one full-time for the library at 750; secondary: one full-time and one additional full-time for each 600 beyond 200 and one full-time for the library at 750.

B. A combined school, such as K through 12, shall meet at all grade levels the staffing requirements for the highest grade level in that school. This requirement shall apply to all staff, except the guidance staff, and shall be based on the school's total enrollment. The guidance staff requirement shall be based on the enrollment at the various school organization levels as defined in this chapter.

C. The principal of each middle and secondary school shall be employed on a 12-month basis.

D. Each secondary school with 350 or more students and each middle school with 400 or more students shall employ at least one member of the guidance staff for 11 months. Guidance counseling shall be provided for students to ensure

that a program of studies contributing to the student's academic achievement and meeting the graduation requirements specified in ~~Part III (8 VAC 20-131-30 et seq.) of this chapter~~ 8 VAC 20-131-50 is being followed. In addition, the counseling program shall provide for a minimum of 60% of the time of each member of the guidance staff devoted to such counseling of students.

E. Middle school teachers in schools with a seven-period day may teach 150 student periods per day or 30 class periods per week, provided all teachers with more than 25 class periods per week have one period per day unencumbered of all teaching or supervisory duties.

F. The secondary classroom teacher's standard load shall be no more than [~~150 student periods per day or~~] 25 class periods per week. [~~Each teacher shall be provided a minimum of one instructional hour of daily instructional planning time~~ One class period each day,] unencumbered by supervisory or teaching duties [~~. For the purpose of this section, an instructional hour is defined as a period of time equal to a minimum of 50 minutes but no more than 60 minutes of student contact~~ , shall be provided for every full-time classroom teacher for instructional planning. Teachers of block programs with no more than 120 student periods per day may teach 30 class periods per week.] Teachers who teach very small classes may teach 30 class periods per week, provided the teaching load does not exceed [~~100~~ 75] student periods per day. If a classroom teacher teaches 30 class periods per week with more than [~~100~~ 75] student periods per day, an appropriate contractual arrangement and compensation shall be provided.

G. Middle or secondary school teachers shall teach no more than 750 student periods per week; however, physical education and music teachers may teach 1,000 student periods per week.

H. Each school shall report the extent to which an unencumbered lunch is provided for all classroom teachers.

I. The number of students in special and vocational education classrooms shall comply with regulations of the Board of Education.

J. Pupil personnel services, including visiting teachers, school social workers, school psychologists, and guidance counselors, shall be available as necessary to promote academic achievement.

8 VAC 20-131-250. Alternative staffing plan.

At the discretion of local school authorities, an alternative staffing plan may be developed which ensures that the services set forth in this chapter are met. Any alternative staffing plan shall be submitted to the Department of Education for approval. An alternative staffing plan that reduces the number of staff positions will not be acceptable.

PART VI.
SCHOOL FACILITIES AND SAFETY.

8 VAC 20-131-260. School facilities and safety.

A. Each school shall be maintained in a manner ensuring compliance with the Virginia Uniform Statewide Building Code (13 VAC 5-61-10 et seq.) and regulations of the Board of Education pertaining to facilities. In addition, the school administration shall:

1. Maintain a physical ~~plan~~ plant that is accessible, barrier free, safe, and clean;

2. Provide for the proper outdoor display of flags of the United States and of the Commonwealth of Virginia; and

3. Provide suitable space for classrooms, administrative staff, pupil personnel services, library and media services, and for the needs and safety of ~~the~~ physical education; and ~~laboratory science~~;

4. Provide adequate, safe, and properly-equipped laboratories to meet the needs of instruction in the sciences, computer, fine arts, and vocational programs.

B. Each school shall maintain records of regular safety, health and fire inspections that have been conducted and certified by local health and fire departments. The frequency of such inspections shall be determined by the local school board in consultation with the local health and fire departments. In addition, the school administration shall:

1. Equip all exit doors with panic [~~bars that are usable while the building is occupied~~ hardware as required by the Uniform Statewide Building Code (13 VAC 5-61-10 et seq.)]; and

2. Conduct fire drills at least once a week during the first month of school and at least once each month for the remainder of the school term. Evacuation routes for students shall be posted in each room.

C. Each school shall have contingency plans for emergencies that include staff certified in cardiopulmonary resuscitation, the Heimlich maneuver, and emergency first aid. In addition, the school administration shall ensure that the school has:

1. Written procedures to follow in emergencies such as fire, injury, illness, and violent or threatening behavior. The plan shall be outlined in the student handbook and discussed with staff and students during the first week of each school year;

2. Space for the proper care of students who become ill; and

3. A written procedure, in accordance with guidelines established by the local school board, for responding to violent, disruptive or illegal activities by students on school property or during a school sponsored activity.

PART VII.
SCHOOL AND COMMUNITY COMMUNICATIONS.

8 VAC 20-131-270. School and community communications.

A. Each school shall promote communication and foster mutual understanding with parents and the community. Each school shall:

1. Involve parents, citizens, community agencies and representatives from business and industry in developing, disseminating and explaining the biennial school plan; on advisory committees; in curriculum studies; and in evaluating the educational program.

2. Provide annually a School Performance Report Card, in a [~~form provided by the Department of Education~~ manner prescribed by the board] and beginning with data from the 1997-98 school year, to the parents of children attending the school and to the community that includes, but is not limited to:

a. Schoolwide test scores on the SOL tests, statewide averages and division averages for the ~~previous year and the three previous years as such scores become available~~ most recent three-year period for which such data are available, [~~and special education~~ students with disabilities and limited English proficient students'] participation in those tests [, the performance of children with disabilities on the SOL tests or alternate assessments as appropriate, the percentage of students with disabilities and the percentage of limited English proficient students exempted from SOL testing, and the percentage of the school population eligible to participate in the SOL testing program] ;

b. [~~Average~~] Attendance rates for students [~~and teachers~~] for the ~~current and previous three years~~ most recent three-year period for which such data are available;

~~c. Dropout rates for the current and previous three years;~~

~~d.~~ c. Incidents [of physical violence and weapon possession] occurring at the school [~~that are~~] reported [by the school division] to the Department of Education [~~as required by~~ under] § 22.1-280.1 of the Code of Virginia for the ~~current and previous three years~~ most recent three-year period for which such data are available ;

~~e. If a secondary school, the number of (i) advanced placement and college level classes taken and passed by students and (ii) the number of standard, advanced studies, and international baccalaureate diplomas, if applicable, awarded in the current and previous three years.~~

d. Secondary schools shall include the following:

(1) The number [and percentage] of students taking advanced placement courses and the [number and] percentage of those earning a score of 3 or better on the advanced placement [~~tests;~~ test ;

(2)] The number [and percentage] of students taking college-level courses and the percentage of those students passing [at least one] such [~~courses~~ course]; [~~and~~]

[~~(2)~~ (3)] The number of standard, advanced studies, [special] and International Baccalaureate diplomas, as well as the number and percentage of students awarded certificates of program completion and GED certificates for the most recent three-year period for which such data are available; and

[~~(3)~~ (4)] Dropout rates for the current and previous three years.

e. The accreditation rating awarded to the school for the current and previous three years.

3. Cooperate with business and industry in formulating vocational educational programs and conduct joint enterprises involving personnel, facilities, training programs, and other resources.

4. Encourage and support the establishment of a parent-teacher association or other organization and work cooperatively with it.

B. ~~Schools shall provide parents at the beginning of each school year the academic objectives to be achieved by their child during the school year, or, in high school, a copy of the syllabus for each of their child's courses. Parents shall also be informed of the Standards of Learning and the assessment tests as they will be applied to their students.~~ At the beginning of each school year, schools shall provide to its students' parents or guardians:

1. The academic objectives to be achieved at their child's grade level or, in high school, a copy of the syllabus for each of their child's courses;

2. A copy of the Standards of Learning applicable to the child's grade or course requirements and the approximate date and potential impact of the child's next SOL testing; and

3. [~~If a middle or elementary school,~~ An annual] notice [to students of all grade levels] of all requirements for standard and advanced studies diplomas [~~beginning with the ninth grade class of 1998 (the graduating class of 2002) and beyond~~] .

PART VIII.
SCHOOL ACCREDITATION.

8 VAC 20-131-280. Expectations for school accountability.

A. Each school shall be accredited based, primarily, on achievement of the criteria established in 8 VAC 20-131-30 as specified below:

1. Elementary schools shall be evaluated by ~~student achievement on the four state SOL tests in the core academic areas for the third and fifth grades~~ the percentage of the school's eligible students in grades three and five who achieve a passing [~~grade~~ score] on the [~~four state~~] SOL tests in the [four] core academic areas for their respective grades.

2. Middle schools shall be evaluated by [~~student~~] achievement [of eligible students] on the [~~four state~~] SOL tests in the [four] core academic areas for eighth grade [and end-of-course tests where applicable].

3. Secondary schools shall be evaluated by student achievement on the [~~high school~~ end-of-course] SOL tests ~~for courses taken by students in the schools to satisfy the requirements for a standard or advanced studies diploma~~ [taken].

4. Schools with grade configurations other than those identified in 8 VAC 20-131-290 E for elementary, middle, or secondary schools shall be evaluated by student achievement on state SOL tests for the grades identified above that are housed in the school.

5. Schools with grade configurations that do not house a grade or courses for which SOL tests are administered will be paired with another school in the division housing one or more of the grades in which SOL tests are administered. The pairing of such schools will be made upon the advice or recommendation of the local superintendent. The schools should have a "feeder" relationship and the grades should be contiguous.

6. For purposes of accreditation, eligible students shall be the total number of students [~~registered~~ enrolled] in the school at the grade level of the SOL [~~test~~ tests] except for those students whose IEP or 504 Plan [or LEP committee] excludes them from participating in the testing program.

B. Special purpose schools such as regional or stand-alone special education, alternative, or vocational schools that serve as the student's school of principal enrollment shall be evaluated on standards appropriate to the school's program and approved by the Board of Education. Every school that awards a diploma shall meet the requirements for secondary schools and for graduation as defined in Parts III (8 VAC 20-131-30 et seq.) and IV (8 VAC 20-131-70 et seq.) of this chapter.

C. ~~Evaluating the level of achievement of schools shall take into consideration the aggregate scores of students on SOL tested subjects, the school's baseline performance, and the school's improvement toward an established high standard of academic achievement. A formula that takes into consideration expected improvement of student achievement as determined by the Board of Education will be used as a factor in determining the accreditation status of schools~~ Evaluating the performance of schools shall take into consideration the percentage of eligible students who achieve a passing score on the prescribed SOL tests [or, for those students with disabilities who cannot participate in the SOL tests, a proficient level score on an alternative assessment prescribed by the board (beginning with school year 2000-2001)] and the school's annual improvement during the implementation years toward [~~an established standard school expectation of a 70% eligible student pass rate~~ the established standard school expectations at the various levels as described in 8 VAC 20-131-300 D]. Schools with large numbers of transient students or non-English-speaking [~~recent~~] immigrant students may receive additional accommodations according to tolerances established by the Board of Education. Such schools shall be evaluated according to the Individual School Accreditation Plan approved by the board.

D. As a prerequisite to the awarding of an accreditation ~~status~~ rating as defined in 8 VAC 20-131-300, each new or existing school shall document, [~~on forms~~] ~~provided~~ [~~approved by the board and provided by the Department of Education~~ in a manner prescribed by the board] , its compliance with the requirements to offer courses that will allow students to complete the graduation requirements in 8 VAC 20-131-50, the ability to offer the instructional program prescribed in 8 VAC 20-131-70 through 8 VAC 20-131-100, the leadership and staffing requirements of 8 VAC 20-131-210 through 8 VAC 20-131-240, and the facilities and safety provisions of 8 VAC 20-131-260.

8 VAC 20-131-290. Procedures for certifying accreditation eligibility.

A. Schools will be initially accredited ~~biennially beginning in even numbered years based on compliance with these standards for the prior two year period~~ under these standards annually based on compliance with the pre-accreditation criteria described in 8 VAC 20-131-280 D.

B. ~~In the interim year following one in which a full accreditation process is conducted~~ To be eligible for accreditation, the principal and superintendent shall certify to the Department of Education ~~that~~ the extent to which each school ~~continues to meet~~ meets standards reported as met in the previous year described in 8 VAC 20-131-280 D and shall submit information on actions taken to correct any warnings or advisements cited in the previous year. The principal of each school shall submit, as required, ~~school accreditation~~ pre-accreditation eligibility reports [in a manner prescribed by the board], through the division superintendent, to the Department of Education. [~~Pre-Accreditation Eligibility Report forms will be provided by the Department of Education.~~] Failure to submit the reports on time will constitute grounds for ~~withholding accreditation~~ denying accreditation to the school.

C. In keeping with provisions of the Standards of Quality, and in conjunction with the six-year plan of the division, each school shall prepare and implement a biennial school plan which shall be available to students, parents, staff and the public. Each biennial school plan shall be evaluated as part of the development of the next plan. Except for the biennial school plan, written divisionwide plans available in and

applicable to each school may be used to satisfy all other written plans required in these standards.

D. With the approval of the local school board, local schools seeking to implement experimental ~~and~~ or innovative programs, or both, that are not consistent with accreditation standards or other regulations promulgated by the board shall ~~be submitted for evaluation and approval~~ submit a waiver request, on forms provided, to the ~~Department~~ Board of Education for evaluation and approval prior to implementation. The request must include the purpose~~,~~ and objectives of the experimental/innovative programs, description and duration of the programs, anticipated outcomes, outline, length, number of students affected, and evaluation procedures ~~for the programs which have been recommended by representatives of faculty, staff, administration, and parents, and approved by the local school board. However,~~ and mechanisms for measuring goals, objectives, and student academic achievement. Except as specified below, the board may grant, for a period up to five years, a waiver of any regulations promulgated by the board that are not mandated by state law or federal law or designed to promote health or safety. The board may grant all or a portion of the request. Waivers of requirements in 8 VAC 20-131-30, 8 VAC 20-131-50, 8 VAC 20-131-70, and 8 VAC 20-131-280 through 8 VAC 20-131-340 shall not be granted, and no ~~program~~ waiver may be approved for a program which ~~violates~~ would violate the provisions of the Standards of Quality.

E. These standards apply to schools for all grade levels, K through 12, as listed below:

1. Schools with grades K through 5 shall be classified as elementary schools;

2. Schools with grades 6 through 8 shall be classified as middle schools;

3. Schools with grades 9 through 12 shall be classified as secondary schools.

8 VAC 20-131-300. Application of the standards.

A. ~~Schools may be assigned one of the following statuses: accredited, warned, unsatisfactory~~ Existing schools which meet pre-accreditation requirements prescribed in 8 VAC 20-131-280 D may be assigned one of the following ratings: [fully] accredited, provisionally accredited, accredited with warning, [or] accreditation denied.

B. New schools will be awarded the status of conditionally accredited pending an evaluation of the school's ~~level of compliance with these standards during the next accrediting cycle~~ achievement performance and when pre-accreditation requirements prescribed in 8 VAC 20-131-280 D have been met.

~~C. The Board of Education will determine tolerances within which schools must maintain compliance with these standards and under what circumstances a school is awarded one of the statuses in subsection E of this section. The board may, in accordance with its bylaws and the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia), establish an ad hoc committee to assist in the setting of these tolerances.~~

~~D.~~ C. Compliance with the student academic achievement ~~standards described in Part III (8 VAC 20-131-30 et seq.) of this chapter~~ expectations shall be documented to the board directly. Compliance with other standards will be documented in accordance with procedures prescribed by the board.

~~E. Awarding of~~ D. Accreditation ~~statuses~~ ratings.

1. Fully accredited ~~:~~. A school will be fully accredited when ~~a percentage of students established by the Board of Education achieves a rating of proficient or better on state~~ [~~70% or more of the school's eligible students achieve a passing score on all specified~~ the prescribed levels of eligible student performance identified below on] SOL tests [are met] and the school meets ~~the other~~ pre-accreditation requirements prescribed in 8 VAC 20-131-280 D. [For the purposes of school accreditation:]

a. [~~For purposes of school accreditation,~~] At third grade, the percentage of students passing shall be as follows: 70% for English/reading, 70% for mathematics, 50% for science, and 50% for history.

b. At the fifth and eighth grades, the percentage of students passing shall be 70% in each of the four core disciplines.

c. At the secondary school level, the percentage of students passing shall be 70% in each of the four core disciplines.

~~2. Warned: A school will be warned when the requirements for full accreditation are not met and the school's performance is found to be in the range on the scale of tolerances established by the board and identified for awarding this status when applied as described in 8 VAC 20-131-290 D.~~

~~Schools that are warned shall develop a corrective action plan designed to improve student achievement on the SOL tests for the grade levels identified in 8 VAC 20-131-280 over two years at levels specified by each local school board for their schools. A copy of the corrective action plan shall be filed with the board.~~

~~3. Unsatisfactory: Schools may be deemed unsatisfactory if the school displays a pattern of continuous or poor performance, or the school is severely deficient in its compliance with the nonacademic requirements of these standards.~~

~~Schools awarded the status of unsatisfactory shall develop and submit an improvement plan to the Board of Education for approval that includes, but is not limited to, the requirements of 8 VAC 20-131-310.~~

2. Provisionally accredited. A school will be provisionally accredited during the period of implementation of these accrediting procedures when

the student achievement requirements for full accreditation are not met, and yet there is annual improvement in the percentage of the school's eligible students who earn a passing score on the SOL tests. The provisionally accredited rating will cease to exist at the end of the 2002-2003 school year.

All schools will be rated as provisionally accredited on July 1, 1998.

3. Accredited with warning. A school will be accredited with warning when the requirements for the fully accredited rating are not met and, in school years prior to 2003-04, the school fails to meet the requirements for the provisionally accredited rating.

a. Schools that are accredited with warning shall develop a corrective action plan as described in 8 VAC 20-131-310 designed to improve student achievement on the SOL tests for the grade levels identified in 8 VAC 20-131-280 over two years.

b. No school may be accredited with warning for more than three consecutive years.

4. Accreditation denied. A school will be denied accreditation when the requirements for the rating of fully accredited are not met and when, after three years of being rated accredited with warning and despite corrective action, the school has failed to meet the specified achievement level.

8 VAC 20-131-310. Improvement planning for schools that are ~~unsatisfactory~~ accredited with warning.

A. Schools that are ~~unsatisfactory~~ accredited with warning must undertake improvement planning targeted to increasing student achievement as measured by the SOL tests.

B. A corrective action plan must be developed [~~within~~] ~~six~~ [~~three calendar months of~~ upon] receipt of notification of the awarding of [~~unsatisfactory status~~ this rating]. The plan must be signed by the principal and the local superintendent and approved by the local school board and submitted to the Board of Education for approval. The plan shall be developed with the assistance of parents and teachers and made available to the public. [During the implementation years from 1998-2002, a school that is accredited with warning shall develop and implement an improvement plan approved by the local school board and designed to assist the school to meet the student achievement standard to be fully accredited as outlined in 8 VAC 20-131-300 D 1. If a school continues to be accredited with warning during the 2001-02 school year, the school shall submit by October 1, 2002, an improvement plan to the Board of Education with the components outlined in 8 VAC 20-131-310 D in a manner prescribed by the Board of Education. The plan shall be implemented not later than the beginning of the 2003-04 school year.]

C. The Board of Education shall establish a Peer Educator [~~Review Committee~~ Advisory Group] to provide technical assistance in evaluating corrective action plans. The [~~committee~~ advisory group] shall consist of 15 educators with five representatives each from urban, suburban, and rural schools. Representatives shall be academic classroom teachers and principals from elementary, middle, and secondary schools and shall be selected from among the top 10% of schools in each category on the state SOL tests. Each member of the committee shall serve for no more than two years. [Terms of service shall be designed to provide continuity to the group as a whole.]

~~C.~~ D. The plan shall include specific measures for achieving and documenting student academic improvement, amount of time in the school day devoted to instruction in the core academic areas, instructional practices designed to remediate currently failing students, intervention strategies designed to prevent future students from experiencing similar failure, staff development required, assistance needed, and flexibility or waivers to state or local regulations necessary to meet the objectives of the plan. [~~At the request of the local school board, the Superintendent of Public Instruction may direct staff of the Department of Education to assist with the development and implementation of the plan~~] ~~if requested by the local school board and make provisions for waivers if appropriate and permissible by statute or regulation~~ [~~.~~] As part of its approval of the corrective action plan, the Board of Education may grant a local school board a waiver from the requirements of any regulations promulgated by the board when such a waiver is available.

~~D.~~ E. Schools in this ~~status~~ rating shall document to their community that appropriate and effective instructional intervention or remediation, or both, and additional instructional time is being provided for those students (i) not achieving a score of proficient on the SOL tests or (ii) not passing the Literacy Passport Tests.

8 VAC 20-131-320. School improvement levels.

The Board of Education will set the minimum acceptable level of annual school improvement required for ~~schools when they have been deemed unsatisfactory~~ a school accredited with warning. In no event shall a school be awarded the status of fully accredited if the minimum ~~level of student proficiency~~ student pass rate established by the board is not met.

8 VAC 20-131-330. Waivers.

Waivers of some of the requirements of this chapter may be granted by the board based on submission of a request from the division superintendent and chairman of the local school board. The request shall include documentation of the need for the waiver. In no event will waivers be granted to the requirements of Part III (8 VAC 20-131-30 et seq.) of this chapter.

8 VAC 20-131-340. Effective dates.

A. With the exception of certain ~~identified provisions of the graduation requirements found in 8 VAC 20-131-100 and the expectations for students found in 8 VAC 20-131-280~~ provisions identified in this section, this chapter is effective ~~August 1, 1997~~ [October 29, 1997].

B. The ~~graduation~~ units of credit requirements for graduation described in 8 VAC 20-131-50 are effective with the ninth grade class of ~~1997-98~~ 1998-99 for the graduating class of 2002. Only standard units of credit will be available until the implementation of the requirement of verified units of credit. Students entering the ninth grade prior to the [~~implementation date of this chapter~~ 1998-99 school year] shall meet the requirements of standards adopted by the board that became effective in October 1992. ~~If the school cannot meet the graduation requirements for the 1997-98 school year, the school may submit a request for a waiver to the Board of Education and the board shall grant the waiver. All schools must meet the graduation requirements beginning with the 1998-99 school year.~~

C. The ~~expectations for~~ requirement for verified units of credit based on student performance on the SOL tests ~~and school accountability requirements~~ related to courses will become effective ~~at the direction of the Board of Education in accordance with provisions adopted to define the levels at which students will be deemed to have achieved proficiency on the tests~~ for graduation with the ninth grade class of 2000-01 for the graduating class of 2004.

D. Each school that does not meet the requirements to be rated fully accredited will be rated as provisionally accredited during the implementation period of 1998-1999 through 2002-2003 provided there is annual improvement in the percentage of the school's eligible students who earn a passing score on each of the SOL tests and the school continues to meet the pre-accreditation requirements of 8 VAC 20-131-280 D. If there is no improvement or there is a decline in the SOL test result percentages over the previous year, the school will be rated accredited with warning. Schools that meet the requirements to be rated fully accredited will be upgraded to that rating.

E. Beginning with the 2003-2004 accrediting cycle, each school will be expected to meet the level of performance established for a fully accredited rating in accordance with the provisions of 8 VAC 20-131-300. Schools not meeting this requirement will be rated accredited with warning.

VA.R. Doc. No. R97-579; Filed September 10, 1997, 11:51 a.m.

TITLE 11. GAMING

VIRGINIA RACING COMMISSION

Title of Regulation: **11 VAC 10-20-10 et seq. Regulations Pertaining to Horse Racing with Pari-Mutuel Wagering (amending 11 VAC 10-20-10, 11 VAC 10-20-260 through 11 VAC 10-20-310 and 11 VAC 10-20-330).**

Statutory Authority: § 59.1-369 of the Code of Virginia.

Effective Date: October 29, 1997.

Summary:

The regulation establishes the operating procedures of the mutuel department, manner of requesting the use of pools, the granting of approval of the pools by the commission, the calculation of straight and multiple wagers, and payment of prompt refunds to the patrons. The amendments provide additional pari-mutuel wagering pools, namely, quinella double, pick (n), twin trifecta and superfecta.

Summary of Public Comment and Agency Response: No public comment was received by the promulgating agency.

Agency Contact: Copies of the regulation may be obtained from William H. Anderson, Virginia Racing Commission, 10700 Horsemen's Road, New Kent, VA 23124, telephone (804) 966-4200.

11 VAC 10-20-10. Definitions.

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

"Act" means Chapter 29 (§§ 59.1-364 et seq.) of Title 59.1 of the Code of Virginia.

"Breakage" means the odd cents by which the amount payable on each dollar wagered exceeds a multiple of $.10.

"Carryover" means the nondistributed pool moneys which are retained and added to a corresponding pool in accordance with this chapter.

"Commission" means the Virginia Racing Commission.

"Enclosure" means all areas of the property of a track to which admission can be obtained only by payment of an admission fee or upon presentation of authorized credentials, and any additional areas designated by the commission.

"Entry" means two or more horses in a race that are treated as a single wagering interest for pari-mutuel wagering purposes.

"Expired ticket" means an outstanding ticket which was not presented for redemption within the required time period for which it was issued.

"Handle" means the total amount of all pari-mutuel wagering sales excluding refunds and cancellations.

"Horse owner" means a person owning an interest in a horse.

"Horse racing" means a competition on a set course involving a race among horses on which pari-mutuel wagering is permitted.

"Licensee" includes any person holding an owner's, operator's, limited or unlimited license, or any other license issued by the commission.

"Limited license" means a license issued by the commission allowing the holder to conduct a race meeting or

meetings, with pari-mutuel wagering privileges, for a period not exceeding 14 days in any calendar year.

"Member" includes any person designated a member of a nonstock corporation, and any person who by means of a pecuniary or other interest in such corporation exercises the power of a member.

"Minus pool" means that the payout is in excess of the net pool.

"Mutuel field" means two or more horses are treated as a single wagering interest because the number of wagering interests exceeds the number that can be handled individually by the totalizator.

"Net pool" means the amount of gross pari-mutuel ticket sales less refundable wagers and retainage.

"Official order of finish" means the order of finish of the horses in a contest as declared official by the stewards.

"Off time" means the moment at which the starter dispatches the field.

"Operator's license" means a license issued by the commission allowing the holder to conduct a horse race meeting with pari-mutuel wagering privileges.

"Outstanding ticket" means a winning or refundable pari-mutuel ticket which was not cashed during the program for which it was issued.

"Owner's license" means a license issued by the commission allowing the holder to construct a horse racing facility for the purpose of conducting a limited or unlimited race meeting with pari-mutuel wagering privileges.

~~*"Operator's license"* means a license issued by the commission allowing the holder to conduct a horse race meeting with pari-mutuel wagering privileges.~~

"Pari-mutuel wagering" means the system of wagering on horse racing in which those who wager on horses that finish in the position or positions for which wagers are taken share in the total amounts wagered, less deductions required or permitted by law.

"Permit holder" includes any person holding a permit to participate in horse racing subject to the jurisdiction of the commission or in the conduct of a race meeting where pari-mutuel wagering is offered thereon as provided in the Act.

"Person" includes a natural person, partnership, joint venture, association or corporation.

"Pool" means the amount wagered during a race meeting in straight wagering, in multiple wagering, or during a specified period thereof.

"Principal stockholder" means any person who individually or in concert with his spouse and immediate family members, owns or controls, directly or indirectly, 5.0% or more of the stock of any person who is a licensee, or who in concert with his spouse and immediate family members has the power to vote or cause the vote of 5.0% or more of any such stock.

"Profit" means the net pool after the deduction of the amount wagered on the winners.

"Profit split" means a division of profit among the separate wagering interests or winning combinations resulting in two or more payout prices.

"Program" means a schedule of races run consecutively at a racetrack or simulcast to a satellite facility.

"Race meeting" means the whole consecutive period of time during which horse racing with pari-mutuel wagering is conducted by a licensee.

"Retainage" means the total amount deducted, from the pari-mutuel wagering pool in the percentages designated by statute for the Commonwealth of Virginia, purse money for the participants, Virginia Breeders Fund, and the operators.

"Single price pool" means an equal distribution of profit to winning wagering interests or winning wagering combinations through a single payout price.

"Stock" includes all classes of stock of an applicant or licensee corporation, and any debt or other obligation of such corporation or stockholder thereof or stock of any affiliated corporation if the commission finds that the holder of such obligation or stock derives therefrom such control of or voice in the operation of the applicant or licensee corporation that he should be deemed a stockholder.

"Totalizator" means an electronic data processing system for registering wagers placed on the outcomes of horse racing, deducting the retainage, calculating the mutuel pools and returns to ticket holders, and displaying approximate odds and payouts, including machines utilized in the sale and cashing of wagers.

"Unlimited license" means a license issued by the commission allowing the holder to conduct a race meeting or meetings, with pari-mutuel wagering privileges, for periods of 15 days or more in any calendar year.

"Virginia Breeders Fund" means the fund established to foster the industry of breeding racehorses in the Commonwealth of Virginia.

"Wagering interest" means one or more horses in a race which are identified by a single program number for wagering purposes.

11 VAC 10-20-260. Generally.

All permitted wagering shall be under a pari-mutuel wagering system whereby the holders of winning tickets divide the total amount wagered, less retainage, in proportion to the sums they have wagered individually. All other systems of wagering other than pari-mutuel, e.g., bookmaking and auction-pool selling, are prohibited and any person participating or attempting to participate in prohibited wagering shall be excluded from the enclosure *or satellite facility.*

A. Persons under the age of 18 are prohibited from wagering. No person under the age of 18 shall be permitted

by any licensee to purchase or cash a pari-mutuel ticket. No employee of the licensee shall knowingly sell or cash any pari-mutuel ticket for a person under the age of 18.

B. Posted order of finish. Payment of valid pari-mutuel tickets shall be made on the basis of the order of finish as posted on the ~~infield results board~~ *display devices* and declared "official" by the stewards. Any subsequent change in the order of finish or award of purse money as may result from a ruling by the stewards or commission shall in no way affect the pari-mutuel payout.

~~Payments will be made only on the first three horses passing the finish line according to the official order of finish, except in the case of a dead heat for show, in which case payments will be made on the horses involved in the dead heat.~~

C. Errors in payment. The licensee shall be responsible for the correctness of all payouts posted as "official" on the ~~infield results board~~ *display devices*. If an error is made in posting the payout figures on the ~~infield results board~~ *display devices*, and discovered before any tickets are cashed, the error ~~may~~ *shall* be corrected accompanied by a public address announcement, and only the correct amounts shall be used in the payout, irrespective of the initial error on the ~~infield results board~~ *display devices*.

1. The licensee shall compare the two independent final pool totals and payouts calculated by the totalizator prior to posting them on the ~~infield results board~~ *display devices*. In the event of a discrepancy between the two sets of pool totals and payouts and the inability of the totalizator to determine which of the sets is correct, the highest pool total and payouts shall be used.

2. If an error is made in posting the payout figures on the ~~infield results board~~ *display devices* and discovered after tickets have been cashed, where the public is underpaid, the amount of the underpayment shall be added to the same pool immediately following. Where the public is overpaid, the amount of the overpayment shall be absorbed by the licensee.

3. If any underpayment is discovered after the close of the horse race meeting or an opportunity does not exist to add the amount of the underpayment to the same pool, the total underpayment shall be paid to the Commonwealth of Virginia in a manner prescribed by the commission.

D. Minimum wagers. The minimum wager for straight wagering shall be $2.00. The minimum wager for multiple wagering shall be $1.00.

E. Minimum payouts. The licensee shall pay to the holder of any ticket entitling the holder to participate in the distribution of a pari-mutuel pool the amount wagered by the holder plus a minimum profit of 5.0%. If such a payout creates a deficiency in the pari-mutuel pool, the licensee shall make up the deficiency from its share of the pari-mutuel wagering.

The licensee, with the approval of the stewards, may bar wagering on a horse or entry in any or all pari-mutuel pools in a stakes race, handicap, futurity or other special event where the licensee has good and sufficient reason to believe that accepting wagers on the horse or entry may result in a deficiency or minus pool. The decision to bar wagering on a horse or entry shall be announced publicly before wagers are accepted on that race.

F. Posting of regulations. ~~Part III of these regulations shall~~ *A general explanation of this chapter may* be posted for the benefit of the public ~~in not less than two places~~ in the wagering areas of the enclosure and ~~a general explanation shall be printed in the daily program~~ *satellite facilities.*

~~The pari-mutuel regulations posted in the wagering areas or a general explanation printed in the daily program shall be preceded by the following statement:~~

~~"All payouts by the pari-mutuel departments of horse race meetings licensed by the Virginia Racing Commission are subject to the regulations of the United States Government, the Internal Revenue Service, and applicable statutes of the Commonwealth of Virginia."~~

G. Identification of holder. The licensee shall require positive identification of a holder of a valid winning pari-mutuel ticket before the payment when, in the stewards' discretion, circumstances warrant this action.

H. Wagers placed in cash. The licensee shall only accept wagers placed in cash or vouchers and then only at the racetrack or satellite facilities. It shall be the responsibility of the licensee to instruct the mutuel clerks to accept wagers on a "cash only" basis.

11 VAC 10-20-270. Request for types of pari-mutuel pools.

A. Generally. Each licensee shall submit a request in writing to the commission for approval of the types of pari-mutuel wagering pools that are to be offered to the public during the horse race meeting. The request for approval of types of pari-mutuel wagering pools shall be submitted to the commission in writing no less than 90 days before the scheduled opening day of the horse race meeting.

B. Where to file request. The licensee shall submit the request in writing to the ~~main~~ *general business* office of the commission.

~~1. A request to be sent by certified mail shall be addressed to:~~

~~Executive Secretary~~
~~Virginia Racing Commission~~
~~Post Office Box 1123~~
~~Richmond, VA 23218~~

~~2. A request to be hand-delivered shall be delivered to:~~

~~Executive Secretary~~
~~Virginia Racing Commission~~
~~1500 East Main Street~~

~~Suite 301~~
~~Richmond, VA 23219~~

~~3.~~ *1.* A request delivered by hand or by certified mail will be timely only if received at the ~~main~~ *general business* office of the commission by 5 p.m. on or before the date prescribed.

~~4.~~ *2.* Delivery to other than the commission's ~~main~~ *general business* office or to commission personnel by hand or by mail is not acceptable.

~~5.~~ *3.* The licensee assumes full responsibility for the method chosen to deliver the request.

C. Content of request. The licensee's request in writing shall include a statement of how the request will provide for the promotion, sustenance and growth of a native industry, in a manner consistent with the health, safety and welfare of the people, except that the commission, in its discretion, may waive the foregoing. ~~The request shall include the following:~~

~~1. A signed request for approval of pari-mutuel pools;~~

~~2. A statement of the precise nature and extent of pools requested, specifying the type of pari-mutuel wagering pools and their placement in the program;~~

~~3. A detailed statement of how the request meets each of the criteria in 11 VAC 10-20-280 C; and~~

~~4. Any other documentation the licensee deems necessary to ensure a complete understanding of the request.~~

D. Revision of request. A licensee may make a revision of a properly submitted request for types of pari-mutuel wagering pools.

11 VAC 10-20-280. Approval of ~~types of pari-mutuel wagering~~ pools.

A. Generally. The commission shall promptly consider a request for types of pari-mutuel wagering pools.

B. Consideration of requests. Upon receipt of a request for approval or modification of types of pari-mutuel wagering pools, the commission shall consider the request at its next regularly scheduled meeting, and may, in its discretion, approve the types of pari-mutuel wagering pools as requested, modify the request, *or* deny the request~~, or hold a public hearing pursuant to the following procedures:~~.

~~1. If the commission deems a public hearing is appropriate, the commission shall send written notice of the request to all persons interested in participating in the public hearing. The notice must include a brief description of the request, a statement that persons wishing to comment may do so in writing, the time, and place of any public hearing on the request, and the earliest and latest date which the commission may act.~~

~~2. The licensee will be afforded the opportunity to make an oral presentation, and the licensee or its representative shall be available to answer inquiries by the commissioners.~~

~~3. Any affected parties, including horsemen, breeders, employees of the licensee, representatives of other state and local agencies, and the public will be afforded the opportunity to make oral presentations.~~

~~4. If, after a request is received, the commission determines that additional information from the licensee is necessary to fully understand the request, the commission shall direct the applicant to submit the additional information.~~

~~5. If the commission further determines it is necessary for a full understanding of a request, the commission shall request the licensee or a person submitting comments to appear before the commission. The commission shall request the appearance in writing at least five days in advance.~~

~~6. If a licensee fails to comply with the foregoing, the commission may deny the request for the types of pari-mutuel wagering pools.~~

~~7. A record of the proceedings shall be kept, either by electronic means or by court reporter, and the record shall be maintained until any time limits for any subsequent court appeals have expired.~~

~~8. Three or more members of the commission are sufficient to hear the presentations. If the chairman of the commission is not present, the commissioners shall choose one from among them to preside over the meeting.~~

C. Criteria for approval of ~~types of pari-mutuel wagering~~ pools. The commission, in making its determination, must consider the success and integrity of horse racing; the public health and safety, and welfare; *and* public interest, necessity, and convenience~~; as well as the following factors:~~.

~~1. The integrity of the licensee;~~

~~2. The financial strength of the licensee;~~

~~3. The ability of the licensee to operate a racetrack and conduct horse racing, including the licensee's facilities, systems, policymakers, managers, and personnel;~~

~~4. Past compliance of the licensee with statutes, regulations, and orders regarding pari-mutuel horse racing;~~

~~5. The licensee's market, including area, population, and demographics;~~

~~6. The performance of the horse racing facility with previously approved pari-mutuel pools;~~

~~7. The impact approving the pari-mutuel pool will have on the economic viability of the horse race meeting, including attendance and handle;~~

~~8. The quantity and quality of economic activity and employment generated;~~

~~9. Commonwealth of Virginia tax revenues from racing and related economic activity;~~

~~10. The entertainment and recreational opportunities for Virginia citizens;~~

~~11. The variety of racing;~~

~~12. The quality of racing;~~

~~13. The availability and quality of horses;~~

~~14. The development of horse racing;~~

~~15. The quality of the horse racing facility;~~

~~16. Security;~~

~~17. Purses;~~

~~18. Benefits to Virginia breeders and horse owners;~~

~~19. Competition among licensees and with other providers of entertainment and recreation as well as its effects;~~

~~20. Social effects;~~

~~21. Community and government support;~~

~~22. Sentiment of horsemen; and~~

~~23. Any factors related to the types of pari-mutuel wagering pools which the commission deems crucial to its decision making as long as the same factors are considered with regard to all horse race meetings.~~

D. Approving types of ~~parti-mutuel~~ *pari-mutuel* pools. The commission shall approve, deny or ~~give its qualified approval to~~ *modify* a request for types of pari-mutuel wagering pools ~~within 45 days after a public hearing, if a public hearing is held~~.

