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CUMULATIVE TABLE OF VIRGINIA ADMINISTRATIVE CODE SECTIONS ADOPTED, AMENDED, OR REPEALED

The table printed below lists regulation sections, by Virginia Administrative Code (VAC) title, that have been amended, added or repealed in the *Virginia Register* since the regulations were originally published or last supplemented in VAC (the Fall 2000 VAC Supplement includes final regulations published through *Virginia Register* Volume 16, Issue 24, dated August 14, 2000). Emergency regulations, if any, are listed, followed by the designation "emer," and errata pertaining to final regulations are listed. Proposed regulations are not listed here. The table lists the sections in numerical order and shows action taken, the volume, issue and page number where the section appeared, and the effective date of the section.

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
Title 4. Conservation and Natural Resources			
4 VAC 15-20-50	Amended	17:6 VA.R. 919	1/1/01
4 VAC 15-20-130	Amended	17:6 VA.R. 920	1/1/01
4 VAC 15-30-40	Amended	17:6 VA.R. 921	1/1/01
4 VAC 15-250-30	Amended	17:6 VA.R. 923	1/1/01
4 VAC 15-320-30	Amended	17:6 VA.R. 924	1/1/01
4 VAC 15-320-100	Amended	17:6 VA.R. 925	1/1/01
4 VAC 15-320-120	Amended	17:6 VA.R. 925	1/1/01
4 VAC 15-320-170	Added	17:6 VA.R. 925	1/1/01
4 VAC 15-330-30	Amended	17:6 VA.R. 926	1/1/01
4 VAC 15-330-50	Amended	17:6 VA.R. 926	1/1/01
4 VAC 15-330-60	Amended	17:6 VA.R. 926	1/1/01
4 VAC 15-330-100	Amended	17:6 VA.R. 926	1/1/01
4 VAC 15-330-120	Amended	17:6 VA.R. 926	1/1/01
4 VAC 15-330-160	Amended	17:6 VA.R. 927	1/1/01
4 VAC 15-330-190	Amended	17:6 VA.R. 927	1/1/01
4 VAC 15-360-10	Amended	17:6 VA.R. 928	1/1/01
4 VAC 15-360-60	Amended	17:6 VA.R. 928	1/1/01
4 VAC 20-110-10	Amended	17:5 VA.R. 698	10/30/00
4 VAC 20-110-15	Added	17:5 VA.R. 698	10/30/00
4 VAC 20-110-20 through 4 VAC 20-110-50	Amended	17:5 VA.R. 698	10/30/00
4 VAC 20-110-55	Added	17:5 VA.R. 699	10/30/00
4 VAC 20-110-60	Amended	17:5 VA.R. 699	10/30/00
4 VAC 20-110-65	Added	17:5 VA.R. 699	10/30/00
4 VAC 20-252-30	Amended	17:5 VA.R. 699	10/30/00
4 VAC 20-337-10 through 4 VAC 20-337-30	Added	17:5 VA.R. 700-702	11/1/00
4 VAC 20-490-20	Amended	17:3 VA.R. 386	10/15/00
4 VAC 20-490-40	Amended	17:3 VA.R. 387	10/15/00
4 VAC 20-490-60	Amended	17:3 VA.R. 387	10/15/00
4 VAC 20-540-30	Amended	17:5 VA.R. 702	1/1/01
4 VAC 20-540-40	Amended	17:5 VA.R. 702	1/1/01
4 VAC 20-620-40	Amended	17:5 VA.R. 703	10/30/00
4 VAC 20-720-20	Amended	17:3 VA.R. 387	10/1/00
4 VAC 20-720-40	Amended	17:3 VA.R. 388	10/1/00
4 VAC 20-720-50	Amended	17:3 VA.R. 388	10/1/00
4 VAC 20-720-60	Amended	17:3 VA.R. 389	10/1/00
4 VAC 20-720-70	Amended	17:3 VA.R. 389	10/1/00
4 VAC 20-720-80	Amended	17:3 VA.R. 390	10/1/00
4 VAC 20-754-30	Amended	17:3 VA.R. 393	10/1/00
4 VAC 20-755-10	Amended	17:5 VA.R. 704	10/30/00
4 VAC 20-755-20	Amended	17:5 VA.R. 704	10/30/00
4 VAC 20-755-30	Amended	17:5 VA.R. 704	10/30/00
4 VAC 20-890-20	Amended	16:25 VA.R. 3227	10/1/00
4 VAC 20-890-25	Amended	17:1 VA.R. 62	9/21/00
4 VAC 20-890-30	Amended	17:1 VA.R. 62	9/21/00