~~E. Denial of request final. The denial of a request by the commission shall be final unless appealed by the licensee under the provisions of these regulations.~~

11 VAC 10-20-290. Pari-mutuel tickets.

A. Generally. A valid pari-mutuel ticket is evidence of a contribution to the pari-mutuel pool operated by the licensee and is evidence of the obligation of the licensee to pay to the holder the portion of the distributable amount of the pari-mutuel pool as is represented by the ticket. ~~The licensee shall cash all valid unmutilated winning tickets when they are presented for payment within 60 days of the date of their purchase.~~

B. Valid pari-mutuel tickets. To be deemed a valid pari-mutuel ticket, the ticket must have been issued by a pari-mutuel ticket machine operated by the licensee and recorded as a ticket entitled to a share of the pari-mutuel pool, and contain imprinted information as to:

~~1. The name of the horse racing facility;~~

~~2. The date of the wagering transaction;~~

~~3. A unique identifying number or code;~~

~~4. The race number for which the pool is conducted;~~

~~5. The type or types of wager or wagers represented;~~

~~6. The number or numbers representing the wagering interests for which the wager is recorded; and~~

~~7. The amount or amounts of the contributions to the pari-mutuel pool or pools for which the ticket is evidence.~~

1. The name of the licensee;

2. A unique identifying number or code;

3. Identification of the terminal at which the ticket was issued;

4. A designation of the racing day for which the wagering transaction was issued;

5. The race number for which the pool was conducted;

6. The types or types of wagers represented;

7. The number or numbers representing the wagering interests for which the wager was made; and

8. The amount or amounts of the contributions to the pari-mutuel pool or pools for which the ticket is evidence.

C. ~~Incorrect ticket issuance. Any claim by a person that he has been issued a ticket other than that which he requested, must be made before the person leaves the window and before the totalizator is locked~~ *Ticket cancellation. All tickets with a total value of $250 or less on live or simulcast races may be cancelled at any window at any time prior to post time for that race. All tickets exceeding $250 may also be cancelled at any time prior to post time for the race on which the wager was made. However, this cancellation requires the approval of the mutuel manager or his designee. It shall be the responsibility of the mutuel manager or his designee to determine if the approval of the cancellation will considerably alter or manipulate the pari-mutuel pool.*

D. Invalid claims. ~~After purchasing a ticket and after leaving a ticket window, a person shall not be entitled to make a claim for an incorrect ticket or claim refund or payment for tickets discarded, lost or destroyed or mutilated beyond identification~~ *There shall be no refunds or payouts for lost or destroyed tickets, or tickets which have been mutilated beyond identification.*

E. Identification of tickets. The responsibility for identifying valid pari-mutuel tickets rests with the licensee.

F. Limits on cashing tickets. Payment on valid pari-mutuel tickets, including tickets where refunds are ordered, shall be made only upon presentation and surrender of valid pari-mutuel tickets to the licensee within ~~60~~ *180* days after the purchase of the ticket. Failure to present any valid pari-mutuel ticket to the licensee within ~~60~~ *180* days after the purchase of the ticket shall constitute a waiver of the right to payment.

11 VAC 10-20-300. Operations of the mutuel department.

A. Generally. Each licensee shall strive to keep the daily program of racing progressing as expeditiously as possible with due regard for the health, safety, and comfort of the public and participants. The licensee shall provide a sufficient number of mutuel windows and clerks so that the public will be conveniently accommodated.

B. Post time. Post time for the first race on each racing day shall be approved by the commission upon written request by the licensee. Post time for subsequent races on the same program shall be fixed by the mutuel manager. Where heat racing is utilized in harness racing, the time between separate heats of a single race shall not be less than 40 minutes.

C. Termination of wagering. The pari-mutuel machines shall be locked by a steward immediately upon the start of the race through an electrical control in the stewards' stand or before the start of a race through a method subject to the approval of the commission.

D. Unwarranted delays. If the start of the race is delayed two minutes or more beyond the official post time, as shown on the ~~infield results board~~ *display devices*, for no good reason, the stewards may, in their discretion, lock the ticket-issuing machines.

E. Commencement of wagering. Mutuel windows shall open no less than 30 minutes before the first race. Cashing of tickets shall begin, and selling shall resume, as soon as possible after the official results of a race have been posted on the ~~infield results board~~ *display devices*.

F. Interruptions of wagering. If, for any reason, including a malfunction of the totalizator, the ticket-issuing machines are locked during the wagering on a race before the start, they shall remain locked until after the race. Wagering shall cease on that race, and the payout for that race shall be computed on the sums then wagered in each pool. However, in the event the ticket-issuing machines are inadvertently locked through some human error or mechanical problem, the ticket-issuing machines shall be reopened only on the approval of the stewards, if the system balances when it is again operational.

G. Conclusion of wagering. No pari-mutuel tickets may be sold after the totalizator has been locked, and the licensee shall not be responsible for pari-mutuel ticket sales entered into but not completed by issuance of a ticket before the totalizator has been locked.

H. Designated windows. No pari-mutuel tickets shall be sold except by the licensee, and pari-mutuel tickets shall only be sold at regular windows properly designated by signs and freestanding self-service *or* ticket issuing ~~machines~~ *devices*.

I. Compliance with tax regulations. All payouts on winning tickets shall be subject to withholding of federal and state taxes when the amount of the payout exceeds the dollar threshold set by the U.S. Internal Revenue Service. In those cases where the payouts require identification and deduction of withholding taxes prior to cashing pari-mutuel tickets to holders, the licensee shall comply with the applicable regulations of the Internal Revenue Service and the statutes of the Commonwealth of Virginia requiring identification and deduction of withholding taxes.

J. Emergency situations. If any emergency arises in connection with the operation of the mutuel department *at a racetrack or satellite facility* and the emergency is not covered by these regulations and an immediate decision is necessary, the mutuel manager shall make the decision, and make a prompt report of the facts to the stewards and the commission.

K. Simulcast pools. When wagers are commingled at a racetrack in another jurisdiction, the licensee shall make payouts on winning wagers at the price posted at the racetrack where the live race took place. However, once wagering has commenced and circumstances prevent commingling of the wagers to the racetrack in the other jurisdiction, there shall be a refund of all wagers:

1. If an announcement is made not less than two minutes prior to the post time that commingling cannot be accomplished and the circumstances involves only one race; or

2. If the wager involves more than one race and an announcement that commingling cannot be accomplished by the start of the first race or not more than 10 minutes after the finish of the first race of the wager, unless there is a payout due a wager as a result of the first race.

11 VAC 10-20-310. Wagering interests.

A. Generally. The licensee shall be responsible for the coupling of horses for wagering purposes in accordance with these regulations and shall provide wagering opportunities in accordance with the success and integrity of horse racing as well as the public interest.

B. Coupled entries. When two or more horses run in a race and are coupled for wagering purposes, a wager on one of the horses shall be a wager on all of them. The horses so coupled are called "an entry."

C. Mutuel field. When the individual horses competing in a race exceed the numbering capacity of the ~~infield results board~~ *display devices*, the highest numbered horses within the capacity of the ~~infield results board~~ *display devices* and all horses of a higher number shall be grouped together and called the "mutuel field," and a wager on one of them shall be a wager on all of them.

D. ~~Straight wagering opportunities. Unless the commission approves a prior written request from a licensee to alter wagering opportunities for a specific race, the licensee shall offer~~ *Pools dependent upon wagering interests. Unless the commission otherwise provides, at the time the pools are opened for wagering, the licensee:*

~~1. Win, place, and show wagering on all scheduled races that include six or more wagering interests;~~

~~2. If horses representing five or fewer wagering interests are scheduled to start in a race, then the licensee may prohibit show wagering on that race; and~~

~~3. If horses representing four or fewer wagering interests are scheduled to start in a race, then the licensee may prohibit place wagering as well as show wagering.~~

~~E. Trifecta wagering opportunities. Trifecta wagering shall not be scheduled on a race unless at least six wagering interests are programmed. In the event of a horse being excused by the stewards, trifecta wagering on a race in which five wagering interests remain is permissible. However, there shall be no trifecta wagering on any race with less than five wagering interests.~~

~~F. Perfecta or quinella wagering opportunities. Perfecta or quinella wagering shall not be scheduled on a race unless at least five wagering interests are programmed. In the event of a horse being excused by the stewards, perfecta or quinella wagering on a race in which four wagering interests remain is permissible, if perfecta or quinella wagering on the race had begun before the stewards excused the horse. There shall be no perfecta or quinella wagering on any race with less than four wagering interests.~~

1. May offer win, place and show wagering on all races with six or more wagering interests;

2. May be allowed to prohibit show wagering on any race with five or fewer wagering interests scheduled to start;

3. May be allowed to prohibit place wagering on any race with four or fewer wagering interests scheduled to start;

4. May be allowed to prohibit quinella wagering on any race with three or fewer wagering interests scheduled to start;

5. May be allowed to prohibit exacta wagering on any race with three or fewer wagering interests scheduled to start;

6. Shall prohibit twin trifectas wagering on any race with seven or fewer wagering interests scheduled to start; and

7. Shall prohibit twin superfecta wagering on any race with seven or fewer wagering interests scheduled to start.

~~G.~~ *E.* Extraordinary circumstances. In extraordinary circumstances, discretion is vested in the stewards to cancel any trifecta, perfecta, quinella, or any other multiple wager pool, and assign multiple wagering pools to other races when the stewards believe it would best maintain in horse racing complete honesty and integrity.

~~H.~~ *F.* Stake races and special events. In the case of stake races, handicaps, futurities, and other special events, the licensee may offer any straight and multiple wagering pools regardless of the number of wagering interest upon submission of a request in writing to the commission and approval from the commission *or its executive secretary*.

11 VAC 10-20-330. Multiple wagering.

A. Generally. Daily double, quinella, perfecta, trifecta, ~~pick three, and pick six~~ *quinella double, pick (n), twin trifecta, and superfecta* pari-mutuel wagering pools shall be considered "multiple wagering." In any race or races, the daily double, quinella, perfecta, trifecta, ~~pick three, and pick six~~ *quinella double, pick (n), twin trifecta, and superfecta* pools are treated separately and the distribution of the pools are calculated independently of each other. The "net pool" to be distributed shall be all sums wagered in the pool, less retainage and breakage, as defined elsewhere.

B. Daily double pools. The daily double wager is the purchase of a pari-mutuel ticket to select the two horses that will finish first in the two races specified as the daily double. If either of the selections fails to win, the pari-mutuel ticket is void, except as otherwise provided. The amount wagered on the winning combination, the horse or wagering interest which finishes first in the first race coupled with the horse or wagering interest finishing first in the second race of the daily double, is deducted from the net pool to determine the profit. The profit is divided by the amount wagered on the winning combination, the quotient being the profit per dollar wagered on the winning daily double. The return to the holder includes the amount wagered and the profit. In addition, the following provisions apply to daily double pools:

1. If there is a dead heat for first including two different wagering interests in one of the two daily double races, the daily double pool is distributed as if it were a place pool, with one-half of the net pool allocated to wagers combining the single winner of one daily double race and one of the wagering interests involved in the dead heat in the other daily double race, and with the other one-half of the net pool allocated to the wagers combining the single winner of one daily double race and the other wagering interest involved in the dead heat in the other daily double race.

2. If there are dead heats for first involving different wagering interests in each of the daily double races which result in winning combinations, the net pool shall be allocated equally to the winning combinations after first deducting from the net pool the amount wagered on all winning combinations for proportionate allocation to the winning daily double combinations.

3. If no daily double ticket is sold combining the horse or wagering interest which finishes first in one of the daily double races, the daily double pool is distributed as if it were a win pool, with the net pool allocated to wagering combinations which include the horse or wagering interest which finished first in one of the daily double races.

4. If no daily double ticket is sold combining the horses or wagering interests which finish first in both the first and second race of the daily double, then the winning combinations for distribution of the daily double profit shall be that combining the horses or wagering interests which finished second in each of the daily double races.

5. If, after daily double wagering has begun, a horse not coupled with another as a wagering interest in the first race of the daily double is excused by the stewards or is prevented from obtaining a fair start, then daily double wagers combining the horse shall be deducted from the daily double pool and shall be promptly refunded.

6. If, after the first race of the daily double has been run, a horse not coupled with another as a wagering interest in the second race of the daily double is excused by the stewards or prevented from obtaining a fair start, then daily double wagers combining the winner of the first daily double race with the horse, which was excused or was prevented from obtaining a fair start, shall be allocated a consolation daily double.

7. Consolation daily double payoffs shall be determined by dividing the net daily double pool by the amount wagered combining the winner of the first daily double race with every horse or wagering interest scheduled to start in the second daily double race, the quotient being the consolation payoff per dollar wagered combining the winner of the first daily double race with the horse prevented from racing in the second daily double race. The return to the holder includes the amount wagered and the profit. The consolation payoff shall be deducted from the net daily double pool before calculation and allocation of wagers on the winning daily double combination.

8. If for any reason the first race of the daily double is cancelled and declared "no contest" a full and complete refund shall be promptly made of the daily double pool.

9. If for any reason the second race of the daily double is cancelled and declared "no contest," the net daily double pool shall be paid to the holders of daily double tickets which include the winner of the first race. If no such ticket is sold, then the net daily double pool shall be paid to the holders of daily double tickets which include the second place horse. If no daily double tickets were sold on the second place horse, then the licensee shall make a prompt refund.

C. Quinella pools. The quinella wager is the purchase of a pari-mutuel ticket to select the first two horses to finish in the race. The order in which the horses finish is immaterial. The amount wagered on the winning combination, the first two finishers irrespective of which horse finishes first and which horse finishes second, is deducted from the net pool to determine the profit. The net pool is divided by the amount wagered on the winning combination. The return to the holder includes the amount wagered and the profit. In addition, the following provisions apply to the quinella pools:

1. If there is a dead heat for first between horses including two different wagering interests, the net quinella pool is distributed as if no dead heat occurred. If there is a dead heat among horses involving three different wagering interests, the net quinella pool is distributed as if it were a show pool and the pool is allocated to wagers combining any of the three horses finishing in the dead heat for first.

2. If there is a dead heat for second between horses including two different wagering interests, the net quinella pool is distributed as if it were a place pool and it is allocated to wagers combining the first finisher with either horse finishing in a dead heat for second. If the dead heat is among horses involving three different wagering interests, the net quinella pool is distributed as if it were a show pool and it is allocated to wagers combining the first horse with each of the three horses finishing in a dead heat for second.

3. If horses representing a single wagering interest finish first and second, the net quinella pool shall be allocated to wagers combining the single wagering interest with the horse or wagering interest with the horses or wagering interest which finishes third.

4. If no quinella ticket is sold combining the first finisher with one of the horses finishing in a dead heat for second, then the net quinella pool is allocated to wagers combining the first finisher with the other horse finishing in a dead heat for second.

5. If no quinella ticket is sold combining the first finisher with either of the horses finishing in a dead heat for second, then the net quinella pool is allocated to wagers combining the two horses which finished in the dead heat for second.

6. If no quinella ticket is sold combining the first finisher with either of the horses finishing in a dead heat for second, or combining the two horses which finished in a dead heat for second, the ~~the~~ net quinella pool is distributed as if it were a show pool and it is allocated to wagers combining any of the first three finishers with any other horses.

7. If no quinella ticket is sold combining the first two finishers, then the net quinella pool shall be distributed as if it were a place pool and it is allocated to wagers combining the first finisher with any other horses and to wagers combining the second finisher with any other horse.

8. If no quinella ticket is sold combining horses or wagering interests as would require distribution, a full and complete refund shall be made of the entire quinella pool.

9. If a horse is excused by the stewards, no further quinella tickets shall be issued designating that horse, and all quinella tickets previously issued designating that horse shall be refunded and deducted from the gross pool.

D. Perfecta pools. The perfecta wager is the purchase of a pari-mutuel ticket to select the two horses that will finish first and second in a race. Payment of the ticket shall be made only to the purchaser who has selected the same order of finish as officially posted. The amount wagered on the winning combination, the horse finishing first and the horse finishing second, in exact order, is the amount to be deducted from the net perfecta pool to determine the profit. The profit is divided by the amount wagered on the winning combination, the quotient being the profit per dollar wagered on the winning perfecta combination. The return to the holder includes the amount wagered and the profit. In addition, the following provisions apply to the perfecta pool:

1. If no ticket is sold on the winning combination of a perfecta pool, the net perfecta pool shall be distributed equally between holders of tickets selecting the winning horse to finish first and holders of tickets selecting the second place horse to finish second.

2. If there is a dead heat between two horses for first place, the net perfecta pool shall be calculated and distributed as a place pool, one-half of the net perfecta pool being distributed to holders of tickets selecting each of the horses in the dead heat to finish first with the other horse to finish second.

In case of a dead heat between two horses for second place, the net perfecta pool shall be calculated as a place pool, one-half of the net perfecta pool being distributed to holders of tickets selecting the horse to finish first and one horse in the dead heat, and the other one-half being distributed to holders selecting the horse to finish first and the other horse in the dead heat.

3. If there is a dead heat for second place and if no ticket is sold on one of the two winning combinations, the entire net perfecta pool shall be calculated as a win pool and distributed to holders of the other winning combination. If no tickets combine the winning horse with either of the place horses in the dead heat, the net perfecta pool shall be calculated and distributed as a place pool to holders of tickets representing any interest in the net pool.

4. If an entry finishes first and second, or mutuel field horses finish first and second, the net pool shall be distributed to holders of tickets selecting the entry to win combined with the horses having finished third.

5. If no ticket is sold that would require distribution of a perfecta pool, the licensee shall make a complete and full refund of the perfecta pool.

6. If a horse is excused by the stewards, no further perfecta tickets shall be issued designating that horse, and all perfecta tickets previously issued designating that horse shall be refunded and deducted from the gross pool.

E. Trifecta pools. The trifecta wager is purchase of a pari-mutuel ticket to select the three horses that will finish first, second, and third in a race. Payment of the ticket shall be made only to the holder who has selected the same order of finish as officially posted. The amount wagered on the winning combination, the horse finishing first, the horse finishing second, and the horse finishing third, in exact order, is deducted from the pool to determine the profit. The profit is divided by the amount wagered on the winning combination, the quotient being the profit per dollar wagered on the winning combination. The return to the holder includes the amount wagered and the profit.

1. If no ticket is sold on the winning combination, the net trifecta pool shall be distributed equally among holders of tickets designating the first two horses in order.

2. If no ticket is sold designating, in order, the first two horses, the net trifecta pool shall be distributed equally among holders of tickets designating the horse to finish first.

3. If no ticket is sold designating the first horse to win, the net trifecta pool shall be distributed equally among holders of tickets designating the second and third horses in order. If no such ticket is sold, then the licensee shall make a prompt refund.

4. If less than three horses finish, the payout shall be made on tickets selecting the actual finishing horses, in order, ignoring the balance of the selection.

5. If there is a dead heat, all trifecta tickets selecting the correct order of finish, counting a horse in a dead heat as finishing in either position involved in the dead heat, shall be winning tickets. The net trifecta pool shall be calculated as a place pool.

6. The uncoupling for ~~betting~~ *wagering* purposes of horses having common ties is prohibited in races upon which trifecta wagering is conducted.

7. If a horse is excused by the stewards, no further trifecta tickets shall be issued designating that horse, and all trifecta tickets previously issued designating the horse shall be refunded and deducted from the gross pool.

~~F. Pick three pools. The pick three wager is the purchase of a pari-mutuel ticket to select the winners of three races designated by the licensee for pick three wagering. Payment of the ticket shall be made to holder who has selected the winners of the three different races designated for pick three wagering, unless otherwise provided for in these regulations.~~

~~1. Those horses constituting an entry of coupled horses or those coupled to comprise the mutuel field in a race comprising the pick three wager shall race as a single wagering interest for the purpose of pool calculation and payment. However, if any part of a coupled entry or the mutuel field racing as a single wagering interest is a starter in a race, the entry or field selection shall remain as the designated wagering interest to win in that race for the pick three calculation, and the selection shall not be deemed a scratch.~~

~~2. The entire net pick three pool shall be distributed among the holders of pari-mutuel tickets which correctly designate the official winner in each of the three races comprising the pick three wager.~~

~~3. In the event there is no pari-mutuel ticket which correctly designates the official winner in each of the three races comprising the pick three wager, the major share (75%) shall not be distributed but shall be carried over to the next racing day and shall be added to the pick three pool for distribution among holders of pick three tickets which correctly designate the official winner in each of the three races comprising the pick three wager. The minor share (25%) will be distributed among holders of pick three tickets which correctly designate the most official winners, but fewer than three, of the races comprising the pick three wager.~~

~~4. In the event a pick three pari-mutuel ticket designates a selection in any one or more of the races comprising the pick three and that selection is excused by the stewards or is prevented from obtaining a fair start, the actual favorite(s) as evidenced by the amounts wagered in the win pool at the time of the start of the race, will be substituted for the nonstarting selection for all purposes, including pool calculations and payouts to the holders.~~

~~5. In the event of a dead heat for win between two or more horses in any pick three race, all horses in the dead heat for win shall be considered as winning horses in the race for the purpose of calculating the pool.~~

~~6. No pick three ticket shall be refunded except when all three races are cancelled or declared "no contests." The refund shall apply to the pick three pool established on that racing card. Any "net pool" accrued from a carryover from a previous pick three shall further be carried over to the next pick three pool scheduled by the licensee conducting the race meeting.~~

~~7. In the event that any number of races less than three comprising the pick three are completed, 100% of the net pool for the pick three shall be distributed among holders of tickets that designate the most winners in the completed races. No carryover from a previous day shall be added to the pick three pool in which less than three races have been completed. Any net pool carryover from a previous pick three pool shall be further carried over to the next pick three scheduled by the licensee.~~

~~8. Should no distribution be made pursuant to these regulations on the last day of the horse race meeting in which pick three wagering is offered, then that portion of the distributable pool and all moneys accumulated shall be distributed to the holders of tickets correctly designating the most winning selections of the three races comprising the pick three that day.~~

~~9. In the event that a licensee is unable to distribute the retained distributable amount carried over from any prior pick three pool established pursuant to this rule by the end of its race meeting due to cancellation of the final program of racing or any other reason, the retained distributable amount shall be invested with interest, in a manner approved by the commission. The principal and interest shall be carried forward to the next race meeting having a pick three at the same location and of the same breed of horses that generated the retained distributable amount.~~

~~10. In the event a race meeting is not conducted at that location, with the same breed of horses that generated the net pick three pool with interest, the net pick three pool shall be remitted to the commission. A retained undistributed pick three carryover pool shall not for any purpose be considered as part of the unclaimed tickets pool.~~

~~11. No pari-mutuel ticket for pick three wagering shall be sold, exchanged or cancelled after the time of closing of wagering in the first of the three races comprising the pick three, except for refunds on pick three tickets as required by these regulations. No person shall disclose the number of tickets sold in the pick three pool, or the number or amount of tickets selecting winners of the pick three races until the stewards have declared the last pick three race each day to be "official."~~

~~G. Pick six pools. The pick six wager is the purchase of a pari-mutuel ticket to select the winners of six races designated by the licensee for pick six wagering. Payment of the ticket shall be made to holder who has selected the winners of the six different races designated for pick six wagering, unless otherwise provided for in this chapter.~~

~~1. Those horses constituting an entry of coupled horses or those horses coupled to comprise the mutuel field in a race comprising the pick six wager shall race as a single wagering interest for the purpose of pool calculation and payment. However, if any part of either an entry or the field racing as a single wagering interest is a starter in a race, the entry or the field selection shall remain as the designated to win in that race for the pick six calculation, and the selection shall not be deemed a scratch.~~

~~2. The entire net pick six pool shall be distributed among the holders of pari-mutuel tickets which correctly designate the official winner in each of the six races comprising the pick six wager.~~

~~3. In the event there is no pari-mutuel ticket which correctly designates the official winner in each of the six races comprising the pick six, the major share (75%) shall not be distributed but shall be carried over to the next racing day and be added to the pick six pool for distribution among holders of pick six tickets which correctly designate the official winner in each of the six races comprising the pick six wager. The minor share (25%) shall be distributed among holders of pick six tickets which correctly designate the most official winners, but fewer than six, of the races comprising the pick six wager.~~

~~4. In the event a pick six pari-mutuel ticket designates a selection in any one or more of the races comprising the pick six and that selection is excused by the stewards or is prevented from obtaining a fair start, the actual favorites(s) as evidenced by the amounts wagered in the "win pool" at the time of the start of the race, will be substituted for the nonstarting selection for all purposes, including pool calculations and payouts to the holders.~~

~~5. In the event of a dead heat for win between two or more horses in any pick six race, all horses in the dead heat for win shall be considered as winning horses in the race for the purpose of calculating the pool.~~

~~6. No pick six ticket shall be refunded except when all six races are cancelled or declared "no contests." The refund shall apply to the pick six pool established on that racing card. Any "net pool" accrued from a carryover from a previous pick six shall further be carried over to the next pick six pool scheduled by the licensee conducting the race meeting.~~

~~7. In the event that any number of races less than six comprising the pick six are completed, 100% of the net pool for the pick six shall be distributed among holders of tickets that designate the most winners in the completed races. No carryover from a previous day shall be added to the pick six pool in which less than six races have been completed. Any net pool carryover from a previous pick six pool shall be further carried over to the next pick six scheduled by the licensee.~~

~~8. Should no distribution be made pursuant to this chapter on the last day of the horse race meeting in which pick six wagering is offered, then that portion of the distributable pool and all moneys accumulated shall be distributed to the holders of tickets correctly designating the most winning selections of the six races comprising the pick six that day.~~

~~9. In the event that a licensee is unable to distribute the retained distributable amount carried over from any prior pick six pool established pursuant to this rule by the end of its race meeting due to cancellation of the final program of racing or any other reason, the retained distributable amount shall be invested with interest, in a manner approved by the commission. The principle and interest shall be carried forward to the next race meeting having a pick six at the same location and of the same breed of horses that generated the retained distributable amount.~~

~~10. In the event a race meeting is not conducted at that location, with the same breed of horses that generated the net pick six pool with interest, the net pick six pool shall be remitted to the commission. A retained undistributed pick six carryover pool shall not for any purpose be considered as part of the unclaimed tickets pool.~~

~~11. No pari-mutuel ticket for pick six wagering shall be sold, exchanged or cancelled after the time of closing of wagering in the first of the six races comprising the pick six, except for refunds on pick six tickets as required by this chapter. No person shall disclose the number of tickets sold in the pick six pool or the number or amount of tickets selecting winners of the pick six races until the stewards have declared the last pick six race each day to be "official."~~

F. Quinella double pools. The quinella double requires selection of the first two finishers, irrespective of order, in each of two specified races.

1. The net quinella double pool shall be distributed to winning wagers in the following precedence, based upon the official order of finish:

a. If a coupled entry or mutuel field finishes as the first two contestants in either race, as a single price pool to those selecting the coupled entry or mutuel field combined with the next separate wagering interest in the official order of finish for that race, as well as the first two finishers in the alternate quinella double race; otherwise

b. As a single price pool to those who selected the first two finishers in each of the two quinella double races; but if there are no such wagers, then

c. As a profit split to those who selected the first two finishers in either of the two quinella double races; but if there are no such wagers on one of those races, then

d. As a single price pool to those who selected the first two finishers in the one covered quinella double race; but if there were no such wagers, then

e. The entire pool shall be refunded on quinella double wagers for those races.

2. If there is a dead heat for first in either of the two quinella double races involving:

a. Horses representing the same wagering interest, the quinella double pool shall be distributed to those selecting the coupled entry or mutuel field combined with the next separate wagering interest in the official order of finish for that race.

b. Horses representing two wagering interests, the quinella double pool shall be distributed as if no dead heat occurred.

c. Horses representing three or more wagering interests, the quinella double pool shall be distributed as a profit split.

3. If there is a dead heat for second in either of the quinella double races involving horses representing the same wagering interest, the quinella double pool shall be distributed as if no dead heat occurred.

4. If there is a dead heat for second in either of the quinella double races involving horses representing two

or more wagering interests, the quinella double pool shall be distributed as profit split.

5. Should a wagering interest in the first half of the quinella double be scratched prior to the first quinella pool race being declared official, all money wagered on combinations including the scratched wagering interest shall be deducted from the quinella double pool and refunded.

6. Should a wagering interest in the second half of the quinella double be scratched prior to the close of wagering on the first quinella double contest, all money wagered on combinations including the scratched wagering interest shall be deducted from the quinella double pool and refunded.

7. Should a wagering interest in the second half of the quinella double be scratched after the close of wagering on the first quinella double race, all wagers combining the winning combination in the first race with a combination including the scratched wagering interest in the second race shall be allocated a consolation payout. In calculating the consolation payout, the net quinella double pool shall be divided by the total amount wagered on the winning combination in the first race and an unbroken consolation price obtained. The unbroken consolation price is multiplied by the dollar value of wagers on the winning combination in the first race combined with a combination including the scratched wagering interest in the second race to obtain the consolation payout. Breakage is not declared in this calculation. The consolation payout is deducted from the net quinella double pool before calculation and distribution of the winning quinella double payout. In the event of a dead heat involving separate wagering interests, the net quinella double pool shall be distributed as a profit split.

8. If either of the quinella double races is cancelled prior to the first quinella double race or the first quinella double race is declared "no contest," the entire quinella double pool shall be refunded on quinella double wagers for those races.

9. If the second quinella double race is cancelled or declared "no contest" after the conclusion of the first quinella double race, the net quinella double pool shall be distributed as a single price pool to wagers selecting the winning combination in the first quinella double race. If there are no wagers selecting the winning combination in the first quinella double race, the entire quinella double pool shall be refunded on quinella double wagers for those races.

G. Pick (n) pools. The pick (n) pool requires selection of the first-place finisher in each of a designated number of races. The licensee must obtain approval from the commission or its executive secretary concerning the scheduling of pick (n) contests, the designation of one of the methods prescribed in subdivision 1 of this subsection and the amount of any cap to be set on the carryover. Any changes to the approved pick (n) format require prior approval from the commission or its executive secretary.

1. The pick (n) pool shall be apportioned under one of the following methods:

a. Method 1, pick (n) with carryover. The net pick (n) pool and carryover, if any, shall be distributed as a single price pool to those who selected the first-place finisher in each of the pick (n) races, based upon the official order of finish. If there are no such wagers, then a designated percentage of the net pool shall be distributed as a single price pool to those who selected the first-place finisher in the greatest number of pick (n) races; and the remainder shall be added to the carryover.

b. Method 2, pick (n) with minor pool and carryover. The major share of the net pick (n) pool and carryover, if any, shall be distributed to those who selected the first-place finisher in each of the pick (n) races, based upon the official order of finish. The minor share of the net pick (n) pool shall be distributed to those who selected the first-place finisher in the second greatest number of pick (n) races, based upon the official order of finish. If there are no wagers selecting the first-place finisher of all pick (n) contests, the minor share of the pick (n) pool shall be distributed as a single price pool to those who selected the first-place finisher in the greatest number of pick (n) races; and the major share shall be added to the carryover.

c. Method 3, pick (n) with no minor pool and no carryover. The net pick (n) pool shall be distributed as a single price pool to those who selected the first-place finisher in the greatest number of pick (n) races, based upon the official order of finish. If there are no winning wagers, the pool is refunded.

d. Method 4, pick (n) with minor pool and no carryover. The major share of the net pick (n) pool shall be distributed to those who selected the first place finisher in the greatest number of pick (n) races, based upon the official order of finish. The minor share of the net pick (n) pool shall be distributed to those who selected the first-place finisher in the second greatest number of pick (n) races, based upon the official order of finish. If there are no wagers selecting the first-place finisher in a second greatest number of pick (n) races, the minor share of the net pick (n) pool shall be combined with the major share for distribution as a single price pool to those who selected the first-place finisher in the greatest number of pick (n) races. If the greatest number of first-place finishers selected is one, the major and minor shares are combined for distribution as a single price pool. If there are no winning wagers, the pool is refunded.

e. Method 5, pick (n) with minor pool and no carryover. The major share of net pick (n) pool shall be distributed to those who selected the first-place finisher in each of the pick (n) races, based on the

official order of finish. The minor share of the net pick (n) pool shall be distributed to those who selected the first-place finisher in the second greatest number of pick (n) races, based upon the official order of finish. If there are no wagers selecting the first-place finisher in all pick (n) races, the entire net pick (n) pool shall be distributed as a single price pool to those who selected the first-place finisher in the greatest number of pick (n) races. If there are no wagers selecting the first-place finisher in a second greatest number of pick (n) races, the minor share of the pick (n) pool shall be combined with the major share for distribution as a single price pool to those who selected the first-place finisher in each of the pick (n) races. If there are no winning wagers, the pool is refunded.

f. Method 6, pick (n) with minor pool, jackpot, major carryover and jackpot carryover. Predetermined percentages of the net pick (n) pool shall be set aside as a major pool, minor pool, and jackpot pool. The major share of the net pick (n) pool and the major carryover, if any, shall be distributed to those who selected the first-place finisher of each of the pick (n) races, based on the official order of finish. If there are no tickets selecting the first-place finisher in each of the pick (n) races, the major net pool shall be added to the major carryover. If there is only one single ticket selecting the first-place finisher of each of the pick (n) races, based on the official order of finish, the jackpot share of the net pick (n) pool and the jackpot carryover, if any, shall be distributed to the holder of that single ticket, along with the major net pool and the major carryover, if any. If more than one ticket selects the first-place finisher of each of the pick (n) races, the jackpot net pool shall be added to the jackpot carryover. The minor share of the net pick (n) pool shall be distributed to those who selected the first-place finisher of the second greatest number of pick (n) races, based on the official order of finish. If there are no wagers selecting the first-place finisher of all pick (n) races, the minor net pool of the pick (n) pool shall be distributed as a single price pool to those who selected the first-place finisher of the greatest number of pick (n) races.

2. If there is a dead heat for first in any of the pick (n) races involving:

a. Horses representing the same wagering interest, the pick (n) pool shall be distributed as if no dead heat occurred.

b. Horses representing two or more wagering interests, the pick (n) pool shall be distributed as a single price pool with each winning wager receiving an equal share of the profit.

3. Should a wagering interest in any of the pick (n) races be scratched, the actual favorite, as evidenced by total amounts wagered in the win pool at the host track for the race at the close of wagering on that race, shall be substituted for the scratched wagering interest for all purposes, including pool calculations. In the event that the win pool total for two or more favorites is identical, the substitute selection shall be the wagering interest with the lowest program number. The totalizator shall produce reports showing each of the wagering combinations with substituted wagering interests which became winners as a result of the substitution, in addition to the normal winning combination.

4. The pick (n) pool shall be cancelled and pick (n) wagers for the individual performance shall be refunded if:

a. At least two races included as part of a pick three are cancelled or declared "no contest."

b. At least three races included as part of a pick four, pick five or pick six are cancelled or declared "no contest."

c. At least four races included as part of a pick seven, pick eight or pick nine are cancelled or declared "no contest."

d. At least five races included as part of a pick 10 are cancelled or declared "no contest."

5. If at least one race included as part of a pick (n) is cancelled or declared "no contest," but not more than the number specified in subdivision 4 of this subsection, the net pool shall be distributed as a single price pool to those whose selection finished first in the greatest number of pick (n) races for that program. The distribution shall include the portion ordinarily retained for the pick (n) carryover but not the carryover from previous performances.

6. The pick (n) carryover may be capped at a designated level approved by the commission so that if, at the close of any program, the amount in the pick (n) carryover equals or exceeds the designated cap, the pick (n) carryover will be frozen until it is won or distributed under other provisions of this chapter. After the pick (n) carryover is frozen, 100% of the net pool, part of which ordinarily would be added to the pick (n) carryover, shall be distributed to those whose selection finished first in the greatest number of pick (n) races for that program.

7. A licensee may request permission from the commission to distribute the pick (n) carryover on a specific program. The request must contain justification for the distribution, an explanation of the benefit to be derived and the intended date and program for the distribution.

8. Should the pick (n) carryover be designated for distribution on a specified date and performance in which there are no wagers selecting the first-place finisher in each of the pick (n) races, the entire pool shall be distributed as a single price pool to those whose selection finished first in the greatest number of pick (n)

races. The pick (n) carryover shall be designated for distribution on a specified date and program only under the following circumstances:

a. Upon approval from the commission as provided in subdivision 7 of this subsection;

b. Upon approval from the commission when there is a change in the carryover cap, a change from one type of pick (n) wagering to another, or when the pick (n) is discontinued;

c. On the closing program of a race meeting.

9. If, for any reason, the pick (n) carryover must be held to the corresponding pick (n) pool to a subsequent race meeting, the carryover shall be deposited in an interest-bearing account approved by the commission. The pick (n) carryover plus accrued interest shall then be added to the net pick (n) pool on a date and program of the race meeting designated by the commission.

10. With the approval of the commission, a licensee may contribute to the pick (n) carryover a sum of money up to the amount of any designated cap.

11. Providing information to any person regarding the covered combinations, amounts wagered on specific combinations, number of tickets sold or number of live tickets remaining is strictly prohibited. This chapter shall not prohibit necessary communication between totalizator and mutuel employees for processing of pool data.

12. The licensee may suspend previously approved pick (n) wagering with the approval of the commission. Any carryover shall be held until the suspended pick (n) wagering is reinstated. The licensee may request approval of a pick (n) wager or separate wagering pool for specific programs.

H. Superfecta pools. The superfecta pool requires selection of the first four finishers, in their exact order, for a single race.

1. The net superfecta pool shall be distributed to winning wagers in the following precedence based upon the official order of finish:

a. As a single price pool to those whose combination finished in correct sequence as the first four wagering interests; but if there are no such wagers, then

b. As a single price pool to those whose combination included, in correct sequence, the first three wagering interests; but if there are no such wagers, then

c. As a single price pool to those whose combination included, in correct sequence, the first two wagering interests; but if there are no such wagers, then

d. As a single price pool to those whose combination correctly selected the first-place wagering interest only; but if there are no such wagers, then

e. The entire pool shall be refunded on superfecta wagers for that race.

2. If less than four wagering interests finish and the race is declared official, payouts will be made based upon the order of finish of those wagering interests completing the race. The balance of any selection beyond the number of wagering interests completing the race shall be ignored.

3. If there is a dead heat for first involving:

a. Horses representing four or more wagering interests, all of the wagering combinations selecting four wagering interests which correspond with any of the wagering interests involved in the dead heat shall share in a profit split.

b. Horses representing three wagering interests, all of the wagering combinations selecting the three dead-heated wagering interests, irrespective of order, along with the fourth-place wagering interest shall share in a profit split.

c. Horses representing two wagering interests, both of the wagering combinations selecting the two dead-heated wagering interests, irrespective of order, along with the third and fourth-place wagering interests shall share in a profit split.

4. If there is a dead heat for second involving:

a. Horses representing three or more wagering interests, all of the wagering combinations correctly selecting the winner combined with any of the three wagering interests involved in the dead heat for second shall share in a profit split.

b. Horses representing two wagering interests, all of the wagering combinations correctly selecting the winner, the two dead-heated wagering interests, irrespective of order, and the fourth-place wagering interest shall share in a profit split.

5. If there is a dead heat for third, all wagering combinations correctly selecting the first two finishers, in correct sequence, along with any two of the wagering interests involved in the dead heat for fourth shall share in a profit split.

6. If there is a dead heat for fourth, all wagering combinations correctly selecting the first three finishers, in correct sequence, along with any of the wagering interests involved in the dead heat for fourth shall share in a profit split.

7. Coupled entries and mutuel fields shall be prohibited in superfecta races.

I. Twin trifecta pools. The twin trifecta pool requires selection of the first three finishers in their exact order, in each of two designated races. Each winning ticket for the first twin trifecta race must be exchanged for a free ticket on the second twin trifecta race in order to remain eligible for the

second-half twin trifecta pool. The tickets may be exchanged only at attended windows prior to the second twin trifecta race. Winning first-half twin trifecta wagers will receive both an exchange and a monetary payout. Both of the designated twin trifecta races shall be included in only one twin trifecta pool.

1. After wagering closes for the first-half of the twin trifecta and retainage has been deducted from the pool, the net pool shall then be divided into separate pools: the first-half twin trifecta pool and the second-half twin trifecta pool.

2. In the first twin trifecta race only, winning wagers shall be determined using the following precedence, based upon the official order of finish for the first twin trifecta race:

a. As a single price pool to those whose combination finished in correct sequence as the first three wagering interests; but if there is no winning wager, then

b. As a single price pool to those whose combination included, in correct sequence, the first two wagering interests; but if there is no winning wager, then

c. As a single price pool to those whose combination correctly selected the first-place wagering interest only; but if there is no winning wager, then

d. The entire twin trifecta pool shall be refunded to twin trifecta wagers for that race and the second-half race shall be cancelled.

3. If no first-half twin trifecta ticket selects the first three finishers of that race in exact order, winning ticket holders shall not receive any exchange tickets for the second-half twin trifecta pool. In this case, the second-half twin trifecta pool shall be retained and added to any existing twin trifecta carryover pool.

4. Winning tickets from the first-half of the twin trifecta shall be exchanged for tickets selecting the first three finishers of the second-half of the twin trifecta. The second-half twin trifecta pool shall be distributed to winning wagers in the following precedence, based upon the official order of finish for the second twin trifecta race:

a. As a single price pool, including any existing carryover moneys, to those whose combination finished in correct sequence as the first three wagering interests; but if there are no winning tickets, then

b. The entire second-half twin trifecta pool for that race shall be added to any existing carryover moneys and retained for the corresponding second-half twin trifecta pool of the next consecutive program.

5. If a winning first-half twin trifecta ticket is not presented for cashing and exchange prior to the second-half twin trifecta race, the ticket holder may still collect the monetary value associated with the first-half twin trifecta pool but forfeits all rights to any distribution of the second-half twin trifecta pool.

6. Coupled entries and mutuel fields shall be prohibited in twin trifecta races.

7. Should a wagering interest in the first-half of the twin trifecta be scratched, those twin trifecta wagers including the scratched wagering shall be refunded.

8. Should a wagering interest in the second-half of the twin trifecta be scratched, announcement concerning the scratch shall be made and a reasonable amount of time shall be provided for exchange of tickets that include the scratched wagering interest. If tickets have not been exchanged prior to the close of wagering of the second twin trifecta race, the ticket holder forfeits all rights to the second-half twin trifecta pool. However, if the scratch in the second-half of the twin trifecta occurs five minutes or less prior to post time, then the licensee shall have discretion to cancel all twin trifecta wagers and make a prompt refund.

9. If, due to a late scratch, the number of wagering interests in the second-half of the twin trifecta is reduced to fewer than the minimum, all exchange tickets and outstanding first-half winning tickets shall be entitled to the second-half twin trifecta pool for that contest as a single price pool, but not the twin trifecta carryover.

10. If there is a dead heat or multiple dead heats in either the first or second-half of the twin trifecta, all twin trifecta wagers selecting the correct order of finish, counting a wagering interest involved in a dead heat as finishing in any dead-heated position, shall be a winner. In the case of a dead heat occurring in:

a. The first-half of the twin trifecta, the payout shall be calculated as a profit split; and

b. The second-half of the twin trifecta, the payout shall be calculated as a single price pool.

11. If either of the twin trifecta races are cancelled prior to the first twin trifecta race or the first twin trifecta race is declared "no contest," the entire twin trifecta pool shall be refunded in twin trifecta wagers for that race and the second-half shall be cancelled.

12. If the second-half twin trifecta race is cancelled or declared "no contest," all exchange tickets and outstanding first-half winning twin trifecta tickets shall be entitled to the net twin trifecta pool for that race as a single price pool, but not twin trifecta carryover. If there are no such tickets, the net twin trifecta pool shall be distributed as described in subdivision 3 of this subsection.

13. The twin trifecta carryover may be capped at a designated level approved by the commission so that if, at the close of any program, the amount in the twin trifecta carryover equals or exceeds the designated cap, the twin trifecta carryover will be frozen until it is won or

distributed under other provisions of this chapter. After the twin trifecta carryover is frozen, 100% of the net twin trifecta pool for each individual race shall be distributed to winners of the first-half of the twin trifecta pool.

14. A written request for permission to distribute the twin trifecta carryover on a specific program may be submitted to the commission. The request must contain justification for the distribution, an explanation of the benefit to be derived and the intended date and program for the distribution.

15. Should the twin trifecta carryover be designated for distribution on a specified date and program, the following precedence will be followed in determining winning tickets for the second-half of the twin trifecta after completion of the first-half of the twin trifecta:

a. As a single price pool to those whose combination finished in correct sequence as the first three wagering interests; but if there are no such wagers, then

b. As a single price pool to those whose combination included, in correct sequence, the first two wagering interests; but if there are no such wagers, then

c. As a single price pool to those whose combination correctly selected the first-place wagering interest only; but if there are no such wagers, then

d. As a single price pool to holders of valid exchange tickets.

e. As a single price pool to holders of outstanding first-half winning tickets.

16. During a program designated by the commission to distribute the twin trifecta carryover, exchange tickets will be issued for those combinations selecting the greatest number of wagering interests in their correct order of finish for the first-half of the twin trifecta. If there are no wagers correctly selecting the first, second or third-place finishers, in their exact order, then exchange tickets shall be issued for combinations correctly selecting the first and second-place wagering interests. If there are no wagers correctly selecting the first and second place finishers, in their exact order, then exchange tickets shall be issued for combinations correctly selecting the first-place wagering interest only. If there are no wagers selecting the first-place wagering interest only in the first-half of the twin trifecta, all first-half tickets will become winners and will receive 100% of that day's net twin trifecta pool and any existing twin trifecta carryover.

17. The twin trifecta carryover shall be designated for distribution on a specified date and program only under the following circumstances:

a. Upon written approval from the commission as provided in subdivision 14 of this subsection.

b. Upon written approval from the commission when there is a change in the carryover cap or when the twin trifecta is discontinued.

c. On the closing program of the race meeting.

18. If, for any reason, the twin trifecta carryover must be held over to the corresponding twin trifecta pool of a subsequent meet, the carryover shall be deposited in an interest-bearing account approved by the commission. The twin trifecta carryover plus accrued interest shall then be added to the second-half twin trifecta pool of the following meet on a date and program so designated by the commission.

19. Providing information to any person regarding covered combinations, amounts wagered on specific combinations, number of tickets sold or number of valid exchange tickets is prohibited. This shall not prohibit necessary communication between totalizator and pari-mutuel department employees for processing of pool data.

20. The licensee must obtain written approval from the commission concerning the scheduling of twin trifecta contests, the percentages of the net pool added to the first-half pool and second-half pool, and the amount of any cap to be set on the carryover. Any changes to the approved twin trifecta format require prior approval from the commission.

VA.R. Doc. No. R97-669; Filed September 10, 1997, 9:49 a.m.

TITLE 12. HEALTH

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Title of Regulation: **12 VAC 30-70-10 et seq. Methods and Standards for Establishing Payment Rates--Inpatient Hospital Care (amending 12 VAC 30-70-120 and 12 VAC 30-70-140; adding 12 VAC 30-70-141 through 12 VAC 30-70-145).**
12 VAC 30-90-10 et seq. Methods and Standards for Establishing Payment Rates for Long-Term Care (amending 12 VAC 30-90-10, 12 VAC 30-90-70, 12 VAC 30-90-131, 12 VAC 30-90-270, [~~and~~] 12 VAC 30-90-290 [*and 12 VAC 30-90-300*]; adding [*12 VAC 30-90-264,*] 12 VAC 30-90-271 through 12 VAC 30-90-276, [~~12 VAC 30-90-350, 12 VAC 30-90-360 and 12 VAC 30-90-370~~ 12 VAC 30-90-301 through 12 VAC 30-90-304, *12 VAC 30-90-310, and 12 VAC 30-90-320*]).

Statutory Authority: § 32.1-325 of the Code of Virginia and Item 322(D)(2a) of Chapter 912 of the 1996 Acts of Assembly.

Effective Date: December 1, 1997.

Summary:

This regulation implements several changes in the specialized care program. First, it eliminates the AIDS care category and provides that those qualifying will

remain in the complex health care category. Second, the rules replace the current fixed per diem rate reimbursement structure by a prospective reimbursement system with final cost settlements, similar to that applied under the current nursing home payment system. Third, a change in the deadline for cost reports is made to conform more closely to Medicare cost report requirements. Other changes of a more technical nature are also made.

Summary of Public Comment and Agency Response: No public comment was received by the promulgating agency.

Agency Contact: Copies of the regulation may be obtained from Victoria P. Simmons or Roberta J. Jonas, Regulatory Coordinators, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 371-8850.

12 VAC 30-70-120. Nonenrolled providers.

A. Hospitals that are not enrolled as providers with the Department of Medical Assistance Services (DMAS) which submit claims shall be paid based on the lesser of:

1. The DMAS average reimbursable inpatient cost-to-charge ratio, updated annually on September 30 of each year based on the most recent settled cost report, for enrolled hospitals less 5.0%. (The 5.0% is for the cost of additional manual processing of the claims.)

2. The DMAS average per diem, updated annually on September 30 of each year based on the most recent settled cost report, of enrolled hospitals excluding the state-owned teaching hospitals and disproportionate share adjustments.

B. Hospitals that are not enrolled shall submit claims using the required DMAS invoice formats. Such claims must be submitted within 12 months from date of services. A hospital is determined to regularly treat Virginia Medicaid recipients and shall be required by DMAS to enroll if it provides more than 500 days of care to Virginia Medicaid recipients during the hospitals' financial fiscal year. A hospital which is required by DMAS to enroll shall be reimbursed in accordance with the current Medicaid Prospective Payment System as described in 12 VAC 30-70-10 through 12 VAC 30-70-100. The hospital shall be placed in one of the DMAS peer groupings which most nearly reflects its licensed bed size and location (12 VAC 30-70-50 ~~(1)~~ *A*). These hospitals shall be required to maintain separate cost accounting records, and to file separate cost reports annually, utilizing the applicable Medicare cost reporting forms~~,~~ (HCFA 2552 Series) and the Medicaid forms (MAP-783 Series).

C. A newly enrolled facility shall have an interim rate determined using the provider's most recent filed Medicare cost report or a pro forma cost report or detailed budget prepared by the provider and accepted by DMAS, which represents its anticipated allowable cost for the first cost reporting period of participation. For the first cost reporting period, the provider shall be limited to the lesser of its actual operating costs or its peer group ceiling. Subsequent rates shall be determined in accordance with the current Medicaid Prospective Payment System as noted in subsection A.

D. Once a hospital has obtained the enrolled status, 500 days of care, the hospital must agree to become enrolled as required by DMAS to receive reimbursement. This status shall continue during the entire term of the provider's current Medicare certification and subsequent recertification or until mutually terminated with 30 days written notice by either party. The provider must maintain this enrolled status to receive reimbursement. If an enrolled provider elects to terminate the enrolled agreement, the nonenrolled reimbursement status will not be available to the hospital for future reimbursement, except for emergency care.

E. Prior approval must be received from ~~the~~ DMAS ~~Health Services Review Division~~ when a referral has been made for treatment to be received from a nonenrolled acute care facility (in-state or out-of-state), except in the case of an emergency or because medical resources or supplementary resources are more readily available in another state.

F. Nothing in this regulation is intended to preclude DMAS from reimbursing for special services, such as rehabilitation, ventilator, and transplantation, on an exception basis and reimbursing for the services on an individually, negotiated rate basis.

PART II.
HOSPITAL APPEALS OF REIMBURSEMENT RATES.

~~12 VAC 30-70-140. Methods and standards for establishing payment rates - in patient hospital care: Hospital appeals of reimbursement rates.~~

~~§ 1.~~ *12 VAC 30-70-140.* Right to appeal and initial agency decision.

A. Right to appeal. Any hospital seeking to appeal its prospective payment rate for operating costs related to inpatient care or other allowable costs shall submit a written request to the Department of Medical Assistance Services within 30 days of the date of the letter notifying the hospital of its prospective rate unless permitted to do otherwise under ~~§ 5 E~~ *12 VAC 30-70-144 E*. The written request for appeal must contain the information specified in ~~§ 1 B~~ *subsection B of this section*. The department shall respond to the hospital's request for additional reimbursement within 30 days or after receipt of any additional documentation requested by the department, whichever is later. Such agency response shall be considered the initial agency determination.

B. Required information. Any request to appeal the prospective payment rate must specify: (i) the nature of the adjustment sought; (ii) the amount of the adjustment sought; and (iii) current and prospective cost containment efforts, if appropriate.

C. Nonappealable issues. The following issues will not be subject to appeal: (i) the organization of participating hospitals into peer groups according to location and bed size and the use of bed size and the urban/rural distinction as a

generally adequate proxy for case mix and wage variations between hospitals in determining reimbursement for inpatient care; (ii) the use of Medicaid and applicable Medicare Principles of Reimbursement to determine reimbursement of costs other than operating costs relating to the provision of inpatient care; (iii) the calculation of the initial group ceilings on allowable operating costs for inpatient care as of July 1, 1982; (iv) the use of the inflation factor identified in the State Plan as the prospective escalator; and (v) durational limitations set forth in the State Plan (the "twenty-one day rule").

D. The rate which may be appealed shall include costs which are for a single cost reporting period only.

E. The hospital shall bear the burden of proof throughout the administrative process.

~~§ 2.~~ *12 VAC 30-70-141.* Administrative appeal of adverse initial agency determination.

A. ~~General.~~ The administrative appeal of an adverse initial agency determination shall be made in accordance with the Virginia Administrative Process Act, § 9-6.14:11 through § 9-6.14:14 of the Code of Virginia, as set forth below.

B. The informal proceeding:

1. The hospital shall submit a written request to appeal an adverse initial agency determination in accordance with § 9-6.14:11 of the Code of Virginia within 15 days of the date of the letter transmitting the initial agency determination.

2. The request for an informal conference in accordance with § 9-6.14:11 of the Code of Virginia shall include the following information:

a. the adverse agency action appealed from;

b. a detailed description of the factual data, argument or information the hospital will rely on to challenge the adverse agency decision.

3. The agency shall afford the hospital an opportunity for an informal conference in accordance with § 9-6.14:11 of the Code of Virginia ~~within 45 days of the request~~.

4. The Director of the *Appeals* Division ~~of Provider Reimbursement~~ of the Department of Medical Assistance Services, or ~~his~~ *a* designee, shall preside over the informal conference. As hearing officer, the director, or ~~his~~ *the* designee, may request such additional documentation or information from the hospital or agency staff as may be necessary in order to render an opinion.

5. After the informal conference, the Director of the *Appeals* Division ~~of Provider Reimbursement~~, having considered the criteria for relief set forth in ~~§§ 4 and 5~~ *12 VAC 30-70-143 and 12 VAC 30-70-144*, shall take any of the following actions:

a. Notify the provider that its request for relief is denied setting forth the reasons for such denial; ~~or~~

b. Notify the provider that its appeal has merit and advise it of the agency action which will be taken; or

c. Notify the provider that its request for relief will be granted in part and denied in part, setting forth the reasons for the denial in part and the agency action which will be taken to grant relief in part.

6. The decision of the informal hearing officer shall be rendered within ~~30~~ *90* days of the conclusion of the informal conference.

~~§ 3.~~ *12 VAC 30-70-142.* The formal administrative hearing: procedures.

A. The hospital shall submit its written request for a formal administrative hearing under § 9-6.14:12 of the Code of Virginia within 15 days of the date of the letter transmitting the adverse informal agency decision.

B. At least 21 days prior to the date scheduled for the formal hearing, the hospital shall provide the agency with:

1. Identification of the adverse agency action appealed from, and

2. A summary of the factual data, argument and proof the provider will rely on in connection with its case.

C. The agency shall afford the provider an opportunity for a formal administrative hearing within 45 days of the receipt of the request.

D. The Director of the Department of Medical Assistance Services, or his designee, shall preside over the hearing. Where a designee presides, he shall make recommended findings and a recommended decision to the director. In such instance, the provider shall have an opportunity to file exceptions to the proposed findings and conclusions. In no case shall the designee presiding over the formal administrative hearing be the same individual who presided over the informal appeal.

E. The Director of the Department of Medical Assistance Services shall make the final administrative decision in each case.

F. The decision of the agency shall be rendered within 60 days of the conclusion of the administrative hearing.

~~§ 4~~ *12 VAC 30-70-143.* The formal administrative hearing: necessary demonstration of proof.

A. The hospital shall bear the burden of proof in seeking relief from its prospective payment rate.

B. A hospital seeking additional reimbursement for operating costs relating to the provision of inpatient care shall demonstrate that its operating costs exceed the limitation on operating costs established for its peer group and set forth the reasons for such excess.

C. In determining whether to award additional reimbursement to a hospital for operating costs relating to the provision of inpatient care, the Director of the Department of Medical Assistance Services shall consider the following:

8. Ancillary costs. Specialized care ancillary costs will be paid on a pass-through basis for those Medicaid specialized care patients who do not have Medicare or any other sufficient third-party insurance coverage. Ancillary costs will be reimbursed as follows:

a. All covered ancillary services, except kinetic therapy devices, will be reimbursed for reasonable costs as defined in the current NHPS. See 12 VAC 30-90-290 for the cost reimbursement limitations.

b. Kinetic therapy devices will have a limit per day (based on 1994 audited cost report data inflated to the rate period). See 12 VAC 30-90-290 for the cost reimbursement limitations.

c. Kinetic therapy devices will be reimbursed only if a resident is being treated for wounds that meet specialized care Complex Health Care Category wound care criteria. Residents receiving this wound care must require kinetic bed therapy (that is, low air loss mattresses, fluidized beds, and/or rotating/turning beds) and require treatment for a grade (stage) IV decubitus, a large surgical wound that cannot be closed, or second to third degree burns covering more than 10% of the body.

9. Covered ancillary services are defined as follows: laboratory, X-ray, medical supplies (e.g., infusion pumps, incontinence supplies), physical therapy, occupational therapy, speech therapy, inhalation therapy, IV therapy, enteral feedings, and kinetic therapy. The following are not specialized care ancillary services and are excluded from specialized care reimbursement: physician services, psychologist services, total parenteral nutrition (TPN), and drugs. These services must be separately billed to DMAS. An interim rate for the covered ancillary services will be determined (using data from the most recent settled cost report) by dividing allowable ancillary costs by the number of patient days for the same cost reporting period. The interim rate will be retroactively cost settled based on the specialized care nursing facility cost reporting period.

10. Capital costs (excluding pediatric specialized care units). Capital cost reimbursement shall be in accordance with the current NHPS, except that the 95% (85% if applicable) occupancy requirement shall not be separately applied to specialized care. Capital cost related to specialized care patients will be cost settled on the respective nursing facility's cost reporting period. In this cost settlement the 95% (85% if applicable) occupancy requirement shall be applied to all the nursing facility's licensed nursing facility beds inclusive of specialized care. An occupancy requirement of 70% shall be applied to distinct part pediatric specialized care units.

11. Nurse aide training and competency evaluation programs and competency evaluation programs (NATCEP) costs. NATCEPS costs will be paid on a pass-through basis in accordance with the current NHPS.

12. Pediatric routine operating cost rate. For pediatric specialized care in a distinct part pediatric specialized care unit, one routine operating cost ceiling will be developed. The routine operating cost ceiling will be computed as follows:

a. The Complex Health Care Payment Rate effective July 1, 1996, and updated for inflation, will be reduced by (i) the weighted average capital cost per day developed from the 1994 audit data and (ii) the weighted average ancillary cost per day from the 1994 audit data updated for inflation in the same manner as described in subdivision 4 a of this subsection.

b. The statewide operating ceiling shall be adjusted for each nursing facility in the same manner as described in subdivisions 4 and 5 of this section.

c. The final routine operating cost reimbursement rate shall be computed as described for other than pediatric units in subdivision 3 of this section.

13. Pediatric unit capital cost. Pediatric unit capital costs will be reimbursed in accordance with the current NHPS, except that the occupancy requirement shall be 70% rather than 95% or 85%. An interim capital rate will be calculated from the latest cost report and retrospectively cost settled on the respective specialized care provider's cost reporting period.

14. MDS data submission. MDS data relating to specialized care patients must be submitted to the department in a submission separate from that which applies to all nursing facility patients.

a. Within 30 days of the end of each month, each specialized care nursing facility shall submit to the department, separately from its submission of MDS data for all patients, a copy of each MDS Version 2.0 which has been completed in the month for a Medicaid specialized care patient in the nursing facility. This shall include (i) the MDS required within 14 days of admission to the nursing facility (if the patient is admitted as a specialized care patient), (ii) the one required by the department upon admission to specialized care, (iii) the one required within 12 months of the most recent full assessment, and (iv) the one required whenever there is a significant change of status.

b. In addition to the monthly data submission required in (a) above, the same categories of MDS data required in (a) above shall be submitted for all patients receiving specialized care from January 1, 1996, through December 31, 1996, and shall be due February 28, 1997.

c. If a provider does not submit a complete MDS record for any patient within the required timeframe, the department shall assume that the RUG-III weight

for that patient, for any time period for which a complete record is not provided, is the lowest RUG-III weight in use for specialized care patients. A complete MDS record is one that is complete for purposes of transmission and acceptance by the Health Care Financing Administration.

15. Case mix measures in the initial semiannual periods. In any semiannual periods for which calculations in 12 VAC 39-90-310 requires an NCMI from a semiannual period beginning before January 1996, the case mix used shall be the case mix applicable to the first semiannual period beginning after January 1, 1996, that is a semiannual period in the respective provider's fiscal period. For example, December year-end providers' rates applicable to the month of December 1996, would normally require (in Appendix I (12 VAC 30-90-270 et seq.) of Part III of this chapter) an NCMI from July to December 1995, and one from January to June 1996, to calculate a rate for July to December 1996. However, because this calculation requires an NCMI from a period before January 1996, the NCMIs that shall be used will be those applicable to the next semiannual period. The NCMI from January to June 1996, and from July to December 1996, shall be applied to December 1996, as well as to January to June 1997. Similarly, a provider with a March year end would have it's rate in December 1996, through March 1997, calculated based on an NCMI from April through September 1996, and October 1996, through March 1997.

16. Cost reports of specialized care providers are due not later than 150 days after the end of the provider's fiscal year. Except for this provision, the requirements of 12 VAC 30-90-70 and 12 VAC 30-90-80 shall apply.]

APPENDIX I.
UNIFORM EXPENSE CLASSIFICATION.

12 VAC 30-90-270. Uniform Expense Classification ~~(NHPS Appendix I)~~.

~~I. Foreword.~~

~~The attached is~~ *This appendix describes* the classification of expenses applicable to the Nursing Facility Payment System.

Allowable expenses shall meet all of the following requirements: necessity, reasonableness, nonduplication, related to patient care, not exceeding the limits and/or ceilings established in the Payment System and meet applicable Medicare principles of reimbursement.

***~~II.~~ 12 VAC 30-90-271.* Direct patient care operating.**

A. Nursing service expenses.

1. Salary - nursing administration. Gross salary (includes sick pay, holiday pay, vacation pay, staff development pay and overtime pay) of all licensed nurses in supervisory positions defined as follows (Director of Nursing, Assistant Director of Nursing, nursing unit supervisors and patient care coordinators).

2. Salaries - RNs. Gross salary of registered nurses.

3. Salaries - LPNs. Gross salary of licensed practical nurses.

4. Salaries - Nurse Aides. Gross salary of certified nurse aides.

5. Nursing employee benefits. Benefits related to registered nurses, licensed practical nurses, certified nurse aides and nursing administration personnel as defined in ~~A.1. above~~ *subdivision 1 of this subsection.* See [~~subdivision~~] ~~III~~ *12 VAC 30-90-272* B for description of employee benefits.

6. Contract nursing services. Cost of registered nurses, licensed practical nurses, and certified nurse aides on a contract basis.

7. Supplies. Cost of supplies, including nursing and charting forms, medication and treatment records, physician order forms.

8. Professional fees. Medical director and pharmacy consultant fees.

B. Minor medical and surgical supplies.

1. Salaries - medical supply. Gross salary of personnel responsible for procurement, inventory and distribution of minor medical and surgical supplies.

2. Medical supply employee benefits. Benefits related to medical supply personnel. See [~~subdivision~~] ~~III~~ *12 VAC 30-90-272* B for description of employee benefits.

3. Supplies. Cost of items for which a separate identifiable charge is not customarily made, including, but not limited to, colostomy bags; dressings; chux; rubbing alcohol; syringes; patient gowns; basins; bed pans; ice-bags and canes, crutches, walkers, wheel chairs, traction equipment and other durable medical equipment for multi-patient use.

4. Oxygen. Cost of oxygen for which a separate charge is not customarily made.

5. Nutrient/tube feedings. Cost of nutrients for tube feedings.

6. Incontinence services. Cost of disposable and nondisposable incontinence supplies. The laundry supplies or purchased commercial laundry service for nondisposable incontinent services.

C. Ancillary Service Cost. Allowable ancillary service costs represents gross salary and related employee benefits of those employees engaged in covered ancillary services to Medicaid recipients, cost of all supplies used by the respective ancillary service departments, cost of ancillary services performed on a contract basis by other than employees and all other costs allocated to the ancillary

service cost centers in accordance with Medicare principles of reimbursement.

Following is a listing all covered ancillary services:

1. Radiology
2. Laboratory
3. Inhalation therapy
4. Physical therapy
5. Occupational therapy
6. Speech therapy
7. EKG
8. EEG
9. Medical supplies charged to patient

~~III.~~ ***12 VAC 30-90-272.*** **Indirect patient care operating costs.**

A. Administrative and general.

1. Administrator/owner assistant administrator. Compensation of individuals responsible for administering the operations of the nursing facility. (See 12 VAC 30-90-50 and Appendix III (12 VAC 30-90-290 *et seq.*) for limitations).

2. Other administrative and fiscal services. Gross salaries of all personnel in administrative, personnel, fiscal, billing and admitting, communications and purchasing departments.

3. Management fees. Cost of fees for providing necessary management services related to nursing facility operations. (See Appendix III (12 VAC 30-90-290 *et seq.*) for limitations).

4. Professional fees - accounting. Fees paid to independent outside auditors and accountants.

5. Professional fees - legal. Fees paid to attorneys (See Appendix III (12 VAC 30-90-290 *et seq.*) for limitations).

6. Professional fees - other. Fees, other than accounting or legal, for professional services related to nursing facility patient care.

7. Director's fees. Fees paid for attendance at scheduled meetings which serve as reimbursement for time, travel, and services provided. (See Appendix III (12 VAC 30-90-290 *et seq.*) for limitations).

8. Membership fees. Fees related to membership in health care organizations which promote objectives in the providers' field of health care activities (See Appendix III (12 VAC 30-90-290 *et seq.*) for limitations).

9. Advertising (classified). Cost of advertising to recruit new employees and yellow pages advertising.

10. Public relations. Cost of promotional expenses including brochures and other informational documents regarding the nursing facility.

11. Telephone. Cost of telephone service used by employees of the nursing facility.

12. Subscriptions. Cost of subscribing to newspapers, magazines, and periodicals.

13. Office supplies. Cost of supplies used in administrative departments (e.g., pencils, papers, erasers, staples).

14. Minor furniture and equipment. Cost of furniture and equipment which does not qualify as a capital asset.

15. Printing and postage. Cost of reproducing documents which are reasonable, necessary and related to nursing facility patient care and cost of postage and freight charges.

16. Travel. Cost of travel (airfare, auto mileage, lodging, meals, etc. by administrator or other authorized personnel on official nursing facility business). (See [~~Appendix III (~~] 12 VAC 30-90-290 [~~*et seq.*)~~] for limitations).

17. Auto. All costs of maintaining nursing facility vehicles, including gas, oil, tires, licenses, maintenance of such vehicles.

18. License fees. Fees for licenses, including state, county, and local business licenses, and VHSCRC filing fees.

19. Liability insurance. Cost of insuring the facility against liability claims.

20. Interest. Other than mortgage and equipment.

21. Amortization/start-up costs. Amortization of allowable Start-Up Costs (See 12 VAC 30-90-220).

22. Amortization/organizational costs. Amortization of allowable organization costs (See 12 VAC 30-90-220).

B. Employee benefits.

1. FICA (Social Security). Cost of employer's portion of Social Security Tax.

2. State unemployment. State unemployment insurance costs.

3. Federal unemployment. Federal unemployment insurance costs.

4. Workers' compensation. Cost of workers' compensation insurance.

5. Health insurance. Cost of employer's contribution to employee health insurance.

6. Group life insurance. Cost of employer's contribution to employee group life insurance.

7. Pension plan. Employer's cost of providing pension program for employees.

8. Other employee benefits. Cost of awards and recognition ceremonies for recognition and incentive programs, disability insurance, child care, and other commonly offered employee benefits which are nondiscriminatory.

C. Dietary expenses.

1. Salaries. Gross salary of kitchen personnel, including dietary supervisor, cooks, helpers and dishwashers.

2. Supplies. Cost of items such as soap, detergent, napkins, paper cups, and straws.

3. Dishes ~~&~~ *and* utensils. Cost of knives, forks, spoons, plates, cups, saucers, bowls and glasses.

4. Consultants. Fees paid to consulting dietitians.

5. Purchased services. Costs of dietary services performed on a contract basis.

6. Food. Cost of raw food.

7. Nutrient oral feedings. Cost of nutrients in oral feedings.

D. Housekeeping expenses. ~~(See 12 VAC 30-90-270)~~

1. Salaries. Gross salary of housekeeping personnel, including housekeepers, maids and janitors.

2. Supplies. Cost of cleaners, soap, detergents, brooms, and lavatory supplies.

3. Purchased services. Cost of housekeeping services performed on a contract basis.

E. Laundry expenses.

1. Salaries. Gross salary of laundry personnel.

2. Linen. Cost of sheets, blankets, and pillows.

3. Supplies. Cost of such items as soap, detergent, starch and bleach.

4. Purchased services. Cost of other services, including commercial laundry service.

F. Maintenance and operation of plant. ~~(See 12 VAC 30-90-270)~~

1. Salaries. Gross salary of personnel involved in operating and maintaining the physical plant, including maintenance men or plant engineer and security services.

2. Supplies. Cost of supplies used in maintaining the physical plant, including light bulbs, nails, lumber, glass.

3. Painting. Supplies and contract services.

4. Gardening. Supplies and contract services.

5. Heating. Cost of heating oil, natural gas, or coal.

6. Electricity. Self-explanatory.

7. Water, sewer, and trash removal. Self-explanatory.

8. Purchased services. Cost of maintaining the physical plant, fixed equipment, movable equipment and furniture and fixtures on a contract basis.

9. Repairs ~~&~~ *and* maintenance. Supplies and contract services involved with repairing the facility's capital assets.

G. Medical records expenses.

1. Salaries - medical records. Gross salary of licensed medical records personnel and other department personnel.

2. Utilization review. Fees paid to physicians attending utilization review committee meetings.

3. Supplies. All supplies used in the department.

4. Purchased services. Medical records services provided on a contract basis.

H. Quality assurance services.

1. Salaries. Gross salary of personnel providing quality assessment and assurance activities.

2. Purchased services. Cost of quality assessment and assurance services provided on a contract basis.

3. Supplies. Cost of all supplies used in the department or activity.

I. Social service expenses.

1. Salaries. Salary of personnel providing medically-related social services. A facility with more than 120 beds must employ a full-time qualified social worker.

2. Purchased services. Cost of medically-related social services provided on a contract basis.

3. Supplies. Cost of all supplies used in the department.

J. Patient activity expenses.

1. Salaries. Gross salary of personnel providing recreational programs to patients, such as arts and crafts, church services and other social activities.

2. Supplies. Cost of items used in the activities program (i.e., games, art and craft supplies and puzzles).

3. Purchased service. Cost of services provided on a contract basis.

K. Educational activities expenses. (Other than NATCEPs costs, see 12 VAC 30-90-270)

1. Salaries. Gross salaries of training personnel.

2. Supplies. Cost of all supplies used in this activity.

3. Purchased services. Cost of training programs provided on a contract basis.

depends on overall service need, the patient class system has a direct correlation to nursing and therapy costs.

~~III.~~ ***12 VAC 30-90-301.*** **Service Intensity Index (SII).**

A. The function of a service intensity index is to identify the resource needs of a given facility's patient mix relative to the needs in other nursing homes. If the SII value equals 1.20, it indicates that the patient mix in that facility is 20% more resource intensive than the patient mix in the average Virginia nursing facility.

B. The SII is used to adjust direct patient care cost ceilings and rates for application to individual nursing facilities. Indirect patient care cost ceilings and rates are not adjusted since these costs are not influenced by patient service needs.

C. To calculate the service intensity index:

1. Develop a relative resource costs for patient classes.

a. Average daily nursing resource costs per day for patients in each patient class were determined by using data obtained from (i) the Commonwealth's Long-Term Care Information System (LTCIS) identifying estimates of service needs, (ii) data from a 1987 Maryland time and motion study (1981) to derive nursing time requirements for each service, and (iii) KPGM Peat Marwick Survey of Virginia Long-term Care NF's Nursing wages (September 5, 1989) to determine the resource indexes for each patient class.

b. The average daily nursing costs per day for patients (see ~~a. above~~ *subdivision 1a of this subsection*) were divided by a state average daily nursing resource cost to obtain a relative cost index.

c. Patients were grouped in three classes and the average relative cost by class is as follows:

~~a.~~ *(1)* Class A - Routine I	.67
~~a.~~ *(2)* Class B - Routine II:	1.09
~~a.~~ *(3)* Class C - Heavy Care:	1.64

The cost for caring for a Class A patient is on the average equal to 67% of the daily nursing costs for the average Virginia nursing facility patient. Class B and C patients are respectively 9.0% and 64% more costly to treat in terms of nursing resources than the average nursing facility patient.

These resource cost values will remain the same until a new time and motion study conducted.

2. Develop an average relative resource cost of all patients in a facility. The result is called a facility score.

a. The number of patients in each class within a facility is multiplied by the relative resource cost value of that class.

b. These amounts are totaled and divided by the number of patients in a facility. For example:

Facility 1		
40 Class A patients x	.67 =	26.8
40 Class B patients x	1.09 =	43.6
20 Class C patients x	1.64 =	32.8
100 patients		103.2
Divided by number of patients		100.0
Facility score		1.03
The facility score for facility 1 is		1.03

3. Finally, the service intensity index for a facility is calculated by standardizing the average resource cost measure, across nursing facilities. The resource values up to this point are standardized or normalized across Virginia nursing facility patients but not across Virginia nursing facilities. To accomplish this step, the mean for the relative resource measure across all Virginia facilities is determined and the facility-specific value is divided by this mean.

For example: If the state's mean relative resource measure was .92 across all Virginia facilities, the service intensity index for facility 1 identified above would be 1.12, which equals 1.03 divided by .92. The 1.12 value indicates that the patients in facility 1 are 12% (1.12-1.00) ~~percent~~ more costly to treat than patients in the average Virginia nursing facility.

4. The service intensity index will be calculated quarterly, and is used to derive the direct patient care cost ceiling and rate components of the facility's payment rate which will be adjusted semiannually. A semiannual SII is calculated by averaging appropriate quarterly SII values for the respective reporting period.

~~IV.~~ **12 VAC 30-90-302. Applicability of service intensity index.**

A. Following is an illustration of how a ~~NF's~~ *nursing facility's* service intensity index is used to adjust direct patient care prospective operating ceilings and the semiannual rate adjustments to the prospective direct patient care operating cost base rate.

~~A.~~ *B.* Assumptions.

1. The ~~NF's~~ *nursing facilities'* fiscal years are December 31, 1991, and December 31, 1992.

2. The average allowable direct patient care operating base rate for December 31, 1991, is $25.

3. The allowance for inflation is 6.0% for the fiscal year end beginning January 1, 1992.

4. The ~~NF's~~ *nursing facilities'* peer group ceiling for the fiscal year end beginning January 1, 1992, is $30.

5. The ~~NF's~~ *nursing facilities'* semiannual normalized SSIs are as follows:

1991 First semiannual SSI -	.98
1991 Second semiannual SSI -	.99
1992 First semiannual SSI -	1.00

~~B.~~ *C.* Calculation of ~~NF's~~ *nursing facilities'* Direct Patient Care Prospective Ceiling.

1. PIRS adjusted ceiling for the period January 1, 1992, through June 30, 1992:

FYE 1992 Peer Group Ceiling	$30.00
1991 Second semiannual SII	× .99
Facility Ceiling	$29.70

2. PIRS adjusted ceiling for the period July 1, 1992, through December 31, 1992:

FYE 1992 Peer Group Ceiling	$ 30.00
1992 First semiannual SII	× 1.00
Facility Ceiling	$ 30.00

~~C.~~ *D.* Calculation of ~~NF's~~ *nursing facilities'* Prospective Direct Patient Care Operating Cost Rate.

1. Prospective Direct Patient Care Operating Cost Base Rate:

FYE 1991 Average Allowable Direct Patient Care Operating Base Rate	$ 25.00
Allowance For Inflation-FYE 1992	× 1.06
	$26.50

2. Calculation of FYE 1991 Average SII:

First semiannual Period SII	.98
Second semiannual Period SII	.99
Average FYE 1991 SII	.985

3. Calculation of FYE 1992 SII Rate Adjustments:

a. Rate adjustment for the period January 1, 1992, through June 30, 1992:

1991 Second semiannual SII	.99
1991 Average SII (from ~~C.2.~~ *subdivision 2 of this subsection*)	.985
Calculation: .99 / .985	
Rate Adjustment Factor	= 1.0051
Prospective Direct Patient Care Operating Cost Base Rate (from ~~C.1.~~ *subdivision 1 of this subsection*)	$26.50
Calculation: $26.50 × 1.0051	
Prospective Direct Patient Care Operating Cost Rate	$26.64

b. Rate adjustment for the period July 1, 1992 through December 31, 1992:

1999 First Semiannual SII	1.000
1991 Average SII (from ~~C.2.~~ *subdivision 2 of this subsection*)	.985
Calculation: 1.00 / .985	
Rate Adjustment Factor	1.0152
Prospective Direct Patient Care Operating Cost Base Rate (from ~~C.1.~~ *subdivision 1 of this subsection*)	$26.50
Calculation: $26.50 × 1.0152	
Prospective Direct Patient Care Operating Cost Rate	$26.90

~~D.~~ *E.* In this illustration the ~~NF's~~ *nursing facility's* PIRS Direct Patient Care Operating Reimbursement Rate for FYE 1992 would be as follows:

1. For the period January 1, 1992 through June 30, 1992 the reimbursement rate would be $26.64 since the rate is lower than the [~~NF's~~ *nursing facility's*] PIRS adjusted ceiling of $29.70 (From [~~B.1.~~ *subdivision C 1 of this section*]).

2. For the period July 1, 1992 through December 31, 1992 the reimbursement rate would be $26.90 since the rate is lower than the [~~NF's~~ *nursing facility's*] PIRS adjusted ceiling of $30.00 (From ~~B.2.~~ *subdivision C 2 of this section*).

~~V.~~ ***12 VAC 30-90-303*** **Applicability of allowance for inflation during phase-in period.**

A. The methodology for applying the allowance for inflation to the [~~NF's~~ *nursing facility's*] base "current" operating rate during the phase-in period as outlined in 12 VAC 30-90-40 is as follows:

~~A. In the following methodology, 1st Q is defined as the first calendar quarter, 2nd Q as the second calendar quarter, 3rd Q is defined as the third calendar quarter, and 4th Q is defined as the fourth calendar quarter.~~

B. ~~NF's~~ *Nursing facilities* with fiscal years ending in the 4th quarter of 1990 shall have, in effect from October 1, 1990, through the end of the provider's 1990 fiscal year, as the base "current" operating rate, the rate calculated by DMAS to be effective September 30, 1990.

The base "current" operating rate shall be adjusted for 100% of the historical inflation from the ~~2nd Q~~ *second quarter* of 1990 through the ~~4th Q~~ *fourth quarter* of 1990 and 50% of the forecasted inflation from the ~~4th Q~~ *fourth quarter* of 1990 through the ~~4th Q~~ *fourth quarter* of 1991, to determine the prospective "current" operating rate for the provider's 1991 FY.

The base "current" operating rate shall be adjusted for 100% of the historical inflation from the ~~2nd Q~~ *second quarter* of 1990 through the ~~4th Q~~ *fourth quarter* of 1991 and 50% of the forecasted inflation from the ~~4th Q~~ *fourth quarter* of 1991 through the ~~4th Q~~ *fourth quarter* of 1992, to determine the prospective "current" operating rate from the beginning of the provider's subsequent fiscal year end to June 30, 1992.

C. ~~NF's~~ *Nursing facilities* with fiscal years ending in the ~~1st Q~~ *first quarter* of 1991 shall have, in effect from October 1, 1990, through the end of the provider's 1991 fiscal year, as the base "current" operating rate, the rate calculated by DMAS to be effective September 30, 1990.

The base "current" operating rate shall be adjusted for 100% of the historical inflation from the ~~3rd Q~~ *third quarter* of 1990 through the ~~1st Q~~ *first quarter* of 1991 and 50% of the

~~the prospective nursing labor and nonlabor operating base cost per day in the second semiannual period of the subsequent fiscal year.~~

~~See Appendix I (12 VAC 30-90-360) of this part for an illustration of how the NCMI is used to adjust routine operating cost ceilings and semiannual NCMI adjustments to the prospective routine operating base cost rates.~~

~~7. Interim rates. Interim rates, for processing claims during the year, shall be calculated from the most recent settled cost report and Minimum Data Set (MDS) data available at the time the interim rates must be set, except that failure to submit cost and MDS data timely may result in adjustment to interim rates as provided elsewhere.~~

~~8. Ancillary costs. Specialized care ancillary costs will be paid on a pass-through basis for those Medicaid specialized care patients who do not have Medicare or any other sufficient third-party insurance coverage. Ancillary costs will be reimbursed as follows:~~

~~a. All covered ancillary services, except kinetic therapy devices, will be reimbursed for reasonable costs as defined in the current NHPS. See NHPS Appendix III (12 VAC 30-90-290) of Part III of this chapter for the cost reimbursement limitations.~~

~~b. Kinetic therapy devices will have a limit per day (based on 1994 audited cost report data inflated to the rate period). See Appendix III (12 VAC 30-90-290) of Part III of this chapter for the cost reimbursement limitations.~~

~~c. Kinetic therapy devices will be reimbursed only if a resident is being treated for wounds that meet specialized care Complex Health Care Category wound care criteria. Residents receiving this wound care must require kinetic bed therapy (that is, low air loss mattresses, fluidized beds, and/or rotating/turning beds) and require treatment for a grade (stage) IV decubitus, a large surgical wound that cannot be closed, or second to third degree burns covering more than 10% of the body.~~

~~9. Covered ancillary services are defined as follows: laboratory, X-ray, medical supplies (e.g., infusion pumps, incontinence supplies), physical therapy, occupational therapy, speech therapy, inhalation therapy, IV therapy, enteral feedings, and kinetic therapy. The following are not specialized care ancillary services and are excluded from specialized care reimbursement: physician services, psychologist services, total parenteral nutrition (TPN), and drugs. These services must be separately billed to DMAS. An interim rate for the covered ancillary services will be determined (using data from the most recent settled cost report) by dividing allowable ancillary costs by the number of patient days for the same cost reporting period. The interim rate will be retroactively cost settled based on the specialized care nursing facility cost reporting period.~~

~~10. Capital costs (excluding pediatric specialized care units). Capital cost reimbursement shall be in accordance with the current NHPS, except that the 95% (85% if applicable) occupancy requirement shall not be separately applied to specialized care. Capital cost related to specialized care patients will be cost settled on the respective nursing facility's cost reporting period. In this cost settlement the 95% (85% if applicable) occupancy requirement shall be applied to all the nursing facility's licensed nursing facility beds inclusive of specialized care. An occupancy requirement of 70% shall be applied to distinct part pediatric specialized care units.~~

~~11. Nurse aide training and competency evaluation programs and competency evaluation programs (NATCEP) costs. NATCEPS costs will be paid on a pass-through basis in accordance with the current NHPS.~~

~~12. Pediatric routine operating cost rate. For pediatric specialized care in a distinct part pediatric specialized care unit, one routine operating cost ceiling will be developed. The routine operating cost ceiling will be computed as follows:~~

~~a. The Complex Health Care Payment Rate effective July 1, 1996, and updated for inflation, will be reduced by (i) the weighted average capital cost per day developed from the 1994 audit data and (ii) the weighted average ancillary cost per day from the 1994 audit data updated for inflation in the same manner as described in subdivision 4 a of this subsection.~~

~~b. The state-wide operating ceiling shall be adjusted for each nursing facility in the same manner as described in subdivisions 4 and 5 of this section.~~

~~c. The final routine operating cost reimbursement rate shall be computed as described for other than pediatric units in subdivision 3 of this section.~~

~~13. Pediatric unit capital cost. Pediatric unit capital costs will be reimbursed in accordance with the current NHPS, except that the occupancy requirement shall be 70% rather than 95% or 85%. An interim capital rate will be calculated from the latest cost report and retrospectively cost settled on the respective specialized care provider's cost reporting period.~~

~~14. MDS data submission. MDS data relating to specialized care patients must be submitted to the department in a submission separate from that which applies to all nursing facility patients.~~

~~a. Within 30 days of the end of each month, each specialized care nursing facility shall submit to the department, separately from its submission of MDS data for all patients, a copy of each MDS Version 2.0 which has been completed in the month for a Medicaid~~

~~specialized care patient in the nursing facility. This shall include (i) the MDS required within 14 days of admission to the nursing facility (if the patient is admitted as a specialized care patient), (ii) the one required by the department upon admission to specialized care, (iii) the one required within 12 months of the most recent full assessment, and (iv) the one required whenever there is a significant change of status.~~

~~b. In addition to the monthly data submission required in (a) above, the same categories of MDS data required in (a) above shall be submitted for all patients receiving specialized care from January 1, 1996, through December 31, 1996, and shall be due February 28, 1997.~~

~~c. If a provider does not submit a complete MDS record for any patient within the required timeframe, the department shall assume that the RUG-III weight for that patient, for any time period for which a complete record is not provided, is the lowest RUG-III weight in use for specialized care patients. A complete MDS record is one that is complete for purposes of transmission and acceptance by the Health Care Financing Administration.~~

~~15. Case mix measures in the initial semiannual periods. In any semiannual periods for which calculations in Appendix I (12 VAC 30-90-360) of this part requires an NCMI from a semiannual period beginning before January 1996, the case mix used shall be the case mix applicable to the first semiannual period beginning after January 1, 1996, that is a semiannual period in the respective provider's fiscal period. For example, December year-end providers' rates applicable to the month of December 1996, would normally require (in Appendix I) an NCMI from July to December 1995, and one from January to June 1996, to calculate a rate for July to December 1996. However, because this calculation requires an NCMI from a period before January 1996, the NCMIs that shall be used will be those applicable to the next semiannual period. The NCMI from January to June 1996, and from July to December 1996, shall be applied to December 1996, as well as to January to June 1997. Similarly, a provider with a March year end would have it's rate in December 1996, through March 1997, calculated based on an NCMI from April through September 1996, and October 1996, through March 1997.~~

~~16. Cost reports of specialized care providers are due not later than 150 days after the end of the provider's fiscal year. Except for this provision, the requirements of Articles 5 and 6 (12 VAC 30-90-70 and 12 VAC 30-90-80) of the NHPS shall apply.~~]

APPENDIX [~~I.~~ V.]
NORMALIZED CASE MIX INDEX.

[~~**12 VAC 30-90-360.**~~ ***12 VAC 30-90-310.***] ***Normalized Case Mix Index (NCMI).***

A. This appendix illustrates how a specialized care provider's Normalized Case Mix Index (NCMI) is used to adjust the prospective routine operating cost base rate and prospective operating ceiling.

B. Assumptions.

1. The nursing facility's fiscal years are December 31, 1996 [,] and December 31, 1997.

2. The average allowable routine nursing labor and nonlabor base rate for December 31, 1996 [,] is $205.

3. The average allowable indirect patient care operating base rate for December 31, 1996 [,] is $90.

4. The allowance for inflation is 3.0% for the fiscal year end beginning January 1, 1997.

5. The nursing facility's statewide ceiling for the fiscal year end beginning January 1, 1997 is $300.

6. The nursing facility's normalized HCFA nursing wage index is 1.0941 for the fiscal year end beginning January 1, 1997.

7. The nursing facility's semiannual normalized NCMIs are as follows:

1996 First Semiannual NCMI	*1.2000*
1996 Second Semiannual NCMI	*1.2400*
1997 First Semiannual NCMI	*1.2600*

C. Calculation of nursing facility's operating ceiling.

1. Period January 1, 1997 [,] through June 30, 1997.

FYE 1997 Statewide ceiling		*$300*
Nursing Labor Component Percentage	*[x] 67.22%*	*[=] $201.66*
Normalized Wage Index	*[x] 1.0941*	
Adjusted Nursing Labor Ceiling Component		*[=] $220.64*
Nursing Nonlabor Ceiling Component		*[+] $ 11.49*
Adjusted Nursing Labor and Nonlabor Ceiling		*[=] $232.13*
FYE 1996 Second semiannual NCMI	*x 1.2400*	*[=] $287.84*
Indirect Patient Care Ceiling Component	*($300.00 - 201.66 - 11.49)*	*[= $86.85]*

Total Facility Operating Ceiling	*[$287.84]*	*$374.69*

2. Period July 1, 1997 [,] through December 31, 1997.

Adjusted Nursing Labor and Nonlabor Ceiling per subdivision 1 of this subsection		*$232.13*
FYE 1997 First semiannual NCMI	*x 1.2600*	*[=] $292.48*
Indirect Patient Care Ceiling Component	*+ 86.85*	
Total Facility Operating Ceiling		*[=] $379.33*

D. Calculation of nursing facility's prospective operating cost rate.

1. Prospective operating cost base rate.

FYE 1996 Nursing Labor and Nonlabor Operating Base Rate		*$205*
Allowance for Inflation - FYE 1997	*x 1.03*	
Prospective Nursing Labor and Nonlabor Cost Rate		*[=] $211.15*
FYE 1996 Indirect Patient Care Operating Base Rate		*$ 90.00*
Allowance for Inflation - FYE 1997	*x 1.03*	
Prospective Indirect Patient Care Operating Cost Rate		*[=] 92.70*

2. Calculation of FYE 1996 Average NCMI.

First Semiannual Period NCMI	*1.2000*
Second Semiannual Period NCMI	*1.2400*
Average FYE 1996 NCMI	*1.2200*

3. Calculation of FYE 1997 NCMI Rate Adjustments.

a. Rate adjustment for the period January 1, 1997 [,] through June 30, 1997.

1996 Second semiannual NCMI		*1.2400*
1996 Average NCMI (from subdivision 2 of this subsection)		*1.2200*
Calculation:	*1.2400/1.2200*	
Rate Adjustment Factor	*[=]1.0164*	
Prospective Nursing Labor and Nonlabor Operating Cost Base Rate (from subdivision 1 of this subsection)		*211.15*
	x 1.0164	*[=] 214.61*
Prospective Indirect Patient Care Operating Cost Rate (from subdivision 1 of this subsection)	*+ [$] 92.70*	
Total Prospective Operating Cost Rate		*[=] $307.31*

b. Rate Adjustment for the Period July 1, 1997 [,] through December 31, 1997.

1997 First semiannual NCMI		*1.2600*
1996 Average NCMI (From subdivision 2 of this subsection)		*1.2200*
Calculation:	*1.2600/1.2200*	
Rate Adjustment Factor		*[=] 1.0328*
Prospective Nursing Labor and Nonlabor Operating Cost Rate (From subdivision 1 of this subsection)		*$211.15*
Rate Adjustment Factor	*x 1.0328*	
Prospective Indirect Patient Care Operating Cost Rate (from subdivision 1 of this subsection)	*+ [$] 92.70*	
Total Prospective Operating Cost Rate		*[=] $310.78*

D. In this illustration the nursing facility's operating reimbursement rate for FYE 1997 would be as follows:

1. For the period January 1, 1997, through June 30, 1997, the operating reimbursement rate would be $307.31 since the prospective operating cost rate is lower than the nursing facility's NCMI adjusted ceiling of $374.69 (from subdivision C 1 of this section) [.]

2. For the period July 1, 1997, through December 31, 1997, the operating reimbursement rate would be $310.78 since the prospective operating cost rate is lower than the nursing facility's NCMI adjusted ceiling of $379.33 (from subdivision C 2 of this section) [.]

APPENDIX [~~II.~~ VI.]
NATIONAL RUG-III CATEGORIES AND WEIGHTS.

[~~12 VAC 30-90-370.~~ *12 VAC 30-90-320.*] *National RUG-III categories and weights.*

RUG III Group Name	*RUG Group Code*	*Nursing Only Weight*
Rehabilitation	*RVC*	*1.79*
	RVB	*1.18*
	RVA	*0.82*
	RHD	*1.93*
	RHC	*1.50*
	RHB	*1.31*
	RHA	*1.06*
	RMC	*2.09*
	RMB	*1.38*
	RMA	*1.25*
	RLB	*1.36*
	RLA	*1.14*
Extensive Services	*SE3*	*3.97*
	SE2	*2.65*
	SE1	*1.78*
Special Care	*SSC*	*1.61*
	SSB	*1.47*
	SSA	*1.28*
Clinically Complex	*CD2*	*1.46*
	CD1	*1.37*
	CC2	*1.19*
	CC1	*1.16*
	CB2	*1.08*
	CB1	*0.94*
	CA2	*0.76*
	CA1	*0.67*
Impaired Cognition	*IB2*	*0.88*
	IB1	*0.80*
	IA2	*0.60*
	IA1	*0.49*
Behavior Problems	*BB2*	*0.87*
	BB1	*0.78*
	BA2	*0.58*
	BA1	*0.41*
Physical Functions	*PE2*	*1.19*
	PE1	*1.13*
	PD2	*1.01*
	PD1	*1.00*
	PC2	*0.86*
	PC1	*0.77*
	PB2	*0.68*
	PB1	*0.66*
	PA2	*0.52*
	PA1	*0.39*

NOTICE: The forms used in administering 12 VAC 30-70-10 et seq., Methods and Standards for Establishing Payment Rates—Inpatient Hospital Care and 12 VAC 30-90-10 et seq., Methods and Standards for Establishing Payment Rates for Long-Term Care are listed below. Any amended or added forms are reflected in the listing and are published following the listing.

Certificate of Medical Necessity -- Durable Medical Equipment and Supplies, DMAS-352, Revised August 1995.

Cost Reporting Forms (PIRS 1090 Series).

[~~Effective 7-1-93~~]

Facility Description and Statistical Data, Schedule A [, *eff. 7/1/93*].

Certification by Officer or Administrator of Provider, Schedule A-2 [, *eff. 7/1/93*].

Reclassification and Adjustment of Trial Balance of Expenses, Schedule B [, *eff. 7/1/93*].

Reclassifications, Schedule B-1 [, *eff. 7/1/93*].

Analysis of Administrative and General - Other, Schedule B-2 [, *eff. 7/1/93*].

Adjustment to Expenses, Schedule B-4 [, *eff. 7/1/93*].

Cost Allocation - Employee Benefits, Schedule B-5, Part I [, *eff. 7/1/93*].

Cost Allocation - Employee Benefits Statistical Basis, Schedule B-5, Part II [, *eff. 7/1/93*].

Computation of Title XIX Direct Patient Care Ancillary Service Costs, Schedule C [, *eff. 7/1/93*].

Statement of Cost of Services from Related Organizations, Schedule D [, *eff. 7/1/93*].

Statement of Compensation of Owners, Schedule E [, *eff. 7/1/93*].

Statement of Compensation of Administrators and/or Assistant Administrators, Schedule F [, *eff. 7/1/93*].

Balance Sheet, Schedule G [, *eff. 7/1/93*].

Statement of Patient Revenues, Schedule G-1 [, *eff. 7/1/93*].

Statement of Operations, Schedule G-2 [, *eff. 7/1/93*].

Computation of Title XIX Base Costs and Prospective Reimbursement Rate, Schedule H, Part I [, *eff. 7/1/93*].

Computation of Prospective Direct and Indirect Patient Care Profit Incentive Rates, Schedule H-1 [, *eff. 7/1/93*].

Calculation of Medical Service Reimbursement Settlement, Schedule J [, *eff. 7/1/93*].

Computation of Nursing Facility Medical Service Potential Prospective Reimbursement, Schedule J, Part II [, *eff. 7/1/93*].

Settlement Computations, Schedule J, Part III [, *eff. 7/1/93*].

Analysis of Nursing Facility Interim Payments for Title XIX Services, Schedule J, Part IV [, *eff. 7/1/93*].

Analysis of Quarterly Title XIX Patient Days, Schedule J, Part V [, *eff. 7/1/93*].

Accumulation of Title XIX Charges, Schedule J, Part VI [, *eff. 7/1/93*].

Calculation of NATCEPs Reimbursement Settlement, Schedule J-1 [, *eff. 7/1/93*].

Calculation of Criminal Record Check Costs Reimbursement, Schedule J-2 [, *eff. 7/1/93*].

Debt and Interest Expense, Schedule K [, *eff. 7/1/93*].

Limitation on Federal Participation for Capital Expenditures Questionnaire, Schedule L [, *eff. 7/1/93*].

Nurse Aide Training and Competency Evaluation Program Costs and Competency Evaluation Programs (NATCEPs) Schedule N [, *eff. 7/1/93*].

[*Computation of Specialized Care Base Operating Costs, Pediatric, Schedule SC-3, eff. 9/10/97.*

Computation of Specialized Care Direct Patient Care Nursing Service Costs, Pediatric, Schedule SC-4, eff. 9/10/97.

Computation of Specialized Care Kinetic Therapy Ancillary Service Costs, Pediatric, Schedule SC-5, eff. 9/10/97.

Computation of Specialized Care Direct Patient Care Ancillary Service Costs, Pediatric, Schedule SC-6, eff. 9/10/97.

Computation of Specialized Care Base Costs and Prospective Rate, Pediatric, Schedule SC-7P, eff. 9/10/97.

Computation of Prospective Specialized Care Operating Efficiency Incentive Rates, Pediatric, Schedule SC-8P, eff. 9/10/97.

Part I Computation of Nursing Facility Specialized Care Settlement, Part II Analysis of Nursing Facility Specialized Care Interim Payments for Title XIX Services, Part III Analysis of Quarterly Title XIX (Medicaid) Specialized Care Patient Days, Pediatric, Schedule SC-9, eff. 9/10/97.

Computation of Specialized Care Base Operating Costs, Schedule SC-3, eff. 9/10/97.

Computation of Specialized Care Direct Patient Care Nursing Service Costs, Schedule SC-4, eff. 9/10/97.

Computation of Specialized Care Kinetic Therapy Ancillary Service Costs, Schedule SC-5, eff. 9/10/97.

Computation of Specialized Care Direct Patient Care Ancillary Service Costs, Schedule SC-6, eff. 9/10/97.

Computation of Specialized Care Base Costs and Prospective Rate, Adult, Schedule SC-7, eff. 9/10/97.

Computation of Prospective Specialized Care Operating Efficiency Incentive Rates, Adult, Schedule SC-8, eff. 9/10/97.

Part I Computation of Nursing Facility Specialized Care Settlement, Part II Analysis of Nursing Facility Specialized Care Interim Payments for Title XIX Services, Part III Analysis of Quarterly Title XIX (Medicaid) Specialized Care Patient Days, Adult, Schedule SC-9, eff. 9/10/97.]

PROVIDER NAME: _____
PROVIDER NUMBER: _____
PERIOD FROM/TO: _____

Schedule SC-3
Pediatric

COMPUTATION OF SPECIALIZE CARE BASE OPERATING COSTS

1. Total Specialize Care Costs (From HCFA 2552, Worksheet B, Part I, Col. 27 or from HCFA 2540-92, Worksheet B, Part I, Col. 18, appropriate cost center line) 1 _____

2. Less: Specialize Care Plant Costs (From HCFA 2552, Worksheet B, Part II, Col. 27 or HCFA 2540-92, Worksheet B, Part II, Col. 18, Lines as applicable) 2 _____

3. Total Specialize Care Operating Costs (Line 1 minus Line 2) 3 _____

4. Total Direct Patient Care Nursing Service Costs (From Schedule SC-4, Line 4) 4 _____

5. Total Indirect Patient Care Operating Costs (Line 3 - Line 4) 5 _____

Transfer Line 2 to Schedule SC-7, Line 15.
Transfer Line 4 to Schedule SC-7, Line 1.
Transfer Line 5 to Schedule SC-7, Line 6.

PIRS 1090 SERIES
SCHEDULE SC-3
EFFECTIVE 12/01/96

1090SCP1.XLS
9/10/97

PROVIDER NAME: _____
PROVIDER NUMBER: _____
PERIOD FROM/TO: _____

Schedule SC-4
Pediatric

COMPUTATION OF SPECIALIZED CARE DIRECT PATIENT CARE NURSING SERVICE COSTS

1. Nursing Administration.

A. Nursing Administration Salaries (Director of Nursing, Ass'n Director of Nursing and Nursing Unit Supervisors) 1A _____

B. Nursing Administration Employee Benefit Costs (Line 1A X HCFA 2552 or HCFA 2540-92, Worksheet B-1, Col. 3 Line 104 or Line 66 as applicable) = 1B _____

C. Total Nursing Administration Costs (Line 1A + Line 1B) 1C _____

D. Percentage of Total Nursing Administration Costs Allocated to the Facility's Nursing Facility (NF). [(HCFA 2552 or HCFA 2540-92 Worksheet B, Part I Col. 12, Specialize Care Cost Center Line/ Line 12 or Col. 9, Specialize Care Cost Center Line/ Line 9 as applicable)] = 1D X _____

Total NF's Nursing Administration Costs (Line 1C X Line 1D) = 1 _____

2. Direct Nursing Service

A. Salaries - RN's, LPN's, CNA's 2A _____

B. Employee Benefits - RN's, LPN's and CNA's (Line 2A X HCFA 2552 or HCFA 2540-92, Worksheet B-1, Col. 3 Line 104 or 66 as applicable) = 2B _____

C. Contract Nursing Services for RN's, LPN's and CNA's 2C _____

D. Nursing Departmental Supplies 2D _____

E. Professional Fees (Medical Director and Pharmacy Consultant Fees) 2E _____

Total Direct Nursing Service Costs (Sum of Lines 2A thru 2E) 2 _____

3. Minor Medical and Surgical Supplies.

A. Total Facility Central Services and Supply Costs (HCFA 2552 or 2540-92 Worksheet B, Part I, Col. 0, Line 13 or Line 10 as applicable) 3A _____

B. Total Facility Central Services and Supply Costs Employee Benefit Costs (HCFA 2552 or 2540-92, Worksheet B, Part I, Col. 3, Line 13 or Line 10 as applicable) 3B _____

C. Total Facility Central Services and Supply Costs (Line 3A + Line 3B) 3C _____

D. Percentage of Total Central Services and Supply Cost Allocated to the Facility's' NF. [(HCFA 2552 or HCFA 2540-92 Worksheet B, Part I Col. 13, Specialize Care Cost Center Line/ Line 13 or Col. 10, Specialize Care Cost Center Line/ Line 10 as applicable)] = 3D X _____

E. Total NF's Central Services & Supply Costs (Line 3C X Line 3D) 3E _____

F. Minor Medical and Surgical Supplies Costs (Not charged to patients or allocated through Central Services Department) 3F _____

G. Oxygen Costs (Not charged to Patients) 3G _____

H. Cost of Nutrient / Tubefeeding supplies issued to SC's patients. (Not charged to Patients) 3H _____

Total Minor Medical and Surgical Supplies (Sum of Lines 3E thru 3H.) 3 _____

4. Total Specialized Care Direct Patient Care Nursing Service Costs (Line 1 + Line 2 + Line 3.) 4 _____

Transfer Line 4 to Schedule SC-3, Line 4.
Please Provide Reconciliation Schedule of Costs Claimed on Line 1, 2 and 3 to NF's Working Trial Balance and/or Financial Statements.

PIRS 1090 SERIES
SCHEDULE SC-4

1090SCP1.XLS
9/10/97

PROVIDER NAME: _____
PROVIDER NUMBER: _____
PERIOD FROM/TO: _____

Schedule SC-5
Pediatric

COMPUTATION OF SPECIALIZED CARE KINETIC THERAPY ANCILLARY SERVICE COSTS

1. Total Kinetic Therapy Service Costs (From HCFA 2552, Worksheet B, Part I, Col 25 or HCFA 2540-92, Worksheet B, Part I Col 18, appropriate service cost center line) 1. _____

2. Total Kinetic Therapy Charges (From Provider's Records) 2. _____

3. Ratio of Cost of Charges (Line 1 / Line 2) 3. _____

4. Title XIX Ancillary Charges (DMAS MMR 240) 4. _____

5. Total Title XIX Kinetic Therapy Costs (Line 3 X Line 4) 5. _____

6. A. Total Title XIX Kinetic Therapy Rental Days _____ 6A.

B. Title XIX Kinetic Therapy Rental Day Ceiling _____ 6B.

C. Title XIX Kinetic Therapy Ceiling (Line 6A X Line 6B) 6C. _____

7. Title XIX Kinetic Therapy Ancillary Services Costs (Lower of line 5 or Line 6c) 7. _____

Transfer Results on Line 7 to Sch. SC-6, Line 17

PIRS 1090 SERIES
SCHEDULE SC-5
EFFECTIVE 12/01/96

1090SCPI.XLS

PROVIDER NAME: _____
PROVIDER NUMBER: _____
PERIOD FROM/TO: _____

Schedule SC-6
Pediatric

COMPUTATION OF SPECIALIZE CARE DIRECT PATIENT CARE ANCILLARY SERVICE COSTS

	Title XIX Ancillary Service Cost Centers	Total Ancillary Service Costs	Total Ancillar Charges (From Provider's Records)	Ratio of Cost to Charges (Col. 1/ Col. 2	Title XIX Ancillary Charges DMAS MMR 240	Title XIX Direct Patient Care Ancillary Service Costs (Col. 3 X Col. 4)
		(1)	(2)	(3)	(4)	(5)
1.	Radiology					
2.	Laboratory					
3.	Inhalation Therapy					
4.	Physical Therapy					
5.	Occupational Therapy					
6.	Speech Therapy					
7.	EKG					
8.	EEG					
9.	Medical Supplies Charged to Patients					
10.	IV Therapy					
11.	Enteral Feedings					
12.	(Other)					
13.	(Other)					
14.	(Other)					
15.						
16.	Sub-Total					

17. Title XIX Allowable Kinetic Therapy Ancillary Service Costs (From Schedule SC-5, Line 7) _____

18. Total Specialize Care Ancillary Service Costs (Line 16 + Line 17) _____

19. Total Specialize Care Title XIX Patient Days (From Schedule SC-9, Part III, Line 7) _____

20 Title XIX Specialize Care Ancillary Service Cost Rate (Line 18 / Line 19) _____

Total Ancillary Services Costs on Lines 1-16, Col. 1 above shall agree with:

(1) HCFA 2552, Worksheet B, Part I, Col. 25, appropriate ancillary service cost centers lines.
(2) HCFA 2540, Worksheet B, Part I, Col. 18, appropriate ancillary service cost centers lines.

Ratio Computed in Column 3 should be carried to six (6) decimals.
Transfer Amount on Line 18, Column 5 to Schedule SC-9, Line 8
Transfer Rate on Line 20, Column 5 to Schedule SC-7, Line 17

PIRS 1090 SERIES
SCHEDULE SC-6
EFFECTIVE 12-1-96

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PROVIDER NAME: _____
PROVIDER NUMBER _____
PERIOD FROM/TO: _____

Schedule SC-7P

Pediatric

COMPUTATION OF SPECIALIZE CARE BASE COSTS AND PROSPECTIVE RATE

1. Total Pediatric Patient Days (From HCFA-2540- or HCFA 2552; Worksheet S-3) — 1. _____

2. Total Title XIX Pediatric Specialize Care Patient Days — 2. _____

3. Percent of Title XIX Utilization (Line 2 / Line 1) — 3. _____

4. Total Pediatric Direct Patient Care Nursing Service Costs (From SC-4, line 4) — 4. _____

5. Title XIX Pediatric Specialize Care Direct Patient Care Nursing Service Cost (Line 3 X Line 4) — 5. _____

6. Title XIX Pediatric Specialize Care Direct Patient Care Operating Cost Base Rate (Line 5 / Line 2) — 6. _____

7. Title XIX Prospective Pediatric Specialize Care Direct Patient Care Operating Cost Base Rate (Line 6 X Inflation Percentage) _____ — 7. _____

8. Title XIX First Semi-Annual Prospective Pediatric Specialize Care Direct Patient Care Operating Cost Rate. (Line 7 X First Semi Annual NCMI Cost Rate Adjustment) _____ — 8. _____

9. Total Pediatric Indirect Patient Care Operating Costs (From SC-3, Line 5) — 9. _____

10. Title XIX Pediatric Specialize Care Indirect Patient Care Operating Costs (Line 9 X Line 3) — 10. _____

11. Title XIX Pediatric Specialize Care Indirect Patient Care Operating Cost Base Rate (Line 10 / Line 2) — 11. _____

12. Title XIX Prospective Pediatric Specialize Care Indirect Patient Care Operating Cost Base Rate (Line 11 X Inflation Percentage) _____ — 12. _____

13. Total Title XIX Prospective Pediatric Specialize Car Operating Cost Base Rate (Line 8 + Line 12) — 13. _____

14. Title XIX First Semi-Annual Prospective Pediatric Specialize Care Operating Ceiling — 14. _____

15. Title XIX First Semi-Annual Prospective Pediatric Specialize Care Operating Rate (Lower of Line 13 or Line 14) — 15. _____

16. Title XIX First Semi-Annual Prospective Pediatric Operating Efficiency Incentive Rate (Sch. SC-8P) — 16. _____

17. Total Title XIX First Semi-Annual Prospective Pediatric Specialize Care Operating Rate. (Line 15 + Line 16) — 17. _____

18. Total Pediatric Plant Costs (From Sch. SC-3, Line 2) — 18. _____

19. Title XIX Pediatric Capital Costs Patient Days - Greater of: — 19. _____
    - Line 2 — 19a _____
    - Or
    - Total Available Patient Days _____
    - X 70% _____
    - X line 3 above — 19b. _____

20. Title XIX Pediatric Specialize Care Plant Cost Rate (Line 18 / Line 19) — 20. _____

PROVIDER NAME: _____
PROVIDER NUMBER _____
PERIOD FROM/TO: _____

Schedule SC-7P

Pediatric

COMPUTATION OF SPECIALIZE CARE BASE COSTS AND PROSPECTIVE RATE

21. Title XIX Pediatric Specialize Care Ancillary Service Cost Rate (From SCH SC-6, Line 20) — 21. _____

22. Total NATCEPS Cost Rate (From Pirs-1090, Sch. H., Line 30) — 22. _____

23. Total Title XIX Pediatric Specialize Care Reim. Rate for First Semi Annual Period of (Line 17 + Line 20 + Line 21 + Line 22) — 23. _____

PIRS 1090 SERIES
SCHEDULE SC-7P
EFFECTIVE 12-1-96

PROVIDER NAME: _____
PROVIDER NUMBER: _____
PERIOD FROM/TO: _____

Schedule SC-8P
Pediatric

COMPUTATION OF PROSPECTIVE SPECIALIZE CARE OPERATING EFFICIENCY INCENTIVE RATES

1.	Title XIX First Semi-Annual Prospective Operating Ceiling (Schedule SC-7P Line 14)	1.	_____
2.	Title XIX First Semi-Annual Prospective Operating Cost Rate (Schedule SC-7P Line 13)	2.	_____
3.	Incentive Base (Line 1 - Line 2) (Note if Incentive Base is equal to or less than zero, (Efficiency Incentive on Line 5 = 0)	3.	_____
4.	Percentage of Difference (Line 3 / Line 1) (Limited to 25%)	4.	_____
5.	Title XIX First Semi-Annual Prospective Operating Efficiency Rate (Line 3 X Line 4) (As Limited)	5.	_____

Transfer entry on Line 5 to Schedule SC-7P Line 16.

PIRS 1090 SERIES
SCHEDULE SC-8P
EFFECTIVE 12/1/96

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[illegible]

PROVIDER NAME: _____ Sch SC-9
PROVIDER NUMBER: _____ Pediatric
PERIOD FROM/TO: _____

PART I COMPUTATION OF NURSING FACILITY SPECIALIZE CARE SETTLEMENT

	1ST SEMI-ANNUAL PERIOD FROM: TO:	2ND SEMI-ANNUAL PERIOD FROM: TO:
1. Total Prospective Operating Rates (Prior years PIRS 1090, Sch SC-7, Line 14)	1A	1B
2. Semi Annual Title XIX Patient Days (Sch. SC-9, Part III, Lines 3 & 6)	2A	2B
3. Semi-Annual Prospective Reimbursement (Line 1a X Line 2a and Line 1b X line 2	3A	3B
4. Total Potential Prospective Reimbursement (Line 3A+3B)		4.
5. Current Year Plant Cost Rate (Sch.SC-7, Line 20)		5.
6. Total Title XIX Patient Days (Sch SC-9, Part III, Line 7)		6.
7. Total Current Plant Cost Reimbursement (Line 5 X Line 6)		7.
8. Total Current Year Ancillary Service Cost Reimbursement (Sch. SC-6, Line 18)		8.
9. Total NF Specialize Care Title XIX Reimbursement (Line 4 + Line 7 + Line 8)		9.
10. Total Payments Paid to Provider - All Sources (Sch. SC-9 , Part II, Col 2, line 4		10.
11. Balance Due To /(From) Provider (Line 9 - Line 10)		11.
12. Settlement After Submission of the Cost Report		12.

	Date	Amount
Amount # 1		
Amount # 2		
Amount # 3.		
Amount # 4		

13. Final Balance Due to (From) Provider (Line 11 - Line 12)	13.

PART II ANALYSIS OF NURSING FACILITY SPECIALIZE CARE INTERIM PAYMENTS FOR TITLE XIX SERVICES

DESCRIPTION	PAYMENTS FROM INTERMEDIARY	PATIENT PAY OR PAYMENTS FROM PRIMARY CARRIER
1. Total Payments per DMAS MMR-240		
2. Add (Deduct) Cash Advances from / (to) Intermediary Relative to the Reporting Per.	Date	
3. Total (Line 1 + Line 2)		
4. Total Interim Payments (Part II, Line 3, Col. 1 + Col. 2)		

PART III ANALYSIS OF QUARTERLY TITLE XIX (MEDICAID) SPECIALIZE CARE PATIENT DAYS

1. First Quarter Patient Days Per DMAS MMR-240	1.
2. Second Quarter Patient Days Per DMAS MMR-240	2.
3. First Semi-Annual Period Patient Days (Line 1 + Line 2)	3.
4. Third Quarter Patient Days Per DMAS MMR-240	4.
5. Fourth Quarter Patient Days Per DMAS MMR-240	5.
6. Second Semi-Annual Period Patient Days (Line 4 + Line 5)	6.
7. Total Patient Days (Line 3 + Line 6)	7.

PIRS 1090 SUBIN
SCHEDULE SC-9
EFFECTIVE 12/1/95

PROVIDER NAME: _____
PROVIDER NUMBER: _____
PERIOD FROM/TO: _____

Schedule SC-3

COMPUTATION OF SPECIALIZE CARE BASE OPERATING COSTS

1. Total Specialize Care Costs (From HCFA 2552, Worksheet B, Part I, Col. 27 or from HCFA 2540, Worksheet B, Part I, Col. 18, appropriate cost center line — 1 _____

2. Less: Specialize Care Plant Costs (From HCFA 2552, Worksheet B, Part II, Col. 27 or HCFA 2540, Worksheet B, Part II, Col. 18, Lines as applicable) — 2 _____

3. Total Specialize Care Operating Costs (Line 1 minus Line 2) — 3 _____

4. Total Direct Patient Care Nursing Service Costs (From Schedule SC-4, Line 4) — 4 _____

5. Total Indirect Patient Care Operating Costs (Line 3 - Line 4) — 5 _____

Transfer Line 2 to Schedule SC-7, Line 15.
Transfer Line 4 to Schedule SC-7, Line 1.
Transfer Line 5 to Schedule SC-7, Line 6.

PIRS 1090 SERIES
SCHEDULE SC-3
EFFECTIVE 12/01/96

1090SCAT.XLS

PROVIDER NAME: _____
PROVIDER NUMBER: _____
PERIOD FROM/TO: _____

Schedule SC-4

COMPUTATION OF SPECIALIZED CARE DIRECT PATIENT CARE NURSING SERVICE COSTS

1. Nursing Administration.
   - A. Nursing Administration Salaries (Director of Nursing, Ass't Director of Nursing and Nursing Unit Supervisors) — 1A _____
   - B. Nursing Administration Employee Benefit Costs (Line 1A X HCFA 2552 or HCFA 2540, Worksheet B-1, Col. 3 Line 104 or Line 66 as applicable) = — 1B _____
   - C. Total Nursing Administration Costs (Line 1A + Line 1B) — 1C _____
   - D. Percentage of Total Nursing Administration Costs Allocated to the Facility's Nursing Facility (NF). [(HCFA 2552 or HCFA 2540 Worksheet B, Part I Col. 12, Specialize Care Cost Center Line/ Line 12 or Col. 9, Specialize Care Cost Center Line/ Line 9 as applicable)] = — 1D X _____

   Total NF's Nursing Administration Costs (Line 1C X Line 1D) = — 1 _____

2. Direct Nursing Service
   - A. Salaries - RN's, LPN's, CNA's — 2A _____
   - B. Employee Benefits - RN's, LPN's and CNA's (Line 2A X HCFA 2552 or HCFA 2540, Worksheet B-1, Col. 3 Line 104 or 66 as applicable) = — 2B _____
   - C. Contract Nursing Services for RN's, LPN's and CNA's — 2C _____
   - D. Nursing Departmental Supplies — 2D _____
   - E. Professional Fees (Medical Director and Pharmacy Consultant Fees) — 2E _____

   Total Direct Nursing Service Costs (Sum of Lines 2A thru 2E) — 2 _____

3. Minor Medical and Surgical Supplies.
   - A. Total Facility Central Services and Supply Costs (HCFA 2552 or 2540 Worksheet B, Part I, Col. 0, Line 13 or Line 10 as applicable) — 3A _____
   - B. Total Facility Central Services and Supply Costs Employee Benefit Costs (HCFA 2552 or 2540, Worksheet B, Part I, Col. 3, Line 13 or Line 10 as applicable) — 3B _____
   - C. Total Facility Central Services and Supply Costs (Line 3A + Line 3B) — 3C _____
   - D. Percentage of Total Central Services and Supply Cost Allocated to the Facility's' NF. [(HCFA 2552 or HCFA 2540 Worksheet B, Part I Col. 13, Specialize Care Cost Center Line/ Line 13 or Col. 10, Specialize Care Cost Center Line/ Line 10 as applicable)] = — 3D X _____
   - E. Total NF's Central Services & Supply Costs (Line 3C X Line 3D) — 3E _____
   - F. Minor Medical and Surgical Supplies Costs (Not charged to patients or allocated through Central Services Department) — 3F _____
   - G. Oxygen Costs (Not charged to Patients) — 3G _____
   - H. Cost of Nutrient / Tubefeeding supplies issued to SC's patients. (Not charged to Patients) — 3H _____

   Total Minor Medical and Surgical Supplies (Sum of Lines 3E thru 3H) — 3 _____

4. Total Specialized Care Direct Patient Care Nursing Service Costs (Line 1 + Line 2 + Line 3) — 4 _____

Transfer Line 4 to Schedule SC-3, Line 4
Please Provide Reconciliation Schedule of Costs Claimed on Line 1, 2 and 3 to NF's Working Trial Balance and or Financial Statements.

PIRS 1090 SERIES
SCHEDULE SC-4

1090SCAT.XLS

PROVIDER NAME: _____
PROVIDER NUMBER: _____
PERIOD FROM/TO: _____

Schedule SC-5

COMPUTATION OF SPECIALIZED CARE KINETIC THERAPY ANCILLARY SERVICE COSTS

1. Total Kinetic Therapy Service Costs (From HCFA 2552, Worksheet B, Part I, Col 25 or HCFA 2540, Worksheet B, Part I Col 18, appropriate service cost center line) 1. _____

2. Total Kinetic Therapy Charges (From Provider's Records) 2. _____

3. Ratio of Cost of Charges (Line 1 / Line 2) 3. _____

4. Title XIX Ancillary Charges (DMAS MMR 240) 4. _____

5. Total Title XIX Kinetic Therapy Costs (Line 3 X Line 4) 5. _____

6. A. Total Title XIX Kinetic Therapy Rental Days _____ 6A.

B. Title XIX Kinetic Therapy Rental Day Ceiling _____ 6B.

C. Title XIX Kinetic Therapy Ceiling (Line 6A X Line 6B) 6C. _____

7. Title XIX Kinetic Therapy Ancillary Services Costs (Lower of line 5 or Line 6c) 7. _____

Transfer Results on Line 7 to Sch. SC-6, Line 17

PIRS 1090 SERIES
SCHEDULE SC-5
EFFECTIVE 12/01/96

1090SCA1.XLS

PROVIDER NAME: _____
PROVIDER NUMBER: _____
PERIOD FROM/TO: _____

Schedule SC-6

COMPUTATION OF SPECIALIZE CARE DIRECT PATIENT CARE ANCILLARY SERVICE COSTS

	Title XIX Ancillary Service Cost Centers	Total Ancillary Service Costs	Total Ancillar Charges (From Provider's Records)	Ratio of Cost to Charges (Col. 1/ Col. 2)	Title XIX Ancillary Charges DMAS MMR 240	Title XIX Direct Patient Care Ancillary Service Costs (Col. 3 X Col. 4)
		(1)	(2)	(3)	(4)	(5)
1.	Radiology					
2.	Laboratory					
3.	Inhalation Therapy					
4.	Physical Therapy					
5.	Occupational Therapy					
6.	Speech Therapy					
7.	EKG					
8.	EEG					
9.	Medical Supplies Charged to Patients					
10.	IV Therapy					
11.	Enteral Feedings					
12.	(Other)					
13.	(Other)					
14.	(Other)					
15.						
16.	Sub-Total					

17. Title XIX Allowable Kinetic Therapy Ancillary Service Costs (From Schedule SC-5, Line 7) _____

18. Total Specialize Care Ancillary Service Costs (Line 16 + Line 17) _____

19. Total Specialize Care Title XIX Patient Days (From Schedule SC-9, Part III, Line 7) _____

20 Title XIX Specialize Care Ancillary Service Cost Rate (Line 18 / Line 19) _____

Total Ancillary Services Costs on Lines 1-16, Col. 1 above shall agree with:

(1) HCFA 2552, Worksheet B, Part I, Col. 25, appropriate ancillary service cost centers lines.
(2) HCFA 2540, Worksheet B, Part I, Col. 18, appropriate ancillary service cost centers lines.

Ratio Computed in Column 3 should be carried to six (6) decimals.
Transfer Amount on Line 18, Column 5 to Schedule SC-9, Line 8
Transfer Rate on Line 20, Column 5 to Schedule SC-7, Line 17

PIRS 1090 SERIES
SCHEDULE SC-6
EFFECTIVE 12-1-96

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PROVIDER NAME: _____ Schedule SC-7
PROVIDER NUMBER _____
PERIOD FROM/TO: _____ ADULT

COMPUTATION OF SPECIALIZE CARE BASE COSTS AND PROSPECTIVE RATE

1.	Specialize Care Direct Patient Care Nursing Service Costs (From Sch. SC-4, Line 4)	1. _____
2.	Total Title XIX Specialize Care Patient Days	2. _____
3.	Title XIX Specialize Care Direct Patient Care Operating Cost Base Rate (Line 1 / Line 2)	3. _____
4.	Title XIX Prospective Specialize Care Direct Patient Care Operating Cost Base Rate (Line 3 X Inflation Percentage) _____	4. _____
5	Title XIX First Semi-Annual Prospective Specialize Care Direct Patient Care Operating Cost Rate. (Line 4 X First Semi Annual NCMI Cost Rate Adjustment) _____	5. _____
6.	Total Specialize Care Indirect Patient Care Operating Cost (From Sch. SC-3, Line 5)	6. _____
7.	Total Title XIX Specialize Care Patient Days	7. _____
8.	Title XIX Specialize Care Indirect Patient Care Operating Cost Base Rate (Line 6 / Line 7)	8. _____
9.	Title XIX Prospective Specialize Care Indirect Patient Care Operating Cost Base Rate (Line 8 X Inflation Percentage) _____	9. _____
10.	Total Title XIX Prospective Specialize Care Operating Cost Rate (Line 5 + Line 9)	10. _____
11.	Title XIX First Semi-Annual Prospective Specialize Care Operating Ceiling	11. _____
12.	Title XIX First Semi-Annual Prospective Specialize Care Operating Cost Rate (Lower of Line 10 or Line 11)	12. _____
13.	Title XIX First Semi-Annual Prospective Operating Efficiency Incentive Rate (From Sch. SC-8 Line 5)	13. _____
14.	Total Title XIX First Semi-Annual Prospective Specialize Care Operating Rate (Line 12 + Line 13)	14. _____
15.	Total Specialize Care Plant Costs (From Sch. SC-3, Line 2)	15. _____
16.	Title XIX Specialize Care Plant Cost Rate (Line 15 / Line 2)	16. _____
17.	Title XIX Specialize Care Ancillary Service Cost Rate (From Sch. SC-6, Line 20)	17. _____
18.	Total "NATCEPS" Cost Rate (From PIRS-1090, Sch. H, Line 30)	18 _____
19.	Total Title XIX Specialize Care Reimbursement Rate for First Semi Annual Period of (Line 14 + Line 16 + Line 17 + Line 18)	19 _____

PIRS 1090 SERIES
SCHEDULE SC-7
EFFECTIVE 12-1-96

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PROVIDER NAME: _____
PROVIDER NUMBER: _____
PERIOD FROM/TO: _____

Schedule SC-8
Adult

COMPUTATION OF PROSPECTIVE SPECIALIZE CARE OPERATING EFFICIENCY INCENTIVE RATES

1.	Title XIX First Semi-Annual Prospective Operating Ceiling (Schedule SC-7 Line 11)	1.	_____
2.	Title XIX First Semi-Annual Prospective Operating Cost Rate (Schedule SC-7 Line 10)	2.	_____
3.	Incentive Base (Line 1 - Line 2) (Note if Incentive Base is equal to or less than zero, (Efficiency Incentive on Line 5 = 0)	3.	_____
4.	Percentage of Difference (Line 3 / Line 1) (Limited to 25%)	4.	_____
5.	Title XIX First Semi-Annual Prospective Operating Efficiency Rate (Line 3 X Line 4) (As Limited)	5.	_____

Transfer entry on Line 5 to Schedule SC-7 Line 13.

PIRS 1090 SERIES
SCHEDULE SC-8
EFFECTIVE 12/1/96

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VA.R. Doc. No. R97-344; Filed September 9, 1997, 3:25 p.m.

TITLE 24. TRANSPORTATION AND MOTOR VEHICLES

COMMONWEALTH TRANSPORTATION BOARD

REGISTRAR'S NOTICE: The following regulatory actions filed by the Commonwealth Transportation Board are exempt from the Administrative Process Act in accordance with § 9-6.14:4.1 B 11 of the Code of Virginia, which exempts regulations relating to traffic signs, markers, or control devices.

Title of Regulation: **24 VAC 30-560-10, Manual on Uniform Traffic Control Devices (MUTCD) (Repealed).**

Statutory Authority: § 33.1-12 (3) and 46.2-830 of the Code of Virginia.

Effective Date: September 9, 1997.

Summary:

The Manual on Uniform Traffic Control Devices (MUTCD) is published by the United States Department of Transportation's Federal Highway Administration and is available to the public through the United States Government Printing Office. It functions as the nationally recognized standard concerning traffic control devices on all public roads. On November 16, 1989, the Commonwealth Transportation Board (CTB) adopted the 1988 version of the MUTCD and any subsequent revisions for use in specifying the location, design and subject matter of traffic control devices appearing on and adjacent to highways. The CTB has general authority under § 33.1-12 (3) of the Code of Virginia to make regulations concerning traffic on and the use of the systems of state highways, and specific authority under § 46.2-830 of the Code of Virginia to classify, designate, and mark state highways in a uniform manner to correlate with other state systems.

The original MUTCD was published in 1935 and has been revised periodically since that time. The latest revisions, which were published in the Federal Register, are not eligible for the exemption to file by description. The regulation is being repealed and replaced with 24 VAC 30-561-10 to eliminate the need to file or publish revisions to the manual itself.

VA.R. Doc. No. R98-11; Filed September 9, 1997, 9:06 a.m.

* * * * * * * *

Title of Regulation: **24 VAC 30-561-10. Adoption of the Federal Manual on Uniform Traffic Control Devices.**

Statutory Authority: §§ 33.1-12 (3) and 46.2-830 of the Code of Virginia.

Effective Date: September 9, 1997.

Summary:

The regulation formally outlines the adoption of the Manual on Uniform Traffic Control Devices (MUTCD) by the Commonwealth Transportation Board (CTB) as the statewide standard for traffic control devices on highways in Virginia. The MUTCD is published by the United States Department of Transportation's Federal Highway Administration and is available to the public through the United States Government Printing Office. It functions as the nationally recognized standard concerning traffic control devices on all public roads.

The CTB has general authority under § 33.1-12 (3) of the Code of Virginia to make regulations concerning traffic on and the use of the systems of state highways and specific authority under § 46.2-830 of the Code of Virginia to classify, designate, and mark state highways in a uniform manner to correlate with other state systems. By resolution dated November 16, 1989, the CTB adopted the 1988 version of the MUTCD and any subsequent revisions for use in specifying the location, design and subject matter of traffic control devices appearing on and adjacent to highways.

The original MUTCD was published in 1935 and has been revised periodically since that time. The latest revisions to 24 VAC 30-560-10, which were published in the Federal Register (23 CFR Part 655 (Thursday, January 9, 1997)), are not eligible for the exemption to file by description. Therefore, that regulation is being repealed and replaced with 24 VAC 30-561-10 to eliminate the need to file or publish revisions to the manual itself.

Agency Contact: Copies of the regulation may be obtained from David L. Roberts, Department of Transportation, 1401 East Broad Street, Richmond, VA 23219, telephone (804) 786-3620.

CHAPTER 561.
ADOPTION OF THE FEDERAL MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES.

24 VAC 30-561-10. Adoption of the federal Manual on Uniform Traffic Control Devices.

Effective November 16, 1989, the Commonwealth Transportation Board adopted the 1988 edition of the federal Manual on Uniform Traffic Control Devices for Streets and Highways (MUTCD), along with any revisions or associated rulings, when effective, as the standard for all highways under the jurisdiction of the Virginia Department of Transportation. The board also authorized the Commonwealth Transportation Commissioner, at his discretion, to publish changes in the MUTCD appearing in the Code of Federal Regulations in advance of receiving the published revisions. The Traffic Engineering Division, on behalf of the commissioner, is authorized to distribute changes in the MUTCD as published in the Code of Federal Regulations.

24 VAC 30-561-20. Effective date of revisions to the federal Manual on Uniform Traffic Control Devices.

The MUTCD originally approved by the FHWA in accordance with Title 23 USC §§ 109 (b) and (d) and 402 (a), and 23 CFR 1204.4, is incorporated by reference in 23 CFR Part 655, Subpart F. The most recent revisions to the MUTCD appeared in 6 FR 1364-1373, January 9, 1997.

VA.R. Doc. No. R98-12; Filed September 9, 1997, 9:05 a.m.

TITLE 4. CONSERVATION AND NATURAL RESOURCES

MARINE RESOURCES COMMISSION

Title of Regulation: **4 VAC 20-990-10 et seq. Pertaining to the Harvest of Hard Clams from the Dominion Coal Terminal Dredge Site.**

Statutory Authority: §§ 28.2-201, 28.2-210 and 28.2-816 of the Code of Virginia.

Effective Date: August 27, 1997, through August 31, 1997.

Preamble:

This emergency regulation establishes a date for harvest of hard clams from the Dominion Coal Terminal dredge site before dredging activity commences. This emergency regulation is promulgated pursuant to the authority contained in §§ 28.2-201, 28.2-210 and 28.2-816 of the Code of Virginia. The effective date of this emergency regulation is August 27, 1997, and shall be rendered ineffective on September 1, 1997.

Agency Contact: Copies of the regulation may be obtained from Deborah Cawthon, Regulatory Coordinator, Marine Resources Commission, P.O. Box 756, Newport News, VA 23607, telephone (757) 247-2248.

4 VAC 20-990-10. Purpose.

The provisions of this chapter are in response to impending dredging activity that will eliminate all hard clam resources within the associated site.

4 VAC 20-990-20. Dominion Coal Terminal dredge site.

The Dominion Coal Terminal dredge site shall consist of all tidal waters within an area defined by corners at 36°57'53"/76°25'22", 36°57'49"/76°25'26", 36°57'46"/76°25'40", 36°57'37"/76°25'29", 36°57'44"/76°25'22", 36°57'46"/76°25'22", 36°57'50"/76°25'18.

4 VAC 20-990-30. Harvest dates.

The harvest dates for the Dominion Coal Terminal dredge site shall be from Thursday, August 28, 1997, through Friday, August 29, 1997.

4 VAC 20-990-40. Harvest restrictions.

A. It shall be unlawful for any person to possess any hard clam which can be passed through a 1¼-inch inside diameter culling ring.

B. For the possession limit described in subsection A of this section, all culling is to be conducted outside of the perimeter of the dredge site as defined in 4 VAC 20-990-20.

C. It shall be unlawful for any person to harvest clams from the Dominion Coal Terminal dredge site before sunrise or after sunset.

4 VAC 20-990-50. Penalty.

A. As set forth in § 28.2-903 of the Code of Virginia, any person violating any provision of this chapter shall be guilty of a Class 3 misdemeanor, and a second or subsequent violation of any provision of this chapter committed by the same person within 12 months of a prior violation is a Class 1 misdemeanor.

B. The Marine Resources Commission may revoke the permit of any person convicted of a violation of this chapter.

/s/ William A. Pruitt
Commissioner

VA.R. Doc. No. R98-4; Filed August 27, 1997, 12:02 p.m.

TITLE 11. GAMING

VIRGINIA RACING COMMISSION

Title of Regulation: **11 VAC 10-180-10 et seq. Medication (amending 11 VAC 10-180-20 and 11 VAC 10-180-80).**

Statutory Authority: §§ 59.1-369 of the Code of Virginia.

Effective Dates: September 10, 1997, through September 9, 1998.

Statement of Need:

On September 9, 1997, pursuant to the above statutory authority, the Virginia Racing Commission (the "Commission") adopted the following emergency regulation to add two hemostatic agents, amino caproic acid and tranexamic acid, and conjugated estrogens to the medication that lawfully may be administered to bleeder horses. The commission's regulations currently permit only furosemide to be administered to bleeder horses. Other states permit hemostatic agents and conjugated estrogens to be used as adjunct therapies for bleeder horses in conjunction with furosemide because furosemide itself does not always sufficiently reduce bleeding in bleeder horses. In those instances where furosemide itself does not sufficiently reduce bleeding, these adjunct therapies are necessary to prevent severe bleeding which may cause a horse to stop suddenly during a race, collapse, run off the track, or collide with other horses in a race, thereby risking injury or death to jockeys or those attending the races. The regulation therefore is needed and is adopted to assist veterinary personnel in preventing horses that have been diagnosed as suffering from an exercise-induced pulmonary hemorrhage in conformity with the regulations of the commission, 11 VAC 10-180-10 et seq., from posing an imminent danger to the health and safety of the jockeys, trainers, and spectators at a race track and other members of the public who come in contact or may come in contact with such horses, and is adopted as an

emergency regulation because thoroughbred horses currently are racing at the Colonial Downs Race Track in New Kent, Virginia.

11 VAC 10-180-20. Generally.

A. Administration on race day prohibited. No person shall administer any substance to a horse on race day other than ~~furosemide~~ *the substances listed in 11 VAC 10-180-80*, and then only under the procedures set forth in this chapter.

B. Tubing of horses prohibited. The tubing or dosing of any horse for any reason on race day is prohibited, unless administered for medical emergency purposes by a private practitioner who is a permit holder, in which case the horse shall be scratched. The practice of administration of any substance, via a tube or dose syringe, into a horse's stomach on race day is considered a violation of this chapter.

C. Possession of needles prohibited. No permit holder, except a veterinarian or an assistant under his immediate supervision, shall have in his possession within the enclosure any hypodermic syringe or needle or any instrument capable of being used for the injection of any substance.

D. Possession of injectables prohibited. No permit holder, except a veterinarian or an assistant under his immediate supervision, shall have in his possession within the enclosure any injectable substance.

E. Prescription substances for animal use. No permit holder, except a veterinarian or an assistant under his immediate supervision, shall have in his possession within the enclosure of a horse racing facility any prescription substance for animal use unless:

1. The permit holder actually possesses, within the enclosure of the horse racing facility, documentary evidence that a prescription has been issued to him for the substance by a private practitioner who is a permit holder;

2. The prescription substance is labelled with a dosage for the horse or horses to be treated with the prescription substance; and

3. The horse or horses named in the prescription are then under the care and supervision of the permit holder and are then stabled within the enclosure of the horse racing facility.

F. Possession of substances. No veterinarian or permit holder shall possess or administer any substance to a horse stabled within the enclosure:

1. That has not been approved by the U.S. Food and Drug Administration, pursuant to the Federal Food, Drug and Cosmetic Act (21 USC § 30 et seq.); or

2. That is on the U.S. Drug Enforcement Agency's Schedule I or Schedule II of controlled substances as prepared by the Attorney General of the United States pursuant to 21 USC §§ 811 and 812.

G. Human use of needles and substances. Notwithstanding these regulations, a permit holder or veterinarian may possess within the enclosure of a horse racing facility a substance for use on his person, providing the permit holder or veterinarian possesses documentary evidence that a valid medical prescription has been issued to the permit holder or veterinarian.

Notwithstanding these regulations, a permit holder or veterinarian may possess within the enclosure of a horse racing facility a hypodermic syringe or needle for the purpose of administering to himself a substance, provided that the permit holder has documentary evidence that the substance can only be administered by injection and that the substance to be administered by injection has been prescribed for him.

11 VAC 10-180-80. ~~Furosemide~~ *Bleeder medications.*

A. Generally. By this regulation, the Virginia Racing Commission specifically permits the use of furosemide, *the two hemostatic agents, amino caproic acid and tranexamic acid, and conjugated estrogens* in only those horses that have been placed on the bleeder list by the stewards.

B. Furosemide.

~~B.~~ *1.* Procedures for usage. The use of furosemide shall be permitted by the commission only on horses already on the bleeder list and under the following circumstances:

~~1.~~ *a.* Furosemide shall be administered intravenously, within the enclosure of the horse race facility, no less than four hours prior to post time for which the horse is entered to race.

~~2.~~ *b.* The furosemide dosage administered shall not exceed 10 ml (500 mg) and shall not be less than 3 ml (150 mg). Dosage levels between each race shall not vary by more than 3 ml (150 mg).

~~3.~~ *c.* The private practitioner, who is a permit holder, administering the furosemide shall deliver to the commission's office at the racetrack no later than one hour prior to post time for the race in which the horse is entered a furosemide treatment form containing the following:

~~a.~~ *(1)* The trainer's name, date, horse's name, and horse's identification number;

~~b.~~ *(2)* The time furosemide was administered to the horse;

~~c.~~ *(3)* The prior dosage level of furosemide administered to the horse and the dosage level administered for this race;

~~d.~~ *(4)* The barn and stall number; and

~~e.~~ *(5)* The signature of the private practitioner, who is a permit holder.

~~C.~~ *2.* Furosemide quantification. Furosemide levels must not exceed 100 nanograms per milliliter (ng/ml) of

plasma in horses administered furosemide and with urine specific gravity measuring 1.010 or lower. Furosemide must be present in the plasma of any horse racing in Virginia which has been designated in the program as being treated with the substance.

C. Adjunct therapies. The use of the two hemostatic agents, amino caproic acid and tranexamic acid, and conjugated estrogens shall be permitted by the commission in conjunction with furosemide only on horses already on the bleeder list and under the following circumstances:

1. Other than as set forth in subdivision C 2 below, the procedures for usage of each of these substances shall be the same as set forth in subdivision B 1 above for furosemide.

2. The amino caproic acid dosage administered shall not exceed 10 ml (2.5g), the tranexamic acid dosage shall not exceed 10 ml (1g), and the conjugated estrogens dosage shall not exceed 5 ml (25 mg).

D. Disciplinary actions.

1. For the first violation of the regulation pertaining to furosemide quantification (~~subsection C~~ *subdivision B 2* of this section) *or to adjunct therapies dosages (subdivision C 2 of this section)*, the stewards shall issue a written reprimand to the trainer.

2. For the second violation of the regulation pertaining to furosemide quantification (~~subsection C~~ *subdivision B 2* of this section) *or to adjunct therapies dosages (subdivision C 2 of this section)*, the stewards shall fine the trainer an amount not to exceed $500;

3. For the third violation of the regulation pertaining to furosemide quantification (~~subsection C~~ *subdivision B 2* of this section) *or to adjunct therapies dosages (subdivision C 2 of this section)* within a 12-month period, the stewards shall suspend or fine the trainer or both; and

4. The stewards, in their discretion, may impose other more stringent disciplinary actions against trainers or other permit holders who violate the provisions under which furosemide ~~is~~, *the two hemostatic agents, amino caproic acid and tranexamic acid, and conjugated estrogens are* permitted by the commission, regardless of whether or not the same horse is involved.

E. Program designation. The licensee shall be responsible for designating in the program those horses racing on furosemide. The designation shall also include those horses making their first or second starts while racing on furosemide. In the event there is an error, the licensee shall be responsible for making an announcement to be made over the public address system and taking other means to correct the information published in the program.

F. Removal from the bleeder list. A trainer or owner may remove his horse from the bleeder list with the permission of the stewards prior to entering the horse in a race.

Approved:

/s/ Donald R. Price, Executive Secretary
Virginia Racing Commission
Date: September 9, 1997

/s/ Robert T. Skunda
Secretary of Commerce and Trade
Date: September 10, 1997

/s/ George Allen
Governor
Date: September 10, 1997

Filed With:

/s/ Jane D. Chaffin
Deputy Registrar of Regulations
Date: September 10, 1997

VA.R. Doc. No. R98-20; Filed September 10, 1997, 1:43 p.m.

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TITLE 12. HEALTH

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Title of Regulation: **12 VAC 30-70-10 et seq. Methods and Standards for Establishing Payment Rates - Inpatient Hospital Care (amending 12 VAC 30-70-140, 12 VAC 30-70-141, 12 VAC 30-70-142, 12 VAC 30-70-143 and 12 VAC 30-70-144).**

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

Effective Dates: October 1, 1997, through September 30, 1998.

Summary:

REQUEST: The Governor is hereby requested to approve this agency's adoption of the emergency regulation entitled Appeals of the Inpatient Hospital Payment System. This regulation will provide an appeals system which is more consistent with the new inpatient hospital Diagnosis Related Groupings (DRG) payment system.

RECOMMENDATION: Recommend approval of the Department's request to take an emergency adoption action regarding Appeals of the Inpatient Hospital Payment System. The Department intends to initiate the public notice and comment requirements contained in the Code of Virginia § 9-6.14:7.1.

/s/ Joseph M. Teefey, Director
Department of Medical Assistance Services
Date: July 21, 1997

/s/ Robert C. Metcalf
Secretary of Health and Human Resources
Date: August 20, 1997

/s/ George Allen
Governor
Date: August 21, 1997

Filed With: /s/ Jane D. Chaffin
Deputy Registrar of Regulations
Date: September 10, 1997

DISCUSSION

BACKGROUND: The section of the state plan affected by this action is Supplement 1 to Attachment 4.19A: Methods And Standards For Establishing Payment Rates - In-Patient Hospital Care: Hospital Appeals Of Reimbursement Rates (12 VAC 30-70-140 et seq.).

Federal regulations at 42 CFR 447.253 require state Medicaid agencies to provide an appeals process for hospitals and certain other types of providers. The former hospital appeals process was developed, with extensive participation on the part of hospitals, based on a per diem reimbursement methodology.

Based on a 1996 legislative mandate to convert the inpatient hospital payment methodology to one which is prospective, the appeals process requires revision to be more responsive to the characteristics of the new Diagnosis-Related Groups (DRGs) methodology. The DRG rate setting method includes parameters that were not part of per diem methodology. The Department is herein revising the per diem appeals regulations to clarify which parameters may be subject to appeal and how the appeal process is to operate.

AUTHORITY TO ACT: 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.

The Code of Federal Regulations § 447.253(e) states "[t]he Medicaid agency must provide an appeals or exception procedure that allows individual providers an opportunity to submit additional evidence and receive prompt administrative review, with respect to such issues as the agency determines appropriate, of payment rates."

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 comply with the July 1, 1997, effective date established by the General Assembly.

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 1997 General Assembly's mandate contained in the Appropriations Act, he is to adopt this emergency regulation. This issue qualifies as an emergency regulation as provided for in § 9-6.14:4.1(C)(5)(ii), because the Appropriation Act, Chapter 924 of the Acts of the Assembly, Item 322(J)(1) requires this regulation to be effective within 280 days from the enactment of the law or regulation. As such, this regulation may be adopted 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: This change is anticipated to be budget neutral. All hospitals that provide services to Medicaid recipients, except for some long-term and government operated hospitals, will have this appeal process available to them. For FY '97, DMAS has allocated $484,971,000 for inpatient hospital services. No budget impact is forecast as a result of this change to the appeals regulations. Hospitals and the Virginia Hospital and Health Care Association were consulted on the DRG payment methodology and are expected to support this revised appeal process. There are no localities which are uniquely affected by these regulations as they apply statewide.

REGULATIONS AVAILABILITY AND WRITTEN COMMENTS: Copies of this emergency regulation may be obtained from either Victoria Simmons or Roberta Jonas, Regulatory Coordinators, DMAS, 600 East Broad Street, Richmond, Virginia 23219. Written comments may be submitted to Diana Thorpe, Director, Division of Appeals, at the same address.

APPROVAL SOUGHT FOR 12 VAC 30-70-140.

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:

12 VAC 30-70-140. Right to appeal and initial agency decision.

A. Right to Appeal: A hospital shall have the right to appeal (i) its prospective payment rate for operating costs related to inpatient care or other allowable costs, (ii) a calculation error made by the Department, (iii) a misapplication of Virginia's standards and methods of hospital rate-setting and payment, or (iv) the Diagnosis Related Groups (DRG) assigned to claims.

B. Time For Appeal: A hospital seeking to appeal pursuant to these regulations shall submit a written request to the Department of Medical Assistance Services within 30 days of the date of the document notifying the hospital of its prospective rate or notifying the hospital of its payment for individual patients.

~~A. Right to appeal. Any hospital seeking to appeal its prospective payment rate for operating costs related to~~

~~inpatient care or other allowable costs shall submit a written request to the Department of Medical Assistance Services within 30 days of the date of the letter notifying the hospital of its prospective rate unless permitted to do otherwise under 12 VAC 30-70-144 E. The written request for appeal must contain the information specified in subsection B of this section.~~ The department shall respond to the hospital's request for additional reimbursement within 30 days or after receipt of any additional documentation requested by the department, whichever is later. Such agency response shall be considered the initial agency determination.

~~B.~~ *C.* Required information. ~~Any~~ *A* request to appeal the prospective payment rate must specify: (i) the nature of the adjustment sought; (ii) the amount of the adjustment sought; and (iii) current and prospective cost containment efforts, if appropriate.

~~C.~~ *D.* Nonappealable issues. The following issues will not be subject to appeal: (i) the organization of participating hospitals into peer groups according to location and bed size and the use of bed size and the urban/rural distinction as a generally adequate proxy for case mix and wage variations between hospitals in determining reimbursement for inpatient care; (ii) the use of Medicaid and applicable Medicare Principles of Reimbursement to determine reimbursement of costs other than operating costs relating to the provision of inpatient care; (iii) the calculation of the initial group ceilings on allowable operating costs for inpatient care as of July 1, 1982; (iv) the use of the inflation factor identified in the State Plan as the prospective escalator; and (v) durational limitations set forth in the State Plan (the "21 day rule").

~~D.~~ *E.* ~~The rate~~ *Any issue* which may be appealed shall include costs which are for a single cost reporting period only.

~~E.~~ *F.* The hospital shall bear the burden of proof throughout the administrative process.

12 VAC 30-70-141. Administrative appeal of adverse initial agency determination.

A. General. The administrative appeal of an adverse initial agency determination shall be made in accordance with the Virginia Administrative Process Act, § 9-6.14:11 through § 9-6.14:14 of the Code of Virginia, as set forth below.

B. The informal proceeding.

1. The hospital shall submit a written request to appeal an adverse initial agency determination in accordance with § 9-6.14:11 of the Code of Virginia within 15 days of the date of the letter transmitting the initial agency determination.

2. The request for an informal conference in accordance with § 9-6.14:11 of the Code of Virginia shall include the following information:

a. The adverse agency action appealed from;

b. A detailed description of the factual data, argument or information the hospital will rely on to challenge the adverse agency decision.

3. The agency shall afford the hospital an opportunity for an informal conference in accordance with § 9-6.14:11 of the Code of Virginia within 45 days of the request.

4. The Director of the ~~Division of Provider Reimbursement~~ *Appeals Division* of the Department of Medical Assistance Services, or his designee, shall preside over the informal conference. As hearing officer, the director, or his designee, may request such additional documentation or information from the hospital or agency staff as may be necessary in order to render an opinion.

5. After the informal conference, the Director of the ~~Division of Provider Reimbursement~~ *Appeals Division*, having considered the criteria for relief set forth in 12 VAC 30-70-143 and 12 VAC 30-70-144, shall take any of the following actions:

a. Notify the provider that its request for relief is denied setting forth the reasons for such denial;

b. Notify the provider that its appeal has merit and advise it of the agency action which will be taken; or

c. Notify the provider that its request for relief will be granted in part and denied in part, setting forth the reasons for the denial in part and the agency action which will be taken to grant relief in part.

6. The *informal conference* decision ~~of the informal hearing officer~~ shall be rendered within ~~30~~ *90* days of the conclusion of the informal conference.

12 VAC 30-70-142. The formal administrative hearing: procedures.

A. The hospital shall submit its written request for a formal administrative hearing under § 9-6.14:12 of the Code of Virginia within 15 days of the date of the letter transmitting the adverse informal agency decision.

B. At least 21 days prior to the date scheduled for the formal hearing, the hospital shall provide the agency with:

1. Identification of the adverse agency action appealed from, and

2. A summary of the factual data, argument and proof the provider will rely on in connection with its case.

C. The agency shall afford the provider an opportunity for a formal administrative hearing within 45 days of the receipt of the request.

D. The Director of the Department of Medical Assistance Services, or his designee, shall preside over the hearing. Where a designee presides, he shall make recommended findings and a recommended decision to the director. In such instance, the ~~provider~~ *parties* shall have an opportunity to file exceptions to the proposed findings and conclusions.

In no case shall the designee presiding over the formal administrative hearing be the same individual who presided over the informal appeal.

E. The Director of the Department of Medical Assistance Services shall make the final administrative decision in each case.

F. The decision of the agency shall be rendered within ~~60~~ *30* days of the conclusion of the administrative hearing.

12 VAC 30-70-143. The formal administrative hearing: necessary demonstration of proof.

A. ~~The~~ *As provided in 12 VAC 30-70-140 F, the* hospital shall bear the burden of proof ~~in seeking relief from its prospective payment rate~~.

B. A hospital seeking additional reimbursement for operating costs relating to the provision of inpatient care shall demonstrate that its operating costs exceed the limitation on operating costs established for its peer group and set forth the reasons for such excess.

C. In determining whether to award additional reimbursement to a hospital for operating costs relating to the provision of inpatient care, the Director of the Department of Medical Assistance Services shall consider the following:

1. Whether the hospital has demonstrated that its operating costs are generated by factors generally not shared by other hospitals in its peer group. Such factors may include, but are not limited to, the addition of new and necessary services, changes in case mix, extraordinary circumstances beyond the control of the hospital, and improvements imposed by licensing or accrediting standards.

2. Whether the hospital has taken every reasonable action to contain costs on a hospital-wide basis.

a. In making such a determination, the director or his designee may require that an appellant hospital provide quantitative data, which may be compared to similar data from other hospitals within that hospital's peer group or from other hospitals deemed by the director to be comparable. In making such comparisons, the director may develop operating or financial ratios which are indicators of performance quality in particular areas of hospital operation. A finding that the data or ratios or both of the appellant hospital fall within a range exhibited by the majority of comparable hospitals, may be construed by the director to be evidence that the hospital has taken every reasonable action to contain costs in that particular area. Where applicable, the director may require the hospital to submit to the agency the data it has developed for the Virginia Department of Health (formerly Virginia Health Services Cost Review Council). The director may use other data, standards or operating screens acceptable to him. The appellant hospital shall be afforded an opportunity to rebut ratios, standards or comparisons utilized by the director or his designee in accordance with this section.

b. Factors to be considered in determining effective cost containment may include the following:

- Average daily occupancy
- Average hourly wage
- FTE's per adjusted occupied bed
- Nursing salaries per adjusted patient day
- Average length of stay
- Average cost per surgical case
- Cost (salary/nonsalary) per ancillary procedure
- Average cost (food/nonfood) per meal served
- Average cost per pound of laundry
- Cost (salary/nonsalary) per pharmacy prescription
- Housekeeping cost per square foot
- Maintenance cost per square foot
- Medical records cost per admission
- Current ratio (current assets to current liabilities)
- Age of receivables
- Bad debt percentage
- Inventory turnover
- Measures of case mix

c. In addition, the director may consider the presence or absence of the following systems and procedures in determining effective cost containment in the hospital's operation.

- Flexible budgeting system
- Case mix management systems
- Cost accounting systems
- Materials management system
- Participation in group purchasing arrangements
- Productivity management systems
- Cash management programs and procedures
- Strategic planning and marketing
- Medical records systems
- Utilization/Peer review systems

d. Nothing in this provision shall be construed to require a hospital to demonstrate every factor set forth above or to preclude a hospital from demonstrating effective cost containment by using other factors.

The director or his designee may require that an onsite operational review of the hospital be conducted by the department or its designee.

3. Whether the hospital has demonstrated that the Medicaid prospective payment rate it receives to cover operating costs related to inpatient care is insufficient to provide care and service to conforms to applicable state and federal laws, regulations and quality and safety standards.[1]

D. In no event shall the Director of the Department of Medical Assistance Services award additional reimbursement to a hospital for operating costs relating to the provision of inpatient care, unless the hospital demonstrates to the satisfaction of the director that the Medicaid rate it receives under the Medicaid prospective payment system is insufficient to ensure Medicaid recipients reasonable access to sufficient inpatient hospital services of adequate quality.[2]

In making such demonstration, the hospital shall show that:

1. The current Medicaid prospective payment rate jeopardizes the long-term financial viability of the hospital. Financial jeopardy is presumed to exist if, by providing care to Medicaid recipients at the current Medicaid rate, the hospital can demonstrate that it is, in the aggregate, incurring a marginal loss.[3]

For purposes of this section, marginal loss is the amount by which total variable costs for each patient day exceed the Medicaid payment rate. In calculating marginal loss, the hospital shall compute variable costs at 60% of total inpatient operating costs and fixed costs at 40% of total inpatient operating costs; however, the director may accept a different ratio of fixed and variable operating costs if a hospital is able to demonstrate that a different ratio is appropriate for its particular institution.

Financial jeopardy may also exist if the hospital is incurring a marginal gain but can demonstrate that it has unique and compelling Medicaid costs, which if unreimbursed by Medicaid, would clearly jeopardize the hospital's long-term financial viability and,

2. The population served by the hospital seeking additional financial relief has no reasonable access to other inpatient hospitals. Reasonable access exists if most individuals served by the hospital seeking financial relief can receive inpatient hospital care within a 30 minutes travel time at a total per diem rate which is less to Department of Medical Assistance Services than the costs which would be incurred by DMAS per patient day were the appellant hospital granted relief.[4]

E. In determining whether to award additional reimbursement to a hospital for reimbursable costs which are other than operating costs related to the provision of inpatient care, the director shall consider Medicaid and applicable Medicare rules of reimbursement.

12 VAC 30-70-144. Available relief.

A. Any relief granted under 12 VAC 30-70-140 through 12 VAC 30-70-143 shall be for one cost reporting period only.

B. Relief for hospitals seeking additional reimbursement for operating costs incurred in the provision of inpatient care shall not exceed the difference between:

1. The cost per allowable Medicaid day arising specifically as a result of circumstances identified in accordance with 12 VAC 30-70-143 (excluding plant and education costs and return on equity capital) and

2. The prospective operating costs per diem, identified in the Medicaid Cost Report and calculated by DMAS.[5]

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1 See 42 USC § 1396a(a)(13)(A). This provision reflects the Commonwealth's concern that she reimburse only those excess operating costs which are incurred because they are needed to provide adequate care. The Commonwealth recognizes that hospitals may choose to provide more than "just adequate" care and, as a consequence, incur higher costs. In this regard, the Commonwealth notes that "Medicaid programs do not guarantee that each recipient will receive that level of health care precisely tailored to his or her particular needs. Instead, the benefit provided through Medicaid is a particular package of health care services ... that package of services has the general aim of assuring that individuals will receive necessary medical care, but the benefit provided remains the individual services offered -- not 'adequate health care'." Alexander v. Choate, - U.S. - decided January 9, 1985, 53 L.W., 4072, 4075.

2 In Mary Washington Hospital v. Fisher, the court ruled that the Medicaid rate "must be adequate to ensure reasonable access". Mary Washington Hospital v. Fisher, at p. 18. The need to demonstrate that the Medicaid rate is inadequate to ensure recipients reasonable access derives directly from federal law and regulation. In its response to comments on the NPRM published September 30, 1981, HCFA points out Congressional intent regarding the access issue:

The report on H.R. 3982 states the expectation that payment levels for inpatient services will be adequate to assure that a sufficient number of facilities providing a sufficient level of services actively participate in the Medicaid program to enable all Medicaid beneficiaries to obtain quality inpatient services. This report further states that payments should be set at a level that ensures the active treatment of Medicaid patients in a majority of the hospitals in the state. 46 FR 47970

3 The Commonwealth believes that Congressional intent is threatened in situations in which a hospital is incrementally harmed for each additional day a Medicaid patient is treated -- and therefore has good cause to consider withdrawal from the program -- and where no alternative is readily available to the patient, should withdrawal occur. Otherwise, although the rate being paid a hospital may be less than that paid by other payors -- indeed, less than average cost per day for all patients -- it nonetheless equals or exceeds the variable cost per day, and therefore benefits the hospital by offsetting some amount of fixed costs, which it would incur even if the bed occupied by the Medicaid patient were left empty.

It should be emphasized that application of this marginal loss or "incremental harm" concept is a device to assess the potential harm to a hospital continuing to treat Medicaid recipients, and not a mechanism for determining the additional payment due to a successful appellant. As discussed below, once a threat to access has been demonstrated, the Commonwealth may participate in the full average costs associated with the circumstances underlying the appeal.

4 With regard to the thirty minute travel standard, this requirement is consistent with general health planning criteria regarding acceptable travel time for hospital care.

5 The Commonwealth recognizes that in cases where circumstances warrant relief beyond the existing payment rate, she may share in the cost associated with those circumstances. This is consistent with the existing policy, whereby payment is made on an average per diem basis. The Commonwealth will not reimburse more than her share of fixed costs. Any relief to an appellant hospital

C. Relief for hospitals seeking additional reimbursement for (i) costs considered as "pass-throughs" under the prospective payment system or (ii) costs incurred in providing care to a disproportionate number of Medicaid recipients or (iii) costs incurred in providing extensive neonatal care shall not exceed the difference between the payment made and the actual allowable cost incurred.

D. Any relief awarded under 12 VAC 30-70-140 through 12 VAC 30-70-143 shall be effective from the first day of the cost period ~~for which the challenged rate was set~~ *at issue.* Cost periods for which relief will be afforded *under these regulations* are those which begin on or after ~~January 4, 1985~~ *July 1, 1996.* In no case shall this limitation apply to a hospital which noted an appeal of its prospective payment rate for a cost period prior to January 4, 1985. *Appeals noted prior to January 1, 1985, and any appeals relating to cost periods beginning on or after January 1, 1985 and before July 1, 1996 shall be governed by the appeals regulations effective August 22, 1985.*

E. All hospitals for which a cost period began *on* or after ~~January 4, 1985~~ *July 1, 1996*, but prior to the effective date of these regulations, shall be afforded an opportunity to be heard in accordance with these regulations if the request for appeal set forth in 12 VAC 30-70-140 ~~A~~ *B* is filed within 90 days of the effective date of these regulations.

VA.R. Doc. No. R98-17; Filed September 10, 1997, 11:49 a.m.

will be computed using patient days adjusted for the level of occupancy during the period under appeal. In no case will any additional payments made under this rule reflect lengths of stay which exceed the twenty-one day limit currently in effect.

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

Pursuant to Executive Order Number Fifteen (94), the Department of Social Services is currently reviewing the below listed regulation to determine if it should be terminated, amended, or retained in its current form. The review will be guided by the principles listed in Executive Order Number Fifteen (94) and in the department's Plan for Review of Existing Agency Regulations.

The department seeks public comment regarding the regulation's interference in private enterprise and life, essential need of the regulation, less burdensome and intrusive alternatives to the regulation, specific and measurable goals that the regulation is intended to achieve, and whether the regulation is clearly written and easily understandable.

REGULATION

22 VAC 40-270-10 et seq., Agency Placement Adoptions - Appeals.

Written comments may be submitted until October 29, 1997, to Brenda Kerr, Adoption Policy Consultant, Division of Family Services, Department of Social Services, 730 E. Broad Street, Richmond, VA 23219-1849, telephone (804) 692-1290 or FAX (804) 692-1284.

GENERAL NOTICES/ERRATA

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

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

† Notice of Agricultural Stewardship Act Annual Report's Availability

The Agricultural Stewardship Act's Annual Report for 1997 is now available. If you wish to receive a copy of this annual report call Darryl Montague, Glenn Martin or Hunter Richardson at (804) 786-3538, or send a request in writing to:

Agricultural Stewardship Program
Virginia Department of Agriculture and Consumer Services
P.O. Box 1163
Richmond, VA 23209

Requests for the annual report may be faxed to (804) 371-7679. There is no charge for a copy of the annual report.

BOARD OF EDUCATION

† Board of Education Guidelines on Recitation of the Pledge of Allegiance

Notice is hereby given that the Board of Education is proposing Guidelines on the Recitation of the Pledge of Allegiance. Public comments will be received through December 1, 1997. Written comments may be submitted to Dr. James E. Laws, Jr., Virginia Department of Education, P.O. Box 2120, Richmond, VA 23218-2120. Public hearings have been scheduled on October 10 and November 17. Each hearing will take place immediately following the Board of Education's regular meeting. Each hearing will begin at approximately 2 p.m. in Senate Room B of the General Assembly Building located on the corners of Ninth and Broad Streets in Richmond.

Board of Education's Guidelines on Recitation of the Pledge of Allegiance

"I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one Nation under God, indivisible, with liberty and justice for all."

36 U.S.C. § 172.[1]

Adopted by an Act of Congress shortly after our entry into World War II,[2] the Pledge of Allegiance has come to be one of the chief expressions of our national ideals and our patriotism. It "is recited by many thousands of public school children – and adults – every year." *Lynch v. Donnelly*, 465 U.S. 668, 676 (1984). In order to promote the ideals and patriotism expressed in the Pledge while adhering to constitutional principles, the General Assembly enacted Va. Code § 22.1-202 B in 1996. This statute calls upon the Board of Education, in consultation with the Office of the Attorney General, to develop guidelines on constitutional rights and restrictions relating to the recitation of the Pledge in the public schools.[3] Developed pursuant to this legislative mandate, these guidelines are not intended as regulatory substitutes for local discretion, but rather as information and assistance to school administrators, teachers, parents and students.

1.) The Pledge of Allegiance may be made part of the curriculum of the public schools. The Supreme Court has recognized that "public schools are vitally important 'in the preparation of individuals for participation as citizens,' and as vehicles for 'inculcating fundamental values necessary to the maintenance of a democratic political system.'" *Board of Educ., Island Trees Union Free Sch. Dist. No. 26 v Pico*, 457 U.S. 853, 864, (1982) (plurality) (quoting Ambach v. Norwick, 441 U.S. 68, 76-77 (1979)). The value of the Pledge of Allegiance in carrying out this task is self-evident. Moreover, while the Pledge contains the phrase "one Nation under God," its recital in the public schools is not a violation of the Establishment Clause of the Constitution. Indeed, the Supreme Court has implicitly recognized this to be a constitutionally permissible acknowledgment of the historic role of religion in American life. See *Lynch v. Donnelly*, 465 U.S. 668, 676 (1984) ("'One nation under God,' as part of the Pledge of Allegiance . . . is recited by many thousands of

[1]The statute also provides that: "The Pledge of Allegiance to the Flag . . ., should be rendered by standing at attention facing the flag with the right hand over the heart."

[2]June 22, 1942, ch. 435, § 7, 56 Stat. 380. The words "under God" were added on June 14, 1954, ch. 297, 68 Stat. 249.

[3]Section 22.1-202 B of the Code of Virginia provides, in pertinent part:

"To promote compliance with constitutional restrictions as well as observance of constitutional rights, the Board of Education shall, in consultation with the Office of the Attorney General, develop guidelines on constitutional rights and restrictions relating to the recitation of the pledge of allegiance to the American flag in public schools. The Board's guidelines shall include, but shall not be limited to, provisions which address the following: the initiative and involvement of local school boards, individual schools, administrators, teachers, and students; the propriety and constitutionality of any recitation or participation requirements; and relevant state and federal constitutional concerns, such as freedom of speech and religion."

public school children – and adults – every year.")[4] "The reference to divinity in the revised pledge of allegiance . . . may merely recognize the historical fact that our Nation was believed to be founded 'under God.'" *School Dist. Of Abingdon Township, Pa. v. Schempp,* 374 U. S. 203, 304 (1963) (Brennan, J., concurring).

2.) No student can be compelled to join in reciting the Pledge of Allegiance if he or his parents object on religious or philosophical grounds to his participating in such an exercise. Shortly after Congress formally adopted the Pledge of Allegiance, the United States Supreme Court decided *West Virginia State Board of Education v. Barnette,* 319 U.S. 624, (1943). This case involved a state statute requiring all public school students to recite the Pledge. A group of Jehovah's Witnesses refused to do so because they believed it would violate the Biblical commandment not to worship any graven image. School officials expelled the students, threatening to send them to reform school for juvenile delinquents and to bring criminal charges against their parents. The students and their parents claimed that requiring any recitation of the Pledge violated their First Amendment rights to free speech and free exercise of religion. The Supreme Court agreed. Although our nation was then engaged in World War II, the court reasoned that the West Virginia requirement was not justified by the need to promote national unity or patriotism:

> To believe that patriotism will not flourish if patriotic ceremonies are voluntary and spontaneous instead of a compulsory routine is to make an unflattering estimate of the appeal of our institutions to free minds.

Barnette, 319 U. S. At 641.

The *Barnette* decision remains the law of the land. No student may be compelled to make the Pledge of Allegiance to the flag.

3.) The school should not subject the dissenting student to any unfavorable comment or stigmatizing treatment. As one court observed, "[i]f the state cannot compel participation in the pledge, it cannot punish non-participation." *Goetz v Ansell*, 477 F.2d 636, 638 (2d Cir. 1973) The court in *Goetz* also held that to require a nonparticipating student to leave the classroom during the Pledge may reasonably be viewed as a form of punishment. A school, therefore, should not require a student to leave the room while his classmates are reciting the Pledge, nor should it otherwise subject the student to unfavorable comment or other forms of stigmatizing treatment.

4.) The nonparticipating student will be required to refrain from any activity that disrupts or distracts those making the Pledge. In *Goetz*, the court held that the nonparticipating student must be allowed to engage in "a silent, non-disruptive expression of belief by sitting down" at his desk during the pledge. 477 F.2d at 638. This does not sanction, however, conduct that "materially disrupts classwork or involves substantial disorder or invasion of the rights of others." *Tinker v. Des Moines Indep. Community Sch. Dist.,* 393 U. S. 503, 513, (1963). While the Supreme Court has not ruled on this issue, it is reasonable to conclude, given the classroom environment, that the school officials may require the dissenting student to remain quietly at his desk while others are reciting the Pledge and to engage in no activity that would disrupt or distract them. This presumes, however, that the student does not *wish* to stand. If the student prefers to stand silently, so as not to attract to himself the attention that sitting may cause, he should be allowed to do so.

5.) All students can be required to learn the Pledge of Allegiance. There is an important distinction between (i) *reciting* the Pledge as an expression of personal belief and commitment and (ii) *learning* the Pledge as part of our nation's civic heritage. No one can be compelled to join in the Pledge ceremony or otherwise avow any philosophical belief. But, to provide that a student merely learn the history and text of the Pledge is no different in principle than providing for him to learn any other fact about our nation's history and government.

[4]See *Lanner v. Wimmer*, 662 F.2d 1349, 1354 (10th Cir. 1981) ("while public schools may conduct patriotic ceremonies such as the pledge of allegiance, they may not compel participation by children who object on free exercise grounds"); *Smith v. Denny*, 280 F. Supp. 651, 653-54 (E.D. Cal. 1968), appeal dismissed, 417 F.2d 614 (9th Cir. 1969); *Gavin v. Peoples Natural Gas Co.*, 464 F. Supp. 622, 627 (W.D. Pa. 1979), vacated on other grounds, 613 F. 2d 482 (3d Cir. 1980) (citing Smith). See also *Sherman v. Community Consol. Sch. Dist.* 21, 980 F.2d 437 (7th Cir. 1992).

DEPARTMENT OF HEALTH

† Drinking Water Funding

Following enactment of the Safe Drinking Water Act Amendments of 1996, Congress continues to plan for a second year appropriation of capitalization grants to states for 1998. Although exact amounts are yet to be announced, the Virginia Department of Health (VDH) expects to receive a portion of these funds.

In addition to funds for construction improvements, VDH may set aside a portion of the funds for technical assistance and related activities. Set-aside funds will help waterworks owners prepare for future drinking water challenges and assure the sustainability of safe drinking water.

Private and public owners of community and nonprofit noncommunity waterworks are eligible to apply to VDH for loans. VDH will make selections based on criteria such as existing public health problems, noncompliance, and affordability along with other factors such as regionalization, readiness to proceed, and the availability of matching funds.

Interested persons may suggest uses for various set-aside funds. Set asides include small system technical assistance,

source water protection, viability enhancements, operator programs, and general technical assistance.

The Act also provides for a demonstration project in Southwest Virginia in Planning Districts 1 and 2. This will allow VDH to loan a portion of the construction funds to a regional endowment fund.

Loan applications and set-aside suggestions are due by 5 p.m. November 14, 1997.

After receiving loan applications and set-aside suggestions, VDH will develop a draft Intended Use Plan for public review and comment. A public meeting is planned from 2 to 4 p.m. on December 8, 1997, in Richmond at the Virginia War Memorial; written comments are due by 3 p.m. on December 12.

An application and information package is available by writing, calling, or faxing:

Thomas B. Gray, P. E.
Virginia Department of Health
P. O. Box 2448
Richmond, Virginia 23218
Voice: (804) 786 - 1087
FAX: (804) 786 - 5567

* * *

Safe Drinking Water Act Capitalization Grant Set Asides and Special Considerations

From the amounts allotted to states, the following elements are available:

1. Administration of construction revolving loan fund and technical assistance	4%
2. Small system technical assistance	2%
3. Assistance to state programs (with equal match of expenditure at least half of which must be additional to that expended in federal FY93)	10%
a. for the public water system supervision programs	
b. provide technical assistance through source water protection programs	
c. develop and implement a capacity development strategy under § 1420(c)	
d. for the operator program of § 1419	
4. Combination of the following (with no more than 10% in any one area)	15%
a. loans to acquire land or a conservation easement to protect source water	
b. loans for community water systems to implement voluntary source water protection measures	
c. loans to implement source water protection partnership program	
d. technical and financial assistance to a water system as part of the capacity development strategy in § 1420(c)	
e. make expenditures from grants available in FY 96 and 97 to delineate and assess source water protection areas as mentioned in § 1453	
f. make expenditures to establish and implement wellhead protection programs	
5. Of the amounts in the construction revolving loan account:	
a. loans to water systems serving fewer than 10,000 persons	15%
b. loan subsidies (including forgiveness of principal) to disadvantaged communities	30%
c. loan to a regional endowment in Southwest Virginia Planning Districts 1 and 2	not specified

STATE LOTTERY DEPARTMENT

DIRECTOR'S ORDER NUMBER TWENTY-EIGHT (97)

VIRGINIA'S EIGHTY-FIFTH INSTANT GAME LOTTERY; "HOT DICE," FINAL RULES FOR GAME OPERATION.

In accordance with the authority granted by Sections 9-6.14:4.1 B (15) and 58.1-4006 A of the Code of Virginia, I hereby promulgate the final rules for game operation in Virginia's eighty-fifth instant game lottery, "Hot Dice." These rules amplify and conform to the duly adopted State Lottery Board regulations for the conduct of instant game lotteries.

The rules are available for inspection and copying during normal business hours at the State Lottery Department headquarters, 900 East Main Street, Richmond, Virginia, and at each of the State Lottery Department regional offices. A copy may be requested by mail by writing to: Public Affairs Division, State Lottery Department, 900 East Main Street, Richmond, Virginia 23219.

This Director's Order becomes effective on the date of its signing and shall remain in full force and effect unless amended or rescinded by further Director's Order.

/s/ Penelope W. Kyle, Director
Date: August 1, 1997

VA.R. Doc. No. R98-5; Filed September 4, 1997, 11:42 a.m.

DIRECTOR'S ORDER NUMBER TWENTY-NINE (97)

VIRGINIA'S EIGHTY-SIXTH INSTANT GAME LOTTERY; "LUCKY DOG," FINAL RULES FOR GAME OPERATION.

In accordance with the authority granted by Sections 9-6.14:4.1 B (15) and 58.1-4006 A of the Code of Virginia, I hereby promulgate the final rules for game operation in Virginia's eighty-sixth instant game lottery, "Lucky Dog." These rules amplify and conform to the duly adopted State Lottery Board regulations for the conduct of instant game lotteries.

The rules are available for inspection and copying during normal business hours at the State Lottery Department headquarters, 900 East Main Street, Richmond, Virginia, and at each of the State Lottery Department regional offices. A copy may be requested by mail by writing to: Public Affairs Division, State Lottery Department, 900 East Main Street, Richmond, Virginia 23219.

This Director's Order becomes effective on the date of its signing and shall remain in full force and effect unless amended or rescinded by further Director's Order.

/s/ Penelope W. Kyle, Director
Date: August 1, 1997

VA.R. Doc. No. R98-6; Filed September 4, 1997, 11:42 a.m.

DIRECTOR'S ORDER NUMBER THIRTY (97)

VIRGINIA'S INSTANT GAME LOTTERY 414; "VIRGINIA ROAD TRIP," FINAL RULES FOR GAME OPERATION.

In accordance with the authority granted by Sections 9-6.14:4.1 B (15) and 58.1-4006 A of the Code of Virginia, I hereby promulgate the final rules for game operation in Virginia's instant game lottery (Number 0414), "Virginia Road Trip." These rules amplify and conform to the duly adopted State Lottery Board regulations for the conduct of instant game lotteries.

The rules are available for inspection and copying during normal business hours at the State Lottery Department headquarters, 900 East Main Street, Richmond, Virginia, and at each of the State Lottery Department regional offices. A copy may be requested by mail by writing to: Public Affairs Division, State Lottery Department, 900 East Main Street, Richmond, Virginia 23219.

This Director's Order becomes effective on the date of its signing and shall remain in full force and effect unless amended or rescinded by further Director's Order.

/s/ Penelope W. Kyle, Director
Date: August 1, 1997

VA.R. Doc. No. R98-7; Filed September 4, 1997, 11:42 a.m.

DIRECTOR'S ORDER NUMBER THIRTY-ONE (97)

VIRGINIA'S THIRTY-FOURTH INSTANT GAME LOTTERY, "BLACKJACK"; THIRTY-EIGHTH INSTANT GAME LOTTERY, "WINNING HANDS"; THIRTY-NINTH INSTANT GAME LOTTERY, "$10,000 CASH MATCH"; FORTY-FIRST INSTANT GAME LOTTERY, "WINNER'S CIRCLE"; FIFTIETH INSTANT GAME LOTTERY, "ACE IN THE HOLE"; FIFTY-FIRST INSTANT GAME LOTTERY, "VICTORY LAP"; SIXTY-FIRST INSTANT GAME LOTTERY, "BANK ROLL"; SIXTY-SIXTH INSTANT GAME LOTTERY, "FIRST & 10"; SIXTY-SEVENTH INSTANT GAME LOTTERY, "HOLIDAY CASH"; INSTANT GAME LOTTERY 302, "4 CARD BINGO"; INSTANT GAME LOTTERY 401, "CASINO CASH"; INSTANT GAME LOTTERY 403, "HOLIDAY CASH FOR LIFE"; INSTANT GAME LOTTERY 404, "DECADE OF DOLLARS"; INSTANT GAME LOTTERY 405, "MONEY FOR LIFE"; AND INSTANT GAME LOTTERY 407, "NEW YEAR'S CASH FOR LIFE"; END OF GAME.

In accordance with the authority granted by Sections 58.1-4006 A and 9-6.14:4.1 B (15) of the Code of Virginia, I hereby give notice that Virginia's Thirty-Fourth Instant Game Lottery, "Blackjack"; Thirty-Eighth Instant Game Lottery, "Winning Hands"; Thirty-Ninth Instant Game Lottery, "$10,000 Cash Match"; Forty-First Instant Game Lottery, "Winner's Circle"; Fiftieth Instant Game Lottery, "Ace in the Hole"; Fifty-First Instant Game Lottery, "Victory Lap"; Sixty-First Instant Game Lottery, "Bank Roll"; Sixty-Sixth Instant Game Lottery, "First & 10"; Sixty-Seventh Instant Game Lottery, "Holiday Cash"; Instant Game Lottery 302, "4 Card Bingo"; Instant Game Lottery 401, "Casino Cash"; Instant Game Lottery 403, "Holiday Cash for Life"; Instant Game Lottery 404, "Decade of Dollars"; Instant Game Lottery 405, "Money for Life"; and Instant Game Lottery 407, "New Year's Cash for Life," will officially end at midnight on Friday, September 5, 1997. The last day for lottery retailers to return for credit unsold tickets from any of these games will be Friday, November 14, 1997. The last day to redeem winning tickets for any of these games will be Wednesday, March 4, 1998, 180 days from the declared official end of the game. Claims for winning tickets from any of these games will not be accepted after that date. Claims which are mailed and received in an envelope bearing a United States Postal Service postmark of March 4, 1998, will be deemed to have been received on time. This notice amplifies and conforms to the duly adopted State Lottery Board regulations for the conduct of instant game lotteries.

This order is available for inspection and copying during normal business hours at the State Lottery Department headquarters, 900 East Main Street, Richmond, Virginia; and at any State Lottery Department regional office. A copy may be requested by mail by writing to: Public Affairs Office, State Lottery Department, 900 East Main Street, Richmond, Virginia 23219.

This Director's Order becomes effective on the date of its signing and shall remain in full force and effect unless amended or rescinded by further Director's Order.

/s/ Mary L. Stafford for Penelope W. Kyle, Director
Date: August 19, 1997

VA.R. Doc. No. R98-8; Filed September 4, 1997, 11:42 a.m.

DIRECTOR'S ORDER NUMBER THIRTY-TWO (97)

VIRGINIA'S INSTANT GAME LOTTERY 415; "3 FOR THE MONEY," FINAL RULES FOR GAME OPERATION.

In accordance with the authority granted by Sections 9-6.14:4.1 B (15) and 58.1-4006 A of the Code of Virginia, I hereby promulgate the final rules for game operation in Virginia's instant game lottery (Number 0415), "3 for the Money." These rules amplify and conform to the duly adopted State Lottery Board regulations for the conduct of instant game lotteries.

The rules are available for inspection and copying during normal business hours at the State Lottery Department headquarters, 900 East Main Street, Richmond, Virginia, and at each of the State Lottery Department regional offices. A copy may be requested by mail by writing to: Public Affairs Division, State Lottery Department, 900 East Main Street, Richmond, Virginia 23219.

This Director's Order becomes effective on the date of its signing and shall remain in full force and effect unless amended or rescinded by further Director's Order.

/s/ Mary L. Stafford for Penelope W. Kyle, Director
Date: August 28, 1997

VA.R. Doc. No. R98-9; Filed September 4, 1997, 11:42 a.m.

DIRECTOR'S ORDER NUMBER THIRTY-THREE (97)

VIRGINIA'S INSTANT GAME LOTTERY 416; "QUICK CASH LOTTO," FINAL RULES FOR GAME OPERATION.

In accordance with the authority granted by Sections 9-6.14:4.1 B (15) and 58.1-4006 A of the Code of Virginia, I hereby promulgate the final rules for game operation in Virginia's instant game lottery (Number 0416), "Quick Cash Lotto." These rules amplify and conform to the duly adopted State Lottery Board regulations for the conduct of instant game lotteries.

The rules are available for inspection and copying during normal business hours at the State Lottery Department headquarters, 900 East Main Street, Richmond, Virginia, and at each of the State Lottery Department regional offices. A copy may be requested by mail by writing to: Public Affairs Division, State Lottery Department, 900 East Main Street, Richmond, Virginia 23219.

This Director's Order becomes effective on the date of its signing and shall remain in full force and effect unless amended or rescinded by further Director's Order.

/s/ Mary L. Stafford for Penelope W. Kyle, Director
Date: August 27, 1997

VA.R. Doc. No. R98-10; Filed September 4, 1997, 11:43 a.m.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Expansion of Medallion II in the Areas Surrounding Tidewater

Medallion II began January 1, 1996, as the newest managed care initiative for the Virginia Medical Assistance Program. This program initially covered Medicaid populations located in Chesapeake, Norfolk, Portsmouth, Virginia Beach, Hampton, Newport News and Poquoson. Medallion II requires mandatory enrollment into a contracted Health Maintenance Organization (HMO) for certain groups of Medicaid recipients. These HMOs are responsible for providing most services covered by Medicaid.

Effective November 1, 1997, Medallion II will expand to include recipients residing in the following Tidewater localities:

- York County;
- James City County;
- Gloucester County
- City of Williamsburg;
- Isle of Wight County; and
- City of Suffolk

Medallion II Medicaid recipients in these localities will be pre-assigned to an HMO (plan), but have approximately 60 days to select an alternative plan if they prefer. Thereafter, recipients may request plan changes monthly.

Medicaid recipients in the following groups are excluded from Medallion II. When recipients no longer meet the criteria for exclusion, they will be required to enroll in an HMO. The groups are:

- Individuals approved by the Department of Medical Assistance Services as inpatients in nursing facilities, state mental hospitals, long-stay hospitals, intermediate care facilities for the mentally retarded, or hospices;
- Individuals preassigned to an HMO but who have not yet been enrolled, who are inpatients in hospitals other than those listed above, until the first day of the month following discharge;
- Foster care children and subsidized adoption participants;
- Individuals with a Medicaid spend-down requirement;
- Individuals with any other comprehensive group or individual health insurance coverage, including Medicare;
- Individuals participating in federal waiver programs for home-based and community-based Medicaid care;

- Individuals in their third trimester of pregnancy upon initial assignment to Medallion II and who request exclusion;
- Individuals who live outside their area of residence for greater than 60 days except those individuals placed there for medically necessary services funded by the HMO;
- Individuals preassigned to an HMO but who have not yet enrolled, who have been diagnosed with a terminal condition and who have a life expectancy of six months or less, if they request exclusion. The client's physician must certify the life expectancy;
- Individuals preassigned to an HMO but not yet enrolled, who are scheduled for surgery which is scheduled to be within 30 days of the initial enrollment in the HMO which requires an inpatient hospital stay, until the first day of the month following discharge; and
- Individuals in their ninth month of pregnancy, when they are or will be automatically assigned or reassigned and were not in the Medicaid HMO to which they are assigned or reassigned within the last seven months, if they are seeking care from a provider (physician or hospital or both) not affiliated with the HMO to which they were previously assigned. Exclusion requests may be made by the HMO, a provider, or the recipient.

Medicaid recipients enrolled in Medallion II HMOs will still receive some services outside the HMO's network, such as community mental health, mental retardation and substance abuse treatment services, school-based services, certain targeted case management services, and regular assisted living services. Recipients have the option of receiving emergency and family planning services from the provider of their choice.

Those recipients who are excluded from Medallion II are provided Medicaid services under the current fee-for-service program. Additional information about this program expansion can be obtained by contacting the department's Director of Managed Care, Cheryl Roberts, at (804) 786-6147.

STATE WATER CONTROL BOARD

Proposed Consent Special Orders
Appomattox Servistar Oil Company
Bedford County Public Schools
Georgia-Pacific Corporation
T & T Petroleum Company

Proposed Amendments to Consent Special Orders
U.S. Army/Alliant Techsystems Inc.

The State Water Control Board and the Department of Environmental Quality propose to issue Consent Special Orders for:

1. Appomattox Servistar Oil Company (FC-02-0607 and pollution complaints 93-1696, 96-0660, and 97-1078) in the Town of Appomattox. This order requires Appomattox Servistar to come into full compliance with all aboveground and underground storage tank regulations, to complete site remediation for past spills, and to perform a supplemental environmental project (SEP) by paying a portion of the cost of replacing a sewer line impacted by past spills. Appomattox Servistar will pay a civil charge of $3,500, of which $1,500 will be suspended upon completion of the SEP.

2. Bedford County Public Schools. This order reschedules wastewater treatment plant upgrades to meet ammonia limits at seven schools and expansion to satisfy the board's 95% flow policy regulation at one school. The schools involved are Body Camp Elementary School (VA0020818), Liberty High School (VA0020796), New London Academy (VA0020826), Otter River Elementary School (VA0020851), Staunton River High School (VA0063738), Stewartsville Elementary School (VA0020842), and Thaxton Elementary School (VA0020869). All work will be complete by March 31, 2000.

3. Georgia-Pacific Corporation, Big Island Plant (Solid Waste Management permit no. 198; VPDES permit no. VA0003026, outfall 028). Two orders are being noticed together for this plant: a solid waste order under 9 VAC 20-80-110 and a water order under §§ 10.1-1185 and 62.1-44.15(8a) of the Code of Virginia. The waste order requires improvements to leachate management including the elimination of outfall 028 by January 17, 1998. The water order establishes interim limits of 'No Limit' for pH, chlorides, and whole effluent toxicity for outfall 028 from the effective date of the order until the time of its elimination as required in the waste order. Georgia-Pacific will continue to monitor and report during this interval.

4. T & T Petroleum Company, Inc. This order requires T&T to complete proper closure reports for underground storage tanks (USTs) at three service stations, to submit site characterizations for all three sites, and, if required on the basis of the site characterizations, to submit a

complete, approvable Corrective Action Plan. The order assesses a $2,500 civil charge, of which $1,500 is suspended.

The State Water Control Board and the Department of Environmental Quality propose to amend Consent Special Orders for:

5. U.S. Army and Alliant Techsystems Inc., for the Radford Army Ammunition Plant (RAAP, VPDES permit no. VA0000248) in Montgomery and Pulaski counties. This amendment potentially extends the compliance deadline for temperature and whole effluent toxicity for outfall 007 depending on the timeliness of the conclusion of the National Environmental Policy Act (NEPA) and permitting processes for the construction of a diffuser required by the permit. The amendment also cancels all compliance schedules that have been fulfilled under the original order or previous amendments.

On behalf of the State Water Control Board, the Department of Environmental Quality will receive written comments relating to the proposed action until October 15, 1997. Comments should be addressed to James F. Smith, West Central Regional Office, Department of Environmental Quality, 3019 Peters Creek Road, NW, Roanoke, VA 24019, or FAX 540-562-6725, and should refer to Appomattox Servistar, Bedford County Schools, Georgia-Pacific, T & T Petroleum, or RAAP. Comments specific to the Georgia-Pacific waste order should be directed to Robert P. Steele at the same address and FAX number.

The proposed order may be examined at the Department of Environmental Quality, Office of Enforcement, 629 East Main Street, Richmond, VA, or at the Department of Environmental Quality, West Central Regional Office, 3019 Peters Creek Road, NW, Roanoke, VA. Copies of the orders and amendments may be obtained in person or by mail from these offices.

Proposed Special Orders
Gate City Sanitation Authority
Town of Chilhowie
Town of Honaker

The State Water Control Board proposes to take an enforcement action against the sewage treatment plants for the above listed owners. Under the terms of the proposed Special Orders, the owner of these facilities have agreed to be bound by the terms and conditions of effluent limitations and monitoring and reporting requirements contained in individual appendices within the respective orders. These requirements contained in the orders bring the facilities into compliance with state law and will protect water quality.

On behalf of the State Water Control Board, the Department of Environmental Quality will receive comments relating to the Special Orders until October 15, 1997. Comments should be addressed to Dallas Sizemore, Department of Environmental Quality, Southwest Regional Office, P.O. Box 1688, Abingdon, Virginia 24212 and should refer to the Consent Special Order.

The proposed orders may be examined at the Department of Environmental Quality, 355 Deadmore Street, Abingdon, Virginia, at the same address.

Copies of the individual orders may be obtained in person or by mail from the above office.

VIRGINIA CODE COMMISSION

Notice to Subscribers

Beginning with Volume 14, Issue 1 of the Virginia Register (14:1 VA.R. September 29, 1997), the format of the Register will change slightly. Regulations and other information previously published in the State Corporation Commission, Marine Resources Commission, State Lottery Department, and Tax Bulletin sections will be merged into the Proposed Regulations, Final Regulations, Emergency Regulations, or General Notices sections as appropriate. In addition, regulations will appear in order by Virginia Administrative Code (VAC) title order to correspond with the VAC.

Notice to State Agencies

Mailing Address: 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 may be obtained from: Virginia Code Commission, 910 Capitol Street, General Assembly Building, 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591.

Internet: Forms and other *Virginia Register* resources may be printed or downloaded from the *Virginia Register* web page: http://legis.state.va.us/codecomm/regindex.htm

FORMS:
NOTICE of INTENDED REGULATORY ACTION - RR01
NOTICE of COMMENT PERIOD - RR02
PROPOSED (Transmittal Sheet) - RR03
FINAL (Transmittal Sheet) - RR04
EMERGENCY (Transmittal Sheet) - RR05
NOTICE of MEETING - RR06
AGENCY RESPONSE TO LEGISLATIVE OBJECTIONS - RR08

ERRATA

BOARD OF CONSERVATION AND RECREATION

Title of Regulation: 4 VAC 3-20-10 et seq. Stormwater Management Regulations.

Publication: 13:24 VA.R. 3040-3056 August 18, 1997.

Correction to Proposed Regulation:

Page 3054, 4 VAC 3-20-210, before the first paragraph insert: "A. This part specifies technical criteria and administrative procedures for all state projects."

Page 3054, 4 VAC 30-20-210, redesignate subsections A, B and C as B, C and D, respectively.

BOARD OF SOCIAL SERVICES

Title of Regulation: 22 VAC 40-705-10 et seq. Child Protective Services.

Publication: 13:25 VA.R. 3365-3376 September 1, 1997.

Correction to Final Regulation:

Page 3370, 22 VAC 40-705-70, line 3, change "abuse/and or" to "abuse and/or"

Page 3371, 22 VAC 40-705-90, subsection A, at the end of paragraph insert "A child protective services worker shall document in detail in the record and discuss with supervisory personnel the basis for the decision to enter the house without permission."

Page 3374, 22 VAC 40-705-170, line 1 after "will" strike "only"

Page 3374, 22 VAC 40-705-170, line 3 after "department" insert a comma

Page 3376, 22 VAC 40-705-190, subsection I, last line, change "or the findings" to "of the findings"

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 or Senate Information and Constituent Services at (804) 786-3838, or visit the General Assembly web site's Legislative Information System (http://leg1.state.va.us/lis.htm) and select "Meetings."

VIRGINIA CODE COMMISSION

EXECUTIVE

BOARD FOR ACCOUNTANCY

October 20, 1997 - 10 a.m. -- Open Meeting
October 21, 1997 - 8 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Richmond, Virginia.♿

An open meeting to discuss regulatory review, request for proposals for privatization, committee reports, disciplinary cases and other matters requiring board action. All meetings are subject to cancellation. The meeting time is subject to change. Call the board at least 24 hours in advance of the meeting. 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, Department for Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590 or (804) 367-9753/TDD ☎

GOVERNOR'S ADVISORY BOARD ON AGING

† October 7, 1997 - Noon -- Open Meeting
† October 8, 1997 - 8 a.m. -- Open Meeting
Department for the Aging, 1600 Forest Avenue, Suite 102, Richmond, Virginia.♿ (Interpreter for the deaf provided upon request)

A meeting to conduct regular board business.

Contact: Kimlah Hyatt, Staff to the Advisory Board, Department for the Aging, 1600 Forest Avenue, Suite 102, Richmond, VA 23229, telephone (804) 662-9318, FAX (804) 662-9354, toll-free 1-800-552-3402, or (804) 662-9333/TDD ☎

BOARD OF AGRICULTURE AND CONSUMER SERVICES

September 30, 1997 - 1 p.m. -- Open Meeting
Department of Agriculture and Consumer Services, Washington Building, 1100 Bank Street, 2nd Floor Board Room, Richmond, Virginia.

A meeting to discuss regulations and consider other matters relating to its responsibilities. The board will entertain public comment for a period not to exceed 15 minutes. Any person who needs any accommodations in order to participate at the meeting should contact Roy E. Seward at least five days before the meeting date so that suitable arrangements can be made.

Contact: Roy E. Seward, Secretary to the Board, Department of Agriculture and Consumer Services, Washington Bldg., 1100 Bank St., Room 211, P.O. Box 1163, Richmond, VA 23219, telephone (804) 786-3538.

* * * * * * * *

December 11, 1997 - 1:30 p.m. -- Public Hearing
State Capitol, Capitol Square, House Room 4, Richmond, Virginia.

October 20, 1997 -- Public comments may be submitted until 8:30 a.m. on this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Agriculture and Consumer Services intends to amend regulations entitled: **2 VAC 5-180-10 et seq. Rules and Regulations Governing Pseudorabies in Virginia.** Pseudorabies is a disease that exacts a high death toll among the animals it infects, many of which are domesticated animals. Among the animals that can be infected with pseudorabies are cattle, sheep, dogs, cats,

and notably, swine. There is no known evidence that humans can contract pseudorabies. Most kinds of animals infected with pseudorabies die before they can infect other animals (death usually occurs within 72 hours after infection). Swine are a different matter. Although pseudorabies can kill swine (the younger the swine, the higher the rate of mortality), they also can recover from the disease and spread it to other swine and to other kinds of animals. Virginia's regulations to eradicate pseudorabies from swine are part of a national program designed to rid the nation of pseudorabies.

This regulation provides rules to govern the program for the eradication of pseudorabies from swine in Virginia. The purpose of this action is to revise the regulation and increase its effectiveness, including but not limited to amending the regulation to allow Virginia to participate in the national program to eradicate pseudorabies at whatever stage its circumstance at a particular time would allow--whether Stage I or Stage V, or any stage in between.

Statutory Authority: §§ 3.1-724, 3.1-726 and 3.1-730 of the Code of Virginia.

Public comments may be submitted until 8:30 a.m. on October 20, 1997, to Dr. W. M. Sims, Jr., Division of Animal Industry Services, Department of Agriculture and Consumer Services, P.O. Box 1163, Richmond, VA 23218-1163.

Contact: Thomas R. Lee, Program Supervisor, Department of Agriculture and Consumer Services, Washington Bldg., 1100 Bank St., Suite 600, Richmond, VA 23219, telephone (804) 786-2483 or FAX (804) 371-2380.

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December 11, 1997 - 1:30 p.m. -- Public Hearing
State Capitol, Capitol Square, House Room 4, Richmond, Virginia.

October 20, 1997 -- Public comments may be submitted until 8:30 a.m. on this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Agriculture and Consumer Services intends to amend regulations entitled: **2 VAC 5-205-10 et seq. Rules and Regulations Pertaining to Shooting Enclosures.** This regulation provides rules to govern shooting enclosures in Virginia. The purpose of this action is to promulgate regulations providing for licensing shooting enclosures, establishing a licensing fee, and establishing criteria for the operation and management of the enclosures to include the health status of the animals held in the enclosure. The regulation also establishes which animals can be held in the shooting enclosures: goats, sheep and swine.

Statutory Authority: § 3.1-763.5:5 of the Code of Virginia.

Public comments may be submitted until 8:30 a.m. on October 20, 1997, to Dr. W. M. Sims, Jr., Division of Animal Industry Services, Department of Agriculture and Consumer Services, P.O. Box 1163, Richmond, VA 23218-1163.

Contact: Thomas R. Lee, Program Supervisor, Department of Agriculture and Consumer Services, Washington Bldg., 1100 Bank St., Suite 600, Richmond, VA 23219, telephone (804) 786-2483 or FAX (804) 371-2380.

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Virginia Egg Board

† October 10, 1997 - 10 a.m. -- Open Meeting
Virginia Tech, Department of Animal and Poultry Science, Litton Reaves Building, Room 1810, Blacksburg, Virginia.
(Interpreter for the deaf provided upon request)

The board's fall meeting to hear reports from the Executive Director of the Virginia Egg Council concerning the direction of the promotional and education programs proposed by the council and to review the proposed FY 1997-1998 budget for education, promotion, advertising and research. The board will review the registered egg handlers and the decreases in assessment over the past two years. A report will be provided to the board on how the revenues are collected and reviewed. The board will hear and approve the minutes of the last meeting and the board financial statement. 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 Cecilia Glembocki at least five days before the meeting date so that suitable arrangements can be made.

Contact: Cecilia Glembocki, Secretary, Virginia Egg Board, 911 Saddleback Court, McLean, VA 22102-1317, telephone (703) 790-1984, toll-free 1-800-779-7759 or FAX (703) 821-6748.

Pesticide Control Board

October 16, 1997 - 9 a.m. -- Open Meeting
Washington Building, 1100 Bank Street, Board Room, Room 204, Richmond, Virginia.

Committee meetings and a general business meeting. Portions of the meeting may be held in closed session pursuant to § 2.1-344 of the Code of Virginia. The public will have an opportunity to comment on any matter not on the board's agenda beginning at 9 a.m. Any person who needs any accommodations in order to participate at the meeting should contact Dr. Marvin A. Lawson at least 10 days before the meeting date so that suitable arrangements can be made.

Contact: Dr. Marvin A. Lawson, Program Manager, Office of Pesticide Services, Department of Agriculture and Consumer Services, 1100 Bank St., Room 401, P.O. Box 1163, Richmond, VA 23218, telephone (804) 371-6558 or toll-free 1-800-552-9963.

Virginia Winegrowers Advisory Board

October 29, 1997 - 9 a.m. -- Open Meeting
A. H. Smith Agricultural Center, 595 Laurel Grove Road, Winchester, Virginia.

A quarterly meeting to discuss committee reports and other regular business. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs any accommodations in order to participate at the meeting should contact Mary E. Davis-Barton at least 10 days before the meeting date so that suitable arrangements can be made.

Contact: Mary E. Davis-Barton, Secretary, Virginia Winegrowers Advisory Board, Department of Agriculture and Consumer Services, 1100 Bank St., Room 1010, Richmond, VA 23219, telephone (804) 786-0481.

STATE ADVISORY BOARD ON AIR POLLUTION

October 1, 1997 - Noon -- Open Meeting
Ramada Plaza Resort Oceanfront, Oceanfront and 57th Street, Virginia Beach, Virginia.

The 31st annual meeting of the board to include presentations by Thomas L. Hopkins, Director of the Department of Environmental Quality, and Mark Kilduff, Deputy Director of the Virginia Economic Development Partnership, followed by recommendations to the board on environmental partnerships, multi-media permitting, and publicizing proposed new air quality standards.

Contact: Kathy Frahm, Department of Environmental Quality, 629 E. Main St., Richmond, VA 23240-0009, telephone (804) 698-4376.

STATE AIR POLLUTION CONTROL BOARD

† October 1, 1997 - 3:30 p.m. -- Open Meeting
Ramada Plaza Resort Oceanfront, Oceanfront and 57th Street, Virginia Beach, Virginia.

A regular meeting of the board in conjunction with the annual meeting of the State Advisory Board on Air Pollution which will begin at 12:30 p.m.

Contact: Cindy M. Berndt, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4378.

ALCOHOLIC BEVERAGE CONTROL BOARD

September 29, 1997 - 9:30 a.m. -- Open Meeting
October 15, 1997 - 9:30 a.m. -- Open Meeting
October 27, 1997 - 9:30 a.m. -- Open Meeting
Department of Alcoholic Beverage Control, 2901 Hermitage Road, Richmond, Virginia.

A meeting to receive and discuss reports and activities of staff members. Other matters have not been determined.

Contact: W. Curtis Coleburn, Secretary to the Board, Department of Alcoholic Beverage Control, 2901 Hermitage Rd., P.O. Box 27491, Richmond, VA 23261, telephone (804) 213-4409 or FAX (804) 213-4442.

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

† October 7, 1997 - 1 p.m. -- Open Meeting
† October 16, 1997 - 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 board at least 10 days prior to the meeting so that suitable arrangements can be made. The board fully complies with the Americans with Disabilities Act.

Contact: Mark N. Courtney, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514 or (804) 367-9753/TDD ☎

VIRGINIA BOARD FOR ASBESTOS AND LEAD

October 15, 1997 - 10 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Conference Room 5 East, Richmond, Virginia.

A meeting to conduct routine business and review draft amendments prepared by board staff to the Virginia Asbestos Licensing Regulations and the Virginia Lead-Based Paint Activities Regulations. The board will also consider adopting the regulations as proposed regulations for publication and public comment. 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 board fully complies with the Americans with Disabilities Act.

Contact: David E. Dick, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8595 or (804) 367-9753/TDD ☎

COMPREHENSIVE SERVICES FOR AT RISK YOUTH AND THEIR FAMILIES

State Management Team

† October 7, 1997 - 9 a.m. -- Open Meeting
St. Joseph's Villa, 8000 Brook Road, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A meeting to discuss recommendations for policies and procedures regarding the Comprehensive Services Act.

Contact: Elizabeth Hutton, Secretary, Department of Health, P.O. Box 2448, Richmond, VA 23218, telephone (804) 371-4099.

BOARD OF AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY

November 13, 1997 - 9 a.m. -- Public Hearing
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia.

November 14, 1997 - 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 Audiology and Speech-Language Pathology intends to consider amending regulations entitled: **18 VAC 30-20-10 et seq. Regulations Governing the Practice of Audiology and Speech-Language Pathology.** The purpose of the proposed amendments is to amend the regulations pursuant to Executive Order 15 (94) for simplification and clarification of requirements and to remove the language which is unnecessary or duplicative.

Statutory Authority: §§ 54.1-2400 and 54.1-2600 et seq. of the Code of Virginia.

Contact: Elizabeth Young Tisdale, Executive Director, Board of Audiology and Speech-Language Pathology, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9907 or FAX (804) 662-9943.

VIRGINIA AVIATION BOARD

† October 28, 1997 - 3 p.m. -- Open Meeting
Department of Motor Vehicles, 2300 West Broad Street, Richmond, 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, Richmond International Airport, VA 23250-2422, telephone (804) 236-3625 or (804) 236-3624/TDD ☎

† October 29, 1997 - 9 a.m. -- Open Meeting
Department of Motor Vehicles, 2300 West Broad Street, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A regular bimonthly 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, Richmond International Airport, VA 23250-2422, telephone (804) 236-3625 or (804) 236-3624/TDD ☎

BOARD FOR BARBERS

October 6, 1997 - 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 ☎

CHARITABLE GAMING COMMISSION

October 17, 1997 - 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 Charitable Gaming Commission intends to adopt regulations entitled: **11 VAC 15-12-10 et seq. Public Participation Guidelines.** The purpose of the proposed action is to promulgate public participation guidelines for the formulation of charitable gaming regulations.

Statutory Authority: §§ 9-6.14:7.1 and 18.2-340.18 of the Code of Virginia.

Contact: James Ingraham, Administration Manager, Charitable Gaming Commission, P.O. Box 756, Richmond, VA 23218, telephone (804) 786-0238 or FAX (804) 786-1079.

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October 17, 1997 - 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 Charitable Gaming Commission intends to adopt regulations entitled: **11 VAC 15-22-10 et seq. Charitable Gaming Regulations.** The purpose of the proposed action is to promulgate regulations for the operation of charitable gaming activities in Virginia.

Statutory Authority: §§ 18.2-340.15, 18.2-340.18, 18.2-340.19, and 18.2-340.30 of the Code of Virginia.

Contact: James Ingraham, Administration Manager, Charitable Gaming Commission, P.O. Box 756, Richmond, VA 23218, telephone (804) 786-0238 or FAX (804) 786-1079.

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October 17, 1997 - 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 Charitable Gaming Commission intends to adopt regulations entitled: **11 VAC 15-31-10 et seq. Supplier Regulations.** The purpose of the proposed action is to promulgate regulations for vendors selling charitable gaming equipment and supplies in Virginia.

Statutory Authority: §§ 18.2-340.15 and 18.2-340.18 of the Code of Virginia.

Contact: James Ingraham, Administration Manager, Charitable Gaming Commission, P.O. Box 756, Richmond, VA 23218, telephone (804) 786-0238 or FAX (804) 786-1079.

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

Northern Area Review Committee

† October 14, 1997 - 10 a.m. -- Open Meeting
Chesapeake Bay Local Assistance Department, 805 East Broad Street, Suite 701, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A meeting to review Chesapeake Bay Preservation Area programs for the northern area. Persons interested in observing should call the Chesapeake Bay Local Assistance Department to verify meeting time, location and schedule. No comments from the public will be entertained at the meeting; however, written comments are welcome.

Contact: Carolyn J. Elliott, Executive Secretary, 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

† October 14, 1997 - 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 southern area. Persons interested in observing should call the Chesapeake Bay Local Assistance Department to verify meeting time, location and schedule. No comments from the public will be entertained at the meeting; however, written comments are welcome.

Contact: Carolyn J. Elliott, Executive Secretary, 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 ☎

CHILD DAY-CARE COUNCIL

† October 9, 1997 - 10 a.m. -- Open Meeting
Theater Row Building, 730 East Broad Street, Lower Level Conference Room 1, Richmond, Virginia. (Interpreter for the deaf provided upon request)

The council will meet for new member orientation. Please call ahead of time for possible changes in meeting time.

Contact: Arlene Kasper, Program Development Supervisor, Division of Licensing Programs, Department of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1791 or FAX (804) 692-2370.

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† November 18, 1997 - 4 p.m. -- Public Hearing
Pennino Building, 12011 Government Center Parkway, Conference Room 230, Fairfax, Virginia.

† November 19, 1997 - 4 p.m. -- Public Hearing
Virginia Wesleyan University, 1584 Wesleyan Drive, Blocker Hall, Science Auditorium, Norfolk, Virginia.

† November 20, 1997 - 4 p.m. -- Public Hearing
General Assembly Building, 910 Capitol Street, 1st Floor, House Room D, Richmond, Virginia.

† November 24, 1997 - 4 p.m. -- Public Hearing
Roanoke City Council Chambers, Municipal Building, 215 Church Avenue, S.W., 4th Floor, Roanoke, Virginia.

† November 25, 1997 - 4 p.m. -- Public Hearing
Southwest Virginia 4-H Center, 25236 Hillman Highway, Ratcliff Hall, Abingdon, Virginia.

† November 29, 1997 - 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 Child Day-Care Council intends to amend regulations entitled: **22 VAC 15-30-10 et seq. Minimum Standards for Licensed Child Day Centers.** This regulation lists the standards that child day centers serving children of preschool age or younger must meet to be licensed by the Department of Social Services. The school age requirements from 22 VAC 15-40-10 et seq. will be incorporated into this regulation.

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

Public comments may be submitted until November 29, 1997, to Sharon Jones, Chair, Child Day-Care Council, 730 East Broad Street, Richmond, VA 23219-1849.

Contact: Arlene Kasper, Program Development Supervisor, Division of Licensing Programs, Department of Social Services, 730 E. Broad St., Richmond, VA 23219-1849, telephone (804) 692-1791 or FAX (804) 692-2370.

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† November 29, 1997 - 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 Child Day-Care Council intends to repeal regulations entitled: **22 VAC 15-40-10 et seq. Minimum Standards for Licensed Child Day Centers Serving School Age Children.** The purpose of the proposed action is to repeal this regulation and incorporate these standards into the regulation currently entitled "Minimum Standards for Licensed Child Day Centers Serving Children of Preschool Age or Younger" (22 VAC 15-30-10 et seq.).

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

Public comments may be submitted until November 29, 1997, to Sharon Jones, Chair, Child Day-Care Council, 730 East Broad Street, Richmond, VA 23219-1849.

Contact: Arlene Kasper, Program Development Supervisor, Division of Licensing Programs, Department of Social Services, 730 E. Broad St., Richmond, VA 23219-1849, telephone (804) 692-1791 or FAX (804) 692-2370.

BOARD OF CONSERVATION AND RECREATION

† October 8, 1997 - 11 a.m. -- Open Meeting
Sky Meadows State Park, 11012 Edmonds Lane, Delaplane, Virginia.

A regular business meeting to elect officers.

Contact: Leon E. App, Conservation and Development Programs Supervisor, Department of Conservation and Recreation, 203 Governor St., Suite 302, Richmond, VA 23219, telephone (804) 786-4570, FAX (804) 786-6141, or (804) 786-2121/TDD ☎

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October 22, 1997 - Public comments may be submitted until 5 p.m. on this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Conservation and Recreation intends to amend regulations entitled: **4 VAC 3-20-10 et seq. Stormwater Management Regulations.** The purpose of the proposed amendments is to protect life and property against the degradation of land and water resources in the form of water pollution, stream channel erosion, depletion of groundwater resources, and more frequent local flooding--impacts that adversely affect fish, aquatic life, recreation, shipping, property values and other uses of lands and waters. Amendments provide consistent criteria for state agency construction projects and greater flexibility for local government adoption of stormwater management ordinances.

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

Contact: Leon E. App, Conservation and Development Programs Supervisor, Department of Conservation and Recreation, 203 Governor St., Suite 302, Richmond, VA 23219, telephone (804) 786-4570, FAX (804) 786-6141, or (804) 786-2121/TDD ☎

DEPARTMENT OF CONSERVATION AND RECREATION

September 29, 1997 - 7 p.m. -- Open Meeting
Princess Anne Recreation Center, 1400 Ferrell Parkway, Room 3, Virginia Beach, Virginia. (Interpreter for the deaf provided upon request)

Actions by the 1997 General Assembly included passage of House Joint Resolution 555 which requests the Department of Conservation and Recreation (DCR), in coordination with other state agencies and local stakeholders, to perform a study of the effects of nonpoint source (NPS) pollution on the Back Bay and to determine the strategies and costs of implementing measures to improve the water quality of the Back Bay. As one component of the study, DCR will conduct a meeting open to the public to summarize the contents of the agency's draft study report and receive comments from all interested parties. Written comments will be accepted if received by September 1, 1997. Direct written comments to DCR Back Bay Study, Mark Meador, 203 Governor Street, Suite 206, Richmond, VA 23219.

Contact: Mark Meador, Field Operations Coordinator, Department of Conservation and Recreation, 203 Governor

St., Suite 206, Richmond, VA 23219, telephone (804) 786-3999 or FAX (804) 787-1798.

October 6, 1997 - 7 p.m. -- Open Meeting
Cumberland County Courthouse, U.S. Route 60, Main Courtroom, Cumberland, Virginia.

As part of the Bear Creek Lake Watershed Study, a public awareness meeting is being held to provide an overview of the watershed research and to provide a summary of recommended solutions and costs associated with the issues of sediment removal, land use and long-term watershed protection. Public comment is encouraged.

Contact: Scott Shanklin, Park Manager, Bear Creek Lake State Park, Route 1, Box 253, Cumberland, VA 23040-9518, telephone (804) 492-4410 or FAX (804) 492-9523.

Fall River Renaissance Committee

October 15, 1997 - 10 a.m. -- Open Meeting
Department of Conservation and Recreation, 203 Governor Street, 2nd Floor, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A meeting to plan the campaign for the second Fall River Renaissance to be held from September 20 to October 20, 1997. The campaign will promote and recognize voluntary acts of stewardship to improve and conserve water quality in Virginia.

Contact: Paddy Katzen, Special Assistant to the Secretary of Natural Resources, Department of Environmental Quality, 629 East Main St., Richmond, VA 23219, telephone (804) 698-4488.

Falls of the James Scenic River Advisory Board

† October 2, 1997 - Noon -- Open Meeting
City Hall, 900 East Broad Street, 5th Floor, Planning Commission Conference Room, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A meeting to review river issues and programs.

Contact: Richard G. Gibbons, Environmental Program Manager, Division of Planning and Recreation Resources, Department of Conservation and Recreation, 203 Governor St., Suite 326, Richmond, VA 23219, telephone (804) 786-4132, FAX (804) 371-7899, or (804) 786-2121/TDD☎

BOARD FOR CONTRACTORS

October 8, 1997 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia.

A regularly scheduled quarterly meeting of the board to address policy and procedural issues, review and render decisions on applications for contractor licenses/certificates, review and render case decisions on matured complaints against licensees/certificants, and other matters requiring board action. 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 Geralde W. Morgan so that suitable arrangements can be made. The board fully complies with the Americans with Disabilities Act.

Contact: Geralde W. Morgan, Senior Administrator, Board for Contractors, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2785 or (804) 367-9753/TDD ☎

Disciplinary Committee

October 22, 1997 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia.

A meeting to receive board member reports and summaries from informal fact-finding conferences held pursuant to the Administrative Process Act, and to review consent order offers in lieu of further disciplinary proceedings. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least two weeks prior to the meeting so that suitable arrangements can be made. The board fully complies with the Americans with Disabilities Act.

Contact: Geralde W. Morgan, Senior Administrator, Board for Contractors, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2785 or (804) 367-9753/TDD ☎

BOARD FOR COSMETOLOGY

† November 24, 1997 - 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 10 days 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 ☎

CRIMINAL JUSTICE SERVICES BOARD

October 14, 1997 - 10 a.m. -- Public Hearing
Virginia Military Institute, Jackson Memorial Hall, Lexington, Virginia.

November 5, 1997 - 10 a.m. -- Public Hearing
General Assembly Building, 910 Capitol Square, House Room D, Richmond, Virginia.

November 1, 1997 - 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 Criminal Justice Services Board intends to amend regulations entitled: **6 VAC 20-20-10 et seq. Rules Relating to Compulsory Minimum Training Standards for Law-Enforcement Officers.** The proposed amendments relate to approval authority for performance outcomes, hours, and categories of training by the Criminal Justice Services Board and the training objectives, criteria, and lesson plan guides by the Committee on Training of the Criminal Justice Services Board. Hours and categories of training are updated. Performance outcomes are incorporated by reference.

Statutory Authority: § 9-170 of the Code of Virginia.

Public comments may be submitted until November 1, 1997, to Lex Eckenrode, Department of Criminal Justice Services, 805 East Broad Street, Richmond, VA 23219.

Contact: George Gotschalk, Section Chief, Standards and Certification, Department of Criminal Justice Services, 805 E. Broad St., Richmond, VA 23219, telephone (804) 786-8001 or FAX (804) 371-8981.

DEPARTMENT FOR THE DEAF AND HARD-OF-HEARING

Advisory Board

November 5, 1997 - 10 a.m. -- Open Meeting
Koger Center, 1602 Rolling Hills Drive, Richmond, Virginia.
(Interpreter for the deaf provided upon request)

A quarterly meeting of the advisory board. Public comment will be received with advance notice.

Contact: Beverly Dickinson, Executive Secretary, Department for the Deaf and Hard-of-Hearing, 1602 Rolling Hills Dr., Ratcliffe Bldg., Suite 203, Richmond, VA 23229-5012, telephone (804) 662-9705 (V/TTY) or toll-free 1-800-552-7917 (V/TTY).

DISABILITY SERVICES COUNCIL

October 14, 1997 - 11 a.m. -- Open Meeting
Department of Rehabilitative Services, 8004 Franklin Farms Drive, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A meeting to review the FY 1998 Rehabilitative Services Incentive Fund (RSIF) Competitive Proposals for approval and RSIF guidelines.

Contact: Kathryn Hayfield, Chief of Staff, Disability Services Council, 8004 Franklin Farms Dr., Richmond, VA 23288, telephone (804) 662-7134/Voice/TTY, toll-free 1-800-552-5019, 1-800-464-9950/TDD ☎

VIRGINIA ECONOMIC DEVELOPMENT PARTNERSHIP

Virginia Tourism Corporation

† October 14, 1997 - 10 a.m. -- Open Meeting
Department of Economic Development, 901 East Byrd Street, Riverfront Plaza, West Tower, 19th Floor, Board Room, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A meeting of the board of directors to discuss strategic planning and budgets. Public comment will be taken at the beginning of the meeting.

Contact: Judy H. Bulls, Assistant to the President and CEO, Virginia Tourism Corporation, 901 E. Byrd St., Richmond, VA 23219, telephone (804) 371-8174, FAX (804) 786-1919 or (804) 371-0327/TDD ☎

† October 14, 1997 - 2:30 p.m. -- Open Meeting
Department of Economic Development, 901 East Byrd Street, Riverfront Plaza, West Tower, 19th Floor, Board Room, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A meeting of the Welcome Centers Task Force of the Virginia Tourism Corporation Board of Directors to review welcome center operation. Public comment will be taken at the beginning of the meeting.

Contact: Judy H. Bulls, Assistant to the President and CEO, Virginia Tourism Corporation, 901 E. Byrd St., Richmond, VA 23219, telephone (804) 371-8174, FAX (804) 786-1919, or (804) 371-0327/TDD ☎

BOARD OF EDUCATION

October 31, 1997 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Education intends to **repeal** regulations entitled: **8 VAC 20-20-10 et seq. Regulations Governing the Licensure of**

School Personnel and **adopt** regulations entitled: **8 VAC 20-21-10 et seq. Licensure Regulations for School Personnel.** The purpose of the proposed regulation is to maintain standards of professional competence for teachers and other school personnel.

Statutory Authority: § 22.1-298 of the Code of Virginia.

Contact: Thomas A. Elliott, Assistant Superintendent for Compliance, Department of Education, P.O. Box 2120, Richmond, VA 23218-2120, telephone (804) 371-2522.

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October 31, 1997 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Education intends to adopt regulations entitled: **8 VAC 20-25-10 et seq. Technology Standards for Instructional Personnel.** The purpose of the proposed regulation is to ensure that instructional personnel in Virginia have mastered and demonstrated competency in technology. The proposed regulation identifies eight standards based on Virginia's revised Standards of Learning.

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

Contact: Thomas A. Elliott, Assistant Superintendent for Compliance, Department of Education, P.O. Box 2120, Richmond, VA 23218-2120, telephone (804) 225-2748, FAX (804) 225-3831, toll-free 1-800-292-3820 or 1-800-422-1098/TDD ☎

† October 10, 1997 - 2 p.m. – Public Hearing
† November 17, 1997 - 2 p.m. -- Public Hearing
General Assembly Building, 910 Capitol Square, Senate Room B, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A public hearing on the proposed guidelines on the recitation of the Pledge of Allegiance.

Contact: Dr. James E. Laws, Jr., Administrative Assistant for Board Relations, Department of Education, Monroe Bldg., 101 N. 14th St., P.O. Box 2120, Richmond, VA 23218-2120, telephone (804) 225-2540, FAX (804) 225-2424 or toll-free 1-800-292-3820.

DEPARTMENT OF ENVIRONMENTAL QUALITY

† October 14, 1997 - 9 a.m. -- Open Meeting
Department of Environmental Quality, 629 East Main Street, Room 110, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A working meeting of the regulatory ad hoc group engaged in the development of regulation revision E97, Fuel Burning Equipment (9 VAC 5-40-880).

Contact: Karen G. Sabasteanski, Policy Analyst, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4426, FAX (804) 698-4510, toll-free 1-800-592-5482 or (804) 698-4021/TDD ☎

† October 29, 1997 - 5 p.m. -- Open Meeting
Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Conference Room, Glen Allen, Virginia. (Interpreter for the deaf provided upon request)

† October 30, 1997 - 2 p.m. -- Open Meeting
Roanoke County Board of Supervisor's Room, 5204 Bernard Drive, Roanoke, Virginia. (Interpreter for the deaf provided upon request)

A meeting to discuss the proposal to repeal the existing water quality management plans (9 VAC 25-420-10 et seq. through 9 VAC 25-572-10 et seq.), and to invite comments related to the proposal, including the costs and benefits of the proposed action or alternatives the public may wish to provide.

Contact: Erlinda L. Patron, Environmental Engineer Consultant, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240-0009, telephone (804) 698-4047 or FAX (804) 698-4136.

VIRGINIA FIRE SERVICES BOARD

† October 24, 1997 - 9 a.m. – Open Meeting
Massanutten, Harrisonburg, Virginia.

† December 5, 1997 - 9 a.m. -- Open Meeting
Virginia Beach Resort Hotel and Conference Center, 2800 Shore Drive, Virginia Beach, Virginia.

A business meeting to discuss training and policies. The hearing is open to the public for comments and input.

Contact: Michael Cline, Acting Executive Director, Department of Fire Programs, James Monroe Bldg., 101 N. 14th St., 18th Floor, Richmond, VA 23219, telephone (804) 371-0220.

Fire Prevention and Control Committee

† October 23, 1997 - 1 p.m. – Open Meeting
Massanutten, Harrisonburg, Virginia.

† December 4, 1997 - 1 p.m. -- Open Meeting
Virginia Beach Resort Hotel and Conference Center, 2800 Shore Drive, Virginia Beach, Virginia.

A meeting to discuss fire training and policies. The meeting is open to the public for input and comments.

Contact: Michael Cline, Acting Executive Director, Department of Fire Programs, James Monroe Bldg., 101 N. 14th St., 18th Floor, Richmond, VA 23219, telephone (804) 371-0220.

Fire/EMS Education and Training Committee

† October 23, 1997 - 8:30 a.m. – Open Meeting
Massanutten, Harrisonburg, Virginia.

† December 4, 1997 - 8:30 a.m. -- Open Meeting
Virginia Beach Resort Hotel and Conference Center, 2800 Shore Drive, Virginia Beach, Virginia.

A meeting to discuss fire training and policies. The meeting is open to the public for input and comments.

Contact: Michael Cline, Acting Executive Director, Department of Fire Programs, James Monroe Bldg., 101 N. 14th St., 18th Floor, Richmond, VA 23219, telephone (804) 371-0220.

Legislative/Liaison Committee

† October 23, 1997 - 10 a.m. – Open Meeting
Massanutten, Harrisonburg, Virginia.

† December 4, 1997 - 10 a.m. -- Open Meeting
Virginia Beach Resort Hotel and Conference Center, 2800 Shore Drive, Virginia Beach, Virginia.

A meeting to discuss fire training and policies. The meeting is open to the public for comments and input.

Contact: Michael Cline, Acting Executive Director, Department of Fire Programs, James Monroe Bldg., 101 N. 14th St., 18th Floor, Richmond, VA 23219, telephone (804) 371-0220.

Sprinkler/Code Change Committee

† December 3, 1997 - 2 p.m. -- Open Meeting
Virginia Beach Resort Hotel and Conference Center, 2800 Shore Drive, Virginia Beach, Virginia.

A meeting to discuss residential sprinklers. The meeting is open to the public for comments and input.

Contact: Michael Cline, Acting Director, Department of Fire Programs, James Monroe Bldg., 101 N. 14th St., 18th Floor, Richmond, VA 23219, telephone (804) 371-0220.

BOARD OF FORESTRY

† October 20, 1997 - 9:30 a.m. -- Open Meeting
† October 21, 1997 - 8:30 a.m. -- Open Meeting
Holiday Inn Surfside Hotel and Suites, Oceanfront at 26th Street and Atlantic Avenue, Virginia Beach, Virginia. (Interpreter for the deaf provided upon request)

On October 20 at 9:30 the group will meet at Union Camp for a tour of forest products facilities and proceed to the Norfolk International Terminals as guests of the VA Port Authority. On October 21, the board will conduct a general business meeting to hear committee reports, discuss issues and conduct any other appropriate business relating to forestry. Please notify the board five working days prior to the meeting for interpreter services.

Contact: Barbara A. Worrell, Administrative Staff Specialist, Department of Forestry, P.O. Box 3758, Charlottesville, VA 22903, telephone (804) 977-6555 or (804) 977-6555/TDD ☎

BOARD OF GAME AND INLAND FISHERIES

October 23, 1997 - 9 a.m. -- Open Meeting
October 24, 1997 - 9 a.m. -- Open Meeting
4000 West Broad Street, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A meeting to address a regulation amendment proposed at the August 21, 1997, meeting to add tungsten-iron short as a permissible nontoxic shot for use in waterfowl hunting if such shot is permissible under federal migratory waterfowl regulations. The board will solicit comments from the public during the public hearing portion of the meeting at which time any interested citizen present shall be heard, and the board will determine whether the proposed regulation amendment will be adopted as a final regulation. The board reserves the right to adopt final amendments which may be more liberal than, or more stringent than the regulations currently in effect or the regulation amendments proposed at the August 21, 1997, board meeting as necessary for the proper management of wildlife resources. The board will review proposals for legislation for the 1998 Session of the General Assembly. The board may also address permitting; staff may recommend and the board may propose regulations or amendments to regulations pertaining to permitting. The board may hold an executive session before the public session begins on October 23. If the board completes its entire agenda on October 23, it may not convene on October 24.

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.

DEPARTMENT OF GENERAL SERVICES

Design-Build/Construction Management Review Board

October 17, 1997 - 10 a.m. -- Open Meeting
November 21, 1997 - 10 a.m. -- Open Meeting
The Library of Virginia, 800 East Broad Street, Richmond, Virginia.

A meeting to review any requests submitted for review by the board for the use of a Design-Build or Construction Management type of contract.

Contact: Nathan I. Broocke, Director, Division of Engineering and Buildings, Department of General Services,

805 E. Broad St., Room 101, Richmond, VA 23219, telephone (804) 786-3263 or (804) 786-6152/TDD ☎

STATE BOARD OF HEALTH

October 20, 1997 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Health intends to amend regulations entitled: **12 VAC 5-90-10 et seq. Regulations for Disease Reporting and Control.** The purpose of the proposed amendments is to mandate the testing of gamete donors for HIV and the rejection of donors who test HIV positive and to establish a standard protocol for HIV testing for gamete donors.

Statutory Authority: §§ 32.1-12, 32.1-45.3, and 54.1-2971.1 of the Code of Virginia.

Contact: Casey W. Riley, Director, Division of STD/AIDS, Department of Health, P.O. Box 2448, Room 112, Richmond, VA 23218, telephone (804) 786-6267 or FAX (804) 225-3517.

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November 14, 1997 - Public comments may be submitted until 5 p.m. on this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Health intends to amend regulations entitled: **12 VAC 5-220-10 et seq. Virginia Medical Care Facilities Certificate of Public Need Rules and Regulations.** The purpose of the proposed amendments is to conform to recent legislation enacted to decrease regulatory involvement with projects to improve or increase services through capital expenditures at medical care facilities.

Statutory Authority: §§ 32.1-12 and 32.1-102.2 of the Code of Virginia.

Public comments may be submitted until November 14, 1997, to Nancy R. Hofheimer, Director, Center for Quality Health Care Services, Department of Health, 3600 West Broad Street, Suite 216, Richmond, VA 23230.

Contact: Paul E. Parker, Director, Certificate of Public Need, Center for Quality Health Care Services, Department of Health, 3600 W. Broad St., Suite 216, Richmond, VA 23230, telephone (804) 367-2126 or FAX (804) 367-2149.

STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA

† October 9, 1997 - 5 p.m. -- Open Meeting
The Omni Hotel, 100 South 12th Street, Richmond, Virginia.

A joint meeting with the Board of Education.

Contact: Pamela H. Landrum, Administrative Staff Assistant, State Council of Higher Education, James Monroe Bldg., 101 N. 14th St., 9th Floor, Richmond, VA 23219, telephone (804) 225-2602 or FAX (804) 371-7911 or (804) 371-8071/TDD ☎

† October 10, 1997 - 8 a.m. -- Open Meeting
State Council of Higher Education, James Monroe Building, 101 North 14th Street, Council Conference Room, Richmond, Virginia.

Regular committee and business meetings.

Contact: Pamela H. Landrum, Administrative Staff Assistant, State Council of Higher Education, James Monroe Bldg., 101 N. 14th St., 9th Floor, Richmond, VA 23219, telephone (804) 225-2602 or FAX (804) 371-7911 or (804) 371-8071/TDD ☎

HOPEWELL INDUSTRIAL SAFETY COUNCIL

October 7, 1997 - 9 a.m. -- Open Meeting
† November 4, 1997 - 9 a.m. -- Open Meeting
† December 2, 1997 - 9 a.m. -- Open Meeting
Hopewell Community Center, Second and City Point Road, Hopewell, Virginia. (Interpreter for the deaf provided upon request)

Local Emergency Preparedness Committee meeting on emergency preparedness as required by SARA Title III.

Contact: Robert Brown, Emergency Services Coordinator, 300 N. Main St., Hopewell, VA 23860, telephone (804) 541-2298.

STATEWIDE INDEPENDENT LIVING COUNCIL

† October 15, 1997 - 10 a.m. -- Open Meeting
Independence Resource Center, 815 Cherry Avenue, Charlottesville, Virginia. (Interpreter for the deaf provided upon request)

A meeting to conduct regular business.

Contact: Jim Rothrock, Statewide Independent Living Council Staff, 1802 Marriott Rd., Richmond, VA 23229, telephone (804) 673-0119, FAX (804) 282-7112, toll-free 1-800-552-5019/TDD☎ and Voice, or e-mail jarothrock@aol.com.

STATE BOARD OF JUVENILE JUSTICE

October 8, 1997 - 9 a.m. -- Open Meeting
November 12, 1997 - 9 a.m. -- Open Meeting
700 Centre Building, 700 East Franklin Street, 4th Floor, Richmond, Virginia.

The Secure Program Committee and the Nonsecure Program Committee will meet at 9 a.m. The full board will meet at 10 a.m. to consider certification issues, matters relating to regulations promulgated by the board, policy issues and other matters brought before it.

Contact: Donald R. Carignan, Policy Coordinator, Department of Juvenile Justice, 700 E. Franklin St., P.O. Box 1110, Richmond, VA 23219, telephone (804) 371-0743 or FAX (804) 371-0773.

DEPARTMENT OF LABOR AND INDUSTRY

Virginia Apprenticeship Council

October 1, 1997 - 9:30 a.m. -- Open Meeting
Department of Labor and Industry, 13 South 13th Street, 4th Floor Conference Room, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A subcommittee of the council will meet.

Contact: Fred T. Yontz, Apprenticeship Program Manager, Department of Labor and Industry, Powers-Taylor Bldg., 13 S. 13th St., Richmond, VA 23219, telephone (804) 371-0295, FAX (804) 786-8418 or (804) 786-2376/TDD ☎

Safety and Health Codes Board

September 29, 1997 - 10 a.m. -- Open Meeting
General Assembly Building, 910 Capitol Square, House Room C, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A regular meeting with tentative agenda items to include:

1. Emergency regulation, Boiler and Pressure Vessel Regulations, 16 VAC 25-50-60.

2. Abatement Verification, Part 1903.

3. Longshoring and Marine Terminals, Final Rules, Parts 1910, 1917 and 1918.

4. Air Contaminants, General Industry; Corrections, 16 VAC 25-90-1910.1000.

5. Regulatory review.

Contact: Regina P. Cobb, Agency Management Analyst Senior, Department of Labor and Industry, Powers-Taylor Bldg., 13 S. 13th St., Richmond, VA 23219, telephone (804) 786-0610, FAX (804) 786-8418, or (804) 786-2376/TDD ☎

COMMISSION ON LOCAL GOVERNMENT

† November 17, 1997 - 10 a.m. -- Open Meeting
General Assembly Building, 910 Capitol Square, Third Floor West Conference Room, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A regular meeting 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, Eighth Street Office Bldg., 805 E. Broad St., Room 702, Richmond, VA 23219-1924, telephone (804) 786-6508, FAX (804) 371-7999 or (804) 786-1860/TDD ☎

MARINE RESOURCES COMMISSION

October 28, 1997 - 9:30 a.m. -- Open Meeting
Marine Resources Commission, 2600 Washington Avenue, 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: LaVerne Lewis, Secretary to the Commission, Marine Resources Commission, P.O. Box 756, Newport News, VA 23607-0756, telephone (757) 247-2261, toll-free 1-800-541-4646 or (757) 247-2292/TDD☎

MATERNAL AND CHILD HEALTH COUNCIL

School Health Subcommittee

† October 7, 1997 - 10 a.m. -- Open Meeting
Tyler Building, 1200 East Main Street, 3rd Floor Conference Room, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A meeting to focus on improving the health of the Commonwealth's children and adolescents by promoting and improving programs and service delivery systems related to school health programs.

Contact: Nancy Ford, School Health Nurse Consultant, Department of Health, Division of Child and Adolescent Health, 1500 E. Main St., Suite 137, Richmond, VA 23219, telephone (804) 786-7367.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

October 17, 1997 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Medical Assistance Services intends to amend regulations entitled: **12 VAC 30-50-10 et seq. Amount, Duration, and Scope of Medical and Remedial Care and Services and 12 VAC 30-60-10 et seq. Standards Established and Methods Used to Assure High Quality Care.** The purpose of the proposed amendments is to make permanent the agency's temporary requirements regarding the prior authorization of all inpatient hospital services.

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

Public comments may be submitted until October 17, 1997, to Cindy Tyler, Division of Client Services, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219.

Contact: Victoria P. Simmons or Roberta Jonas, Regulatory Coordinators, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 371-8854 or FAX (804) 371-4981.

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October 17, 1997 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Medical Assistance Services intends to amend regulations entitled: **12 VAC 30-50-10 et seq. Amount, Duration, and Scope of Medical and Remedial Care and Services, 12 VAC 30-60-10 et seq. Standards Established and Methods Used to Assure High Quality Care, 12 VAC 30-120-10 et seq. Waivered Services, and 12 VAC 30-130-10 et seq. Amount Duration and Scope of Selected Services.** The purpose of the proposed amendments is to recommend changes to the permanent regulations controlling rehabilitation services, specifically community mental retardation services. The expansion of these services creates a payment source for the local community service boards in support of a wider range of mental services to Medicaid eligible persons, which draws on federal funding.

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

Public comments may be submitted until October 17, 1997, to Ann Cook, Division of Policy and Budget, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219.

Contact: Victoria P. Simmons or Roberta Jonas, Regulatory Coordinators, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7959 or FAX (804) 371-4981.

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October 17, 1997 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Medical Assistance Services intends to amend regulations entitled: **12 VAC 30-50-10 et seq. Amount, Duration, and Scope of Medical and Remedial Care and Services, 12 VAC 30-60-10 et seq. Standards Established and Methods Used to Assure High Quality Care, and 12 VAC 30130-10 et seq. Amount, Duration and Scope of Selected Services.** The purpose of this proposal is to recommend changes to the permanent regulations controlling rehabilitation services, i.e., community mental health and mental retardation services. The expansion of these services creates a payment source for the local community services boards, in support of a wider range of mental health services to Medicaid eligible persons, which draws on federal funding thereby reducing the demand for General Fund and local dollars. The purpose of this proposed regulation is to make permanent the provisions of the emergency regulations while also addressing issues raised by the Health Care Financing Administration in response to DMAS' State Plan amendment. A description of the expansion services follows:

1. Mental Health Intensive Community Treatment provides outpatient mental health services outside the traditional clinic setting. It is designed to bring services to individuals who will not or cannot be served in the clinic setting.

2. Mental Health Crisis Stabilization Services provide direct mental health care to individuals experiencing acute crisis of a psychiatric nature that may jeopardize their current community living situation. It will provide less medical mental health services independently of or in conjunction with Intensive Community Treatment.

3. Mental Health Support Services provide training and support services to enable individuals to achieve and maintain community stability and independence in the most appropriate, least restrictive environment.

Used singly or as a package, these services will provide comprehensive treatment and support services to persons with serious and persistent mental illness.

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

Public comments may be submitted until October 17, 1997, to Ann Cook, Division of Policy and Budget, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219.

Contact: Victoria P. Simmons or Roberta Jonas, Regulatory Coordinators, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7959 or FAX (804) 371-4981.

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October 17, 1997 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Medical Assistance Services intends to amend regulations entitled: **12 VAC 30-50-10 et seq. Amount, Duration, and Scope of Medical and Remedial Care and Services, 12 VAC 30-60-10 et seq. . Standards Established and Methods Used to Assure High Quality Care, and 12 VAC 30-80-10 et seq. Methods and Standards for Establishing Payment Rates; Other Types of Care.** The purpose of the proposed amendments is to establish policies for Medicaid coverage of licensed clinical psychologists, licensed clinical social workers and licensed professional counselors.

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

Public comments may be submitted until October 17, 1997, to Sally Rice, Program Operations, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219.

Contact: Victoria P. Simmons or Roberta Jonas, Regulatory Coordinators, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 371-8854 or FAX (804) 371-4981.

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October 17, 1997 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Medical Assistance Services intends to amend regulations entitled: **12 VAC 30-50-10 et seq. Amount, Duration, and Scope of Medical and Remedial Care and Services, 12 VAC 30-60-10 et seq. Standards Established and Methods Used to Assure High Quality Care, and 12 VAC 30-130-10 et seq. Amount, Duration and Scope of Selected Services.** The purpose of the proposed amendments is to provide for substance abuse treatment for pregnant women.

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

Public comments may be submitted until October 17, 1997, to Ann Cook, Division of Policy and Budget, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219.

Contact: Victoria P. Simmons or Roberta Jonas, Regulatory Coordinators, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7959 or FAX (804) 371-4981.

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October 31, 1997 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Medical Assistance Services intends to amend regulations entitled: **12 VAC 30-130-10 et seq. Amount, Duration and Scope of Selected Services.** The purpose of the proposed amendments is to improve program operations through modification of the current regulations for the Client medical Management Program by restricting specific recipients and providers who have demonstrated habits of overutilization services at excessive costs to Medicaid.

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

Contact: Victoria P. Simmons or Roberta J. Jonas, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 371-8854 or FAX (804) 371-4981.

BOARD OF MEDICINE

† October 16, 1997 - 8 a.m. -- Open Meeting
† October 17, 1997 - 8 a.m. -- Open Meeting
† October 18, 1997 - 8 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Board Rooms 1, 2, 3, and 4, Richmond, Virginia.
(Interpreter for the deaf provided upon request)

On October 16, a meeting to conduct general board business, receive committee and board reports and discuss any other items which may come before the board. On October 16, 17, and 18 the board will review reports, interview licensees, conduct administrative proceedings, and make decisions on disciplinary matters. The board will also review any regulations that may come before it. The board will entertain public comments during the first 15 minutes on agenda items.

Contact: Warren W. Koontz, M.D., Executive Director, Board of Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9960, FAX (804) 662-9943 or (804) 662-7197/TDD ☎

Credentials Committee

† October 18, 1997 - 8 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Board Rooms 3 and 4, Richmond, Virginia.
(Interpreter for the deaf provided upon request)

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 discuss any other items which may come before the committee. The committee will receive public comments of those persons appearing on behalf of candidates.

Contact: 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 ☎

STATE MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES BOARD

† October 6, 1997 - 1:30 p.m. -- Open Meeting
Department of Mental Health, Mental Retardation and Substance Abuse Services, Central Office, Madison Building, 109 Governor Street, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A regular meeting of the board to discuss business and policy and promulgate regulations. The agenda will include a public comment period and will be available approximately two weeks prior to the meeting.

Contact: Marlene Butler, State Board Secretary, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-7945 or FAX (804) 371-2308.

DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES

Pilot Leadership Team

† November 6, 1997 - 10:30 a.m. -- Open Meeting
Location to be announced.

A meeting to hear reports from the Priority Populations/Case Rate Funding Subcommittee, the Performance Outcome Measurement System Subcommittee, and the Consumer/Family Participation Subcommittee.

Contact: An-Li Hoban, Administrative Assistant, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-3921 or FAX (804) 371-0092.

DEPARTMENT OF MINES, MINERALS AND ENERGY

October 8, 1997 - 10 a.m. -- Public Hearing
Department of Mines, Minerals and Energy, Keen Mountain Office, Route 460, Keen Mountain, Virginia.

October 24, 1997 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Mines, Minerals and Energy intends to **amend** regulations entitled: **4 VAC 25-150-10 et seq. Virginia Gas and Oil Regulation.** The purpose of the proposed amendment is to oversee the permitting, operations, plugging, and site restoration of gas and oil exploration and development wells, gathering pipelines, and associated facilities.

Statutory Authority: §§ 45.1-361.27 and 45.1-161.3 of the Code of Virginia.

Contact: B. Thomas Fulmer, Division Director, Division of Gas and Oil, Department of Mines, Minerals and Energy, 230 Charwood Dr., P.O. Box 1416, Abingdon, VA 24212, telephone (540) 676-5423, FAX (540) 676-5459, or toll-free 1-800-828-1120 (VA Relay Center).

VIRGINIA MUSEUM OF FINE ARTS

Executive Committee

October 7, 1997 - 8 a.m. -- Open Meeting
Virginia Museum of Fine Arts, 2800 Grove Avenue, Conference Room, Richmond, Virginia.

A monthly briefing of current museum activities and upcoming events. Public comment will not be received.

Contact: Emily C. Robertson, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond, VA 23221-2466, telephone (804) 367-0553.

VIRGINIA MUSEUM OF NATURAL HISTORY

Development Committee

† October 2, 1997 - Noon -- Open Meeting
Shenandoah Club, 24 Franklin Road, Roanoke, Virginia.

A meeting to discuss development issues.

Contact: Rhonda J. Knighton, Administrative Staff Assistant, Virginia Museum of Natural History, 1001 Douglas Ave., Martinsville, VA 24112, telephone (540) 666-8616 or (540) 666-8638/TDD ☎

BOARD OF NURSING

† **October 9, 1997 - 10 a.m.** -- Open Meeting
Arlington Circuit Court, 425 North Courthouse Road, Suite 12100, 11th Floor, Courtroom B, Arlington, Virginia.
(Interpreter for the deaf provided upon request)

A meeting to conduct informal conferences with certified nurse aides. Public comment will not be received.

Contact: Nancy K. Durrett, R.N., Executive Director, Board of Nursing, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9909, FAX (804) 662-9512 or (804) 662-7197/TDD ☎

BOARD OF NURSING HOME ADMINISTRATORS

† **October 8, 1997 - 9 a.m.** -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia.

A general board meeting. Public comments will be heard for 15 minutes prior to the meeting. The board will conduct a formal hearing at 1 p.m. No public comment will be heard.

Contact: Senita Booker, Program Support Technician Senior, Board of Nursing Home Administrators, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9911, FAX (804) 662-9523, or (804) 662-7197/TDD ☎

Special Conference Committee

† **October 7, 1997 - 9 a.m.** -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia.

The committee will hold informal hearings. No public comment will be heard.

Contact: Senita Booker, Program Support Technician Senior, Board of Nursing Home Administrators, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9111, FAX (804) 662-9523 or (804) 662-7197/TDD ☎

BOARD FOR OPTICIANS

Ad Hoc Committee

† **October 30, 1997 - 10 a.m.** -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, 5th Floor, Richmond, Virginia.
(Interpreter for the deaf provided upon request)

A meeting to discuss regulatory review. All meetings are subject to cancellation. The time of the meeting is subject to change. Call the board's office at least 24 hours in advance. 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 interpretive services should contact the board at least 10 days prior to the meeting so that suitable arrangements can be made for appropriate accommodations. The department fully complies with the Americans with Disabilities Act.

Contact: Nancy Taylor Feldman, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590 or (804) 367-9753/TDD☎

VIRGINIA OUTDOORS FOUNDATION

Board of Trustees

† **October 1, 1997 - 10 a.m.** -- Open Meeting
State Capitol, Capitol Square, House Room 2, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A regular meeting to discuss foundation business, acceptance of conservation easements and related matters, and administration issues of the Open Space Lands Conservation Trust Fund. Public comment will be accepted periodically throughout the meeting.

Contact: Tamara A. Vance, Executive Director, Virginia Outdoors Foundation, 203 Governor St., Room 317, Richmond, VA 23219, telephone (804) 786-8845 or FAX (804) 371-4810.

BOARD OF PHARMACY

† **October 8, 1997 - 9 a.m.** -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 4, Richmond, Virginia.
(Interpreter for the deaf provided upon request)

† **November 13, 1997 - 9 a.m.** -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 1, Richmond, Virginia.
(Interpreter for the deaf provided upon request)

Informal conferences. Public comment will not be received.

Contact: Elizabeth Scott Russell, Executive Director, Board of Pharmacy, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9911 or FAX (804) 662-9313.

† **October 9, 1997 - 9 a.m.** -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia.

A general business meeting. The board may review or take action on draft proposed regulations subsequent to Executive Order 15 (94). Public comments will be received at the beginning of the meeting.

Contact: Elizabeth Scott Russell, Executive Director, Board of Pharmacy, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9911 or FAX (804) 662-9313.

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November 14, 1997 - 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 Pharmacy intends to consider amending regulations entitled: **18 VAC 110-20-10 et seq. Regulations Governing the Practice of Pharmacy.** The purpose of the proposed amendments is to amend the requirements on mechanical devices to accommodate the utilization of automated dispensing devices. Amendments address the loading, checking, recordkeeping, and administration of drugs from these devices and are intended to ensure drug safety and efficacy.

Statutory Authority: § 54.1-2400 and Chapters 33 and 34 of Title 54.1 of the Code of Virginia.

Contact: Elizabeth Scott Russell, R.Ph., Executive Director, Board of Pharmacy, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9911 or FAX (804) 662-9943.

BOARD OF LICENSED PROFESSIONAL COUNSELORS, MARRIAGE AND FAMILY THERAPISTS AND SUBSTANCE ABUSE TREATMENT PROFESSIONALS

† November 21, 1997- 10 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia.

A regular meeting of the board to conduct general board business, consider committee reports, correspondence and any other matters under the jurisdiction of the board. Regulatory review will include the adoption of amendments to the Regulations Governing the Practice of Professional Counseling pursuant to Executive Order 15 (94). Public comments will be heard at the beginning of the meeting.

Contact: Evelyn Brown, Executive Director, or Joyce Williams, Administrative Assistant, Board of Licensed Professional Counselors, Marriage and Family Therapists and Substance Abuse Treatment Professionals, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9912 or FAX (804) 662-9943.

Credentials Committee

† November 21, 1997 - 8:30 a.m. – Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia.

A meeting to review credentials. Public comments will not be heard.

Contact: Evelyn Brown, Executive Director, or Joyce Williams, Administrative Assistant, Board of Licensed Professional Counselors, Marriage and Family Therapists and Substance Abuse Treatment Professionals, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9912 or FAX (804) 662-9943.

Regulatory Committee

† October 2, 1997- 11 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 4, Richmond, Virginia.

A meeting to review proposed amendments to the Regulations Governing the Practice of Professional Counselors pursuant to Executive Order 15 (94) and to discuss the need for amendments to the Regulations Governing the Practice of Marriage and Family Therapy.

Contact: Janet Delorme, Deputy Executive Director, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9575, FAX (804) 662-9943 or (804) 662-7197/TDD ☎.

BOARD FOR PROFESSIONAL SOIL SCIENTISTS

October 30, 1997 - 10 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia.

A regularly scheduled meeting of the board to address policy and procedural issues and other business matters which may require board action. The meeting is open to the public; however, a portion of the meeting may be discussed in executive session. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department so that suitable arrangements can be made. The board fully complies with the Americans with Disabilities Act.

Contact: Geralde W. Morgan, Senior Administrator, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-2785 or (804) 367-9753/TDD ☎

BOARD OF PSYCHOLOGY

Request for Proposal (RFP) Committee

† October 2, 1997 - 9 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 3, Richmond, Virginia.

A meeting to review examination contracts. Public comment may be taken at the beginning of the meeting. Review of contracts will be held in Executive Session.

Contact: La Donna Duncan, Administrative Assistant, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9913 or FAX (804) 662-9943.

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October 23, 1997 - 10 a.m. -- Public Hearing
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia.

November 14, 1997 - 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 Psychology intends to consider amending regulations entitled: **18 VAC 125-20-10 et seq. Regulations Governing the Practice of Psychology.** The purpose of the proposed amendments is to increase fees for licensure renewal in compliance with § 54.1-113 of the Code of Virginia which requires that the board collect fees sufficient to cover the expenses of administering the licensure program.

Statutory Authority: § 54.1-2400 and Chapter 36 of Title 54.1 of the Code of Virginia.

Contact: Janet Delorme, Deputy Executive Director, Board of Psychology, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9575 or FAX (804) 662-9943.

VIRGINIA RACING COMMISSION

October 17, 1997 - 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 Virginia Racing Commission intends to **amend** regulations entitled: **11 VAC 10-130-10 et seq. Virginia Breeders Fund.** The purpose of the amendment is to establish the operating procedures for the distribution of awards and incentives from the Virginia Breeders Fund to horse owners and breeders of racehorses.

Statutory Authority: § 59.1-369 of the Code of Virginia.

Contact: William H. Anderson, Policy Analyst, Virginia Racing Commission, 10700 Horsemen's Rd., New Kent, VA 23124, telephone (804) 966-4200.

REAL ESTATE APPRAISER BOARD

† November 18, 1997 - 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: 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 ☎

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† November 18, 1997 - 2 p.m. -- Public Hearing
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Real Estate Appraiser Board intends to amend regulations entitled: **18 VAC 130-20-10 et seq. Real Estate Appraiser Board Regulations.** The purpose of the proposed amendments is to comply with the federally mandated Appraiser Qualifications Board Qualification Criteria effective January 1, 1998, and to implement less burdensome alternatives.

Statutory Authority: § 54.1-2013 of the Code of Virginia.

Contact: Karen W. O'Neal, Assistant Director, Real Estate Appraiser Board, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-0500.

VIRGINIA RESOURCES AUTHORITY

† October 14, 1997 - 9:30 a.m. -- Open Meeting
† November 11, 1997 - 9:30 a.m. -- Open Meeting
† December 9, 1997 - 9:30 a.m. -- Open Meeting
The Mutual Building, 909 East Main Street, Suite 700, Richmond, Virginia.

A meeting to approve minutes of the meeting of the prior month, to review the authority's operations for the prior month, and to consider other matters and take other actions as the authority 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., Executive Director, Virginia Resources Authority, P.O. Box 1300, Richmond, VA 23218, telephone (804) 644-3100 or FAX (804) 644-3109.

STATE BOARD OF SOCIAL SERVICES

† October 15, 1997 - 9 a.m. -- Open Meeting
† October 16, 1997 - 9 a.m. -- Open Meeting (if necessary)
Department of Social Services, Western Regional Office, 190 Patton Street, Abingdon, Virginia.

A work session and business meeting.

Contact: Pat Rengnerth, Administrative Staff Specialist, Department of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1826, FAX (804) 692-1949, toll-free 1-800-552-3431, or toll-free 1-800-552-7096/TDD ☎

BOARD OF SOCIAL WORK

† October 24, 1997 - 9 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia.

A regular business meeting to receive committee reports and adopt proposed amendments to the regulations pursuant to Executive Order 15 (94). Public comment will be received at the beginning of the meeting.

Contact: Janet Delorme, Deputy Executive Director, Board of Social Work, 6606 W. Broad St., Richmond, VA 23230-1717, telephone (804) 662-9575, FAX (804) 662-9943, or (804) 662-7197/TDD ☎

Regulatory/Legislative Committee

† October 24, 1997 - 8:15 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia.

A meeting to discuss recommendations for amendments to definitions of practice in the statutes pertaining to social work and clinical social work practice. Public comment will be received at the beginning of the meeting.

Contact: Janet Delorme, Deputy Executive Director, Board of Social Work, 6606 W. Broad St., Richmond, VA 23230-1717, telephone (804) 662-9575, FAX (804) 662-9943, or (804) 662-7197/TDD ☎

COMMONWEALTH TRANSPORTATION BOARD

† October 15, 1997 - 2 p.m. -- Open Meeting
Natural Bridge Hotel, Natural Bridge, Virginia. (Interpreter for the deaf provided upon request)

A monthly meeting of the board to vote on proposals presented regarding bids, permits, additions and deletions to the highway system, and any other matters requiring board approval. Public comment will be received at the outset of the meeting on items on the meeting agenda for which the opportunity for public comment has not been afforded 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 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

October 15, 1997 - 9 a.m. -- Open Meeting
James Monroe Building, 101 North 14th Street, Treasury Board Room, 3rd Floor, Richmond, Virginia.

A regular business meeting.

Contact: Gloria J. Hatchel, Administrative Assistant, Department of the Treasury, James Monroe Bldg., 101 N. 14th St., Richmond, VA 23219, telephone (804) 371-6011.

BOARD OF VETERINARY MEDICINE

† October 6, 1997 - 9 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 4, Richmond, Virginia. (Interpreter for the deaf provided upon request)

Informal conferences. Public comment will not be received.

Contact: Terri H. Behr, Administrative Assistant, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9915 or (804) 662-7197/TDD ☎

DEPARTMENT FOR THE VISUALLY HANDICAPPED (BOARD FOR)

October 22, 1997 - 1:30 p.m. -- Open Meeting
Department for the Visually Handicapped, Administrative Headquarters, 397 Azalea Avenue, Richmond, Virginia. (Interpreter for the deaf provided upon request)

The board is responsible for advising the Governor, the Secretary of Health and Human Resources, the Commissioner, and the General Assembly on the delivery of public services to the blind and the protection of their rights. The board also reviews and comments on policies, budgets and requests for appropriations for the department. At this regular quarterly meeting, the board

members will receive information regarding department activities and operations, review expenditures from the board's institutional fund, and discuss other issues raised by board members.

Contact: Katherine C. Proffitt, Executive Secretary Senior, Department for the Visually Handicapped, 397 Azalea Ave., Richmond, VA 23227, telephone (804) 371-3140, toll-free 1-800-622-2155, or (804) 371-3140/TDD ☎

STATE WATER CONTROL BOARD

October 17, 1997 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to amend regulations entitled: **9 VAC 25-260-10 et seq. Water Quality Standards.** The purpose of the proposed amendment is to establish a site-specific ammonia standard for Sandy Bottom Branch.

Statutory Authority: §§ 62.1-44.15(3a) and 62.1-44.15(10) of the Code of Virginia.

Contact: Alex Barron, Environmental Program Analyst, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4119 or FAX (804) 698-4522.

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October 15, 1997 - 6 p.m. -- Public Hearing
James City County Board of Supervisors Room, 101-C Mounts Bay Road, Building C, Williamsburg, Virginia.

October 16, 1997 - 6 p.m. -- Public Hearing
Roanoke County Administrative Center, 5404 Bernard Drive, Roanoke, Virginia.

October 24, 1997 - 6 p.m. -- Public Hearing
James J. McCoart Administration Building, 1 County Complex Court, 4850 Davis Ford Road, Board Chambers, Prince William, Virginia.

November 17, 1997 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to consider **repealing** regulations entitled: **9 VAC 25-90-10 et seq. Oil Discharge Contingency Plans and Administrative Fees for Approval, 9 VAC 25-140-10 et seq. Aboveground Storage Tank Pollution Prevention Requirements, 9 VAC 25-130-10 et seq. Facility and Aboveground Storage Tank Registration Requirements,** and **adopting** regulations entitled: **9 VAC 25-91-10 et seq. Facility and Aboveground Storage Tank (AST) Regulations.** The purpose of the proposed regulation is to replace three existing AST regulations. It has been drafted to eliminate duplicate inconsistencies and ambiguities between the three regulations and to provide additional information for regulated facilities in requesting regulatory variances.

Statutory Authority: §§ 62.1-44.2, 62.1-44.15 (10), 62.1-44.34:15, 62.1-44.34:15.1, and 62.1-44.34:19.1 of the Code of Virginia.

Contact: L. Samuel Lillard, AST Program Manager, Department of Environmental Quality, 629 E. Main St., Richmond, VA 23219, telephone (804) 698-4276 or FAX (804) 698-4266.

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October 15, 1997 - 6 p.m. -- Public Hearing
James City County Board of Supervisors Room, 101-C Mounts Bay Road, Building C, Williamsburg, Virginia.

October 16, 1997 - 6 p.m. -- Public Hearing
Roanoke County Administrative Center, 5404 Bernard Drive, Roanoke, Virginia.

October 24, 1997 - 6 p.m. -- Public Hearing
James J. McCoart Administration Building, 1 County Complex Court, 4850 Davis Ford Road, Board Chambers, Prince William, Virginia.

November 17, 1997 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to consider **repealing** regulations entitled: **9 VAC 25-100-10 et seq. Tank Vessel Financial Responsibility and Administrative Fees for Approval** and **adopting** regulations entitled: **9 VAC 25-101-10 et seq. Tank Vessel Oil Discharge Contingency Plans and Financial Responsibility Regulation.** The purpose of the proposed action is to repeal this regulation and incorporate necessary provisions into a new regulation for tank vessels transferring or transporting oil upon state waters which combines the necessary requirements of two existing tank vessel regulations.

Statutory Authority: §§ 62.1-44.15 (10), 62.1-44.34:16 and 62.1-44.34:21 of the Code of Virginia.

Contact: Janet C. Queisser, Tank Vessel Program Manager, Department of Environmental Quality, 629 E. Main St., Richmond, VA 23219, telephone (804) 698-4268 or FAX (804) 698-4266.

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October 21, 1997 - 2 p.m. -- Public Hearing
Department of Environmental Quality, 629 East Main Street, Richmond, Virginia.

November 17, 1997 - 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 State Water Control Board intends to amend regulations entitled: **9 VAC 25-120-10 et seq. General Virginia Pollutant Discharge Elimination System (VPDES) Permit for Discharges from Petroleum Contaminated Sites.** The proposed general permit will regulate discharges of wastewaters from sites contaminated by petroleum products. This general permit will replace the Corrective Action Plan general permit, VAG000002, which expires February 24, 1998.

Question and Answer Period: A question and answer period will be held one half hour prior to the public hearing at the same location. Interested citizens will have an opportunity to ask questions pertaining to the proposal at that time.

Request for Comments: The board is seeking comments from interested persons on the proposed general permit regulation, as well as comments regarding the costs and benefits of the proposal or any other alternatives.

Localities Affected: The regulation will be applicable statewide and will not affect any one locality disproportionately.

Comparison with Statutory Mandates: The proposed general permit regulation does not exceed the specific minimum requirements of any legally binding state or federal mandate.

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

Contact: Richard Ayers, Technical Services Administrator, Department of Environmental Quality, P. O. Box 10009, Richmond, VA 23240, telephone (804) 698-4075 or FAX (804) 698-4032.

BOARD FOR WATERWORKS AND WASTEWATER WORKS OPERATORS

October 9, 1997 - 8:30 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Richmond, Virginia.

A meeting to discuss regulatory review and other requiring board action, including disciplinary cases. All meetings are subject to cancellation. Time of the meeting is subject to change. Call the board office at least 24 hours in advance. 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 department so that suitable arrangements can be made. The board 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 or (804) 367-9753/TDD ☎

LEGISLATIVE

ADMINISTRATIVE LAW ADVISORY COMMITTEE

November 12, 1997 - 11 a.m. -- Open Meeting
State Capitol, Capitol Square, House Room 2, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A general business meeting to discuss progress of the committee's studies.

Contact: Lyn Hammond Coughlin, Program Coordinator, Administrative Law Advisory Committee, General Assembly Bldg., 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591 or FAX (804) 692-0625.

VIRGINIA CODE COMMISSION

October 29, 1997 - 10 a.m. -- Open Meeting
December 11, 1997 - 10 a.m. -- Open Meeting
General Assembly Building, 910 Capitol Street, 6th Floor, Speaker's Conference Room, Richmond, Virginia.

A meeting to review Titles 14.1 (Costs, Fees, Salaries and Allowances) and 17 (Courts of Record) of the Code of Virginia for recodification.

Contact: Jane D. Chaffin, Deputy Registrar, General Assembly Bldg., 2nd Floor, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591, FAX (804) 692-0625 or e-mail jchaffin@leg.state.va.us.

JOINT LEGISLATIVE AUDIT AND REVIEW COMMISSION

† October 14, 1997 - 9:30 a.m. -- Open Meeting
General Assembly Building, 910 Capitol Square, Senate Room A, Richmond, Virginia.

Staff briefings on the Comprehensive Services Act, Nonsecurity Staffing Needs, and Year 2000 Compliance of State Computer Program.

Contact: Phillip A. Leone, Director, Joint Legislative Audit and Review Commission, General Assembly Building, 910 Capitol St., Suite 1100, Richmond, VA 23219, telephone (804) 786-1258.

COMMISSION ON THE COMMONWEALTH'S PLANNING AND BUDGETING PROCESS

† October 15, 1997 - 10 a.m. – Open Meeting
General Assembly Building, 910 Capitol Square, Senate Room B, Richmond, Virginia.

A regular meeting (SJR 350, 1997). Individuals requiring interpreter services or other accommodations should telephone Senate Committee Operations at (804) 786-5742 or (804) 225-4749/TDD or write to Senate Committee Operations, P.O. Box 396, Richmond, VA 23218 at least 10 days prior to the meeting.

Contact: Patricia J. Lung, Senate Committee Operations, P.O. Box 396, Richmond, VA 23218, telephone (804) 786-4638.

CHRONOLOGICAL LIST

OPEN MEETINGS

September 29
Alcoholic Beverage Control Board
Conservation and Recreation, Department of
Labor and Industry, Department of
- Safety and Health Codes Board
- Board of Trustees

September 30
Agriculture and Consumer Services, Board of

October 1
† Air Pollution Control Board, State
Air Pollution, State Advisory Board on
Labor and Industry, Department of
- Apprenticeship Council Subcommittee
† Outdoors Foundation, Virginia
- Board of Trustees

October 2
† Conservation and Recreation, Department of
- Falls of the James Scenic River Advisory Board
† Museum of Natural History, Virginia
- Development Committee
† Professional Counselors, Marriage and Family Therapists and Substance Abuse Treatment Professionals, Board of Licensed
- Regulatory Committee
† Psychology, Board of
- Request for Proposal (RFP) Committee

October 6
Barbers, Board for
Conservation and Recreation, Department of
† Mental Health, Mental Retardation and Substance Abuse Services, State Board of
† Veterinary Medicine, Board of

October 7
† Aging, Governor's Advisory Board on
† Architects, Professional Engineers, Land Surveyors and Landscape Architects, Board of
† At Risk Youth and Their Families, Comprehensive Services for
- State Management Team
Hopewell Industrial Safety Council
† Maternal and Child Health Council
- School Health Subcommittee
Museum of Fine Arts, Virginia
- Executive Committee
† Nursing Home Administrators, Board of

October 8
† Aging, Governor's Advisory Board on
† Conservation and Recreation, Board of
Contractors, Board for
Juvenile Justice, State Board of
† Nursing Home Administrators, Board of
† Pharmacy, Board of

October 9
† Child Day-Care Council
† Higher Education, State Council of
† Nursing, Board of
† Pharmacy, Board of
Waterworks and Wastewater Works Operators, Board for

October 10
† Agriculture and Consumer Services, Department of
- Virginia Egg Board
† Education, Board of
† Higher Education, State Council of

October 14
† Chesapeake Bay Local Assistance Board
- Northern Area Review Committee
- Southern Area Review Committee
Disability Services Council
† Economic Development Partnership
- Virginia Tourism Corporation
† Environmental Quality, Department of
† Legislative Audit and Review Commission, Joint
† Resources Authority, Virginia

October 15
Alcoholic Beverage Control Board
Asbestos and Lead, Virginia Board for
Conservation and Recreation, Department of
- Fall River Renaissance Committee
† Independent Living Council, Statewide
† Planning and Budgeting Process, Commission on the Commonwealth's
† Social Services, State Board of
† Transportation Board, Commonwealth
Treasury Board

October 16
Agriculture and Consumer Services, Department of
- Pesticide Control Board

† Architects, Professional Engineers, Land Surveyors and Landscape Architects, Board of
† Medicine, Board of

October 17
General Services, Department of
- Design-Building/Construction Management Review Board
† Medicine, Board of

October 18
† Medicine, Board of
- Credentials Committee

October 20
Accountancy, Board for
† Forestry, Board of

October 21
Accountancy, Board for
† Forestry, Board of

October 22
Contractors, Board for
- Disciplinary Board
Visually Handicapped, Board for the

October 23
Fire Services Board, Virginia
- Fire Prevention and Control Committee
- Fire/EMS Education and Training Committee
- Legislative/Liaison Committee
Game and Inland Fisheries, Board of

October 24
Fire Services Board, Virginia
Game and Inland Fisheries, Board of
† Social Work, Board of
- Regulatory/Legislative Committee

October 27
Alcoholic Beverage Control Board

October 28
† Aviation Board, Virginia
Marine Resources Commission

October 29
Agriculture and Consumer Services, Department of
- Virginia Winegrowers Advisory Board
† Aviation Board, Virginia
Code Commission, Virginia
† Environmental Quality, Department of

October 30
† Environmental Quality, Department of
† Opticians, Board for
Soil Scientists, Board for Professional

November 4
† Hopewell Industrial Safety Council

November 5
Deaf and Hard-of-Hearing, Department for the
- Advisory Board

November 6
† Mental Health, Mental Retardation and Substance Abuse Services, Department of
- Pilot Leadership Team

November 11
† Resources Authority, Virginia

November 12
Administrative Law Advisory Committee
Juvenile Justice, State Board of

November 13
† Pharmacy, Board of

November 17
† Local Government, Commission on

November 18
† Real Estate Appraiser Board

November 21
General Services, Department of
- Design-Build/Construction Management Review Board
† Professional Counselors, Marriage and Family Therapists and Substance Abuse Treatment Professionals, Board of Licensed

November 24
† Cosmetology, Board for

December 2
† Hopewell Industrial Safety Council

December 3
† Fire Services Board, Virginia
- Sprinkler Committee/Code Change Committee

December 4
† Fire Services Board, Virginia
- Fire Prevention and Control Committee
- Fire/EMS Education and Training Committee
- Legislative/Liaison Committee

December 5
† Fire Services Board, Virginia

December 9
† Resources Authority, Virginia

December 11
Code Commission, Virginia

PUBLIC HEARINGS

October 8
Mines, Minerals and Energy, Department of

October 10
† Education, Board of

October 14
Criminal Justice Services Board

October 15
State Water Control Board

October 16
State Water Control Board

October 21
State Water Control Board

October 23
Psychology, Board of

October 24
State Water Control Board

November 5
Criminal Justice Services Board

November 13
Audiology and Speech-Language Pathology, Board of
† Education, Board of

November 17
† Education, Board of

November 18
† Child Day-Care Council
† Real Estate Appraiser Board

November 19
† Child Day-Care Council

November 20
† Child Day-Care Council

November 24
† Child Day-Care Council

November 25
† Child Day-Care Council

December 11
Agriculture and Consumer Services, Board of