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
4 VAC 20-890-40	Amended	16:25 VA.R. 3227	10/1/00
4 VAC 20-900-10 emer	Amended	16:25 VA.R. 3330	7/28/00-8/24/00
4 VAC 20-900-25	Amended	17:1 VA.R. 63	9/1/00
4 VAC 20-900-25 emer	Amended	16:25 VA.R. 3330	7/28/00-8/24/00
4 VAC 20-900-25 emer	Amended	17:5 VA.R. 832	10/20/00-11/19/00
4 VAC 20-910-45	Amended	17:3 VA.R. 393	11/1/00
4 VAC 20-950-10	Amended	17:3 VA.R. 394	10/1/00
4 VAC 20-950-45	Amended	17:3 VA.R. 394	10/1/00
4 VAC 20-995-20	Amended	17:5 VA.R. 705	10/30/00
4 VAC 20-995-30	Amended	17:5 VA.R. 706	10/30/00
4 VAC 25-30 (Forms)	Amended	17:4 VA.R. 613	--
4 VAC 25-40 (Forms)	Amended	17:4 VA.R. 613	--
4 VAC 25-90 (Forms)	Amended	17:4 VA.R. 613	--
4 VAC 25-100 (Forms)	Amended	17:4 VA.R. 613	--
4 VAC 25-130 (Forms)	Amended	17:4 VA.R. 614	--
Title 6. Criminal Justice and Corrections			
6 VAC 20-190-10 through 6 VAC 20-190-200	Amended	17:3 VA.R. 395-398	11/23/00
Title 8. Education			
8 VAC 20-80-10	Amended	17:5 VA.R. 707	1/1/01
8 VAC 20-80-20	Repealed	17:5 VA.R. 717	1/1/01
8 VAC 20-80-30	Amended	17:5 VA.R. 717	1/1/01
8 VAC 20-80-40	Amended	17:5 VA.R. 721	1/1/01
8 VAC 20-80-45	Added	17:5 VA.R. 722	1/1/01
8 VAC 20-80-50	Amended	17:5 VA.R. 725	1/1/01
8 VAC 20-80-52	Added	17:5 VA.R. 727	1/1/01
8 VAC 20-80-54	Added	17:5 VA.R. 728	1/1/01
8 VAC 20-80-56	Added	17:5 VA.R. 731	1/1/01
8 VAC 20-80-58	Added	17:5 VA.R. 735	1/1/01
8 VAC 20-80-60	Amended	17:5 VA.R. 736	1/1/01
8 VAC 20-80-62	Added	17:5 VA.R. 738	1/1/01
8 VAC 20-80-64	Added	17:5 VA.R. 746	1/1/01
8 VAC 20-80-65	Added	17:5 VA.R. 748	1/1/01
8 VAC 20-80-66	Added	17:5 VA.R. 748	1/1/01
8 VAC 20-80-68	Added	17:5 VA.R. 752	1/1/01
8 VAC 20-80-70	Amended	17:5 VA.R. 756	1/1/01
8 VAC 20-80-72	Added	17:5 VA.R. 765	1/1/01
8 VAC 20-80-74	Added	17:5 VA.R. 767	1/1/01
8 VAC 20-80-76	Added	17:5 VA.R. 768	1/1/01
8 VAC 20-80-78	Added	17:5 VA.R. 776	1/1/01
8 VAC 20-80-80 through 8 VAC 20-80-150	Amended	17:5 VA.R. 778-786	1/1/01
8 VAC 20-80-152	Added	17:5 VA.R. 786	1/1/01
8 VAC 20-80-155	Added	17:5 VA.R. 787	1/1/01
8 VAC 20-80-160	Amended	17:5 VA.R. 787	1/1/01
8 VAC 20-80-170	Repealed	17:5 VA.R. 788	1/1/01
8 VAC 20-80-180	Repealed	17:5 VA.R. 789	1/1/01
8 VAC 20-80-190	Amended	17:5 VA.R. 790	1/1/01
8 VAC 20-80-200	Repealed	17:5 VA.R. 790	1/1/01
8 VAC 20-131-10 through 8 VAC 20-131-150	Amended	16:25 VA.R. 3228-3237	9/28/00
8 VAC 20-131-170	Amended	16:25 VA.R. 3237	9/28/00
8 VAC 20-131-180	Amended	16:25 VA.R. 3237	9/28/00
8 VAC 20-131-210	Amended	16:25 VA.R. 3238	9/28/00
8 VAC 20-131-220	Amended	16:25 VA.R. 3239	9/28/00
8 VAC 20-131-240	Amended	16:25 VA.R. 3239	9/28/00
8 VAC 20-131-250	Repealed	16:25 VA.R. 3240	9/28/00
8 VAC 20-131-260 through 8 VAC 20-131-320	Amended	16:25 VA.R. 3240-3249	9/28/00
8 VAC 20-131-325	Added	16:25 VA.R. 3249	9/28/00

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
8 VAC 20-131-340	Amended	16:25 VA.R. 3250	9/28/00
8 VAC 20-570-10 et seq.	Repealed	17:5 VA.R. 706	1/1/01
Title 9. Environment			
9 VAC 5-10-20*	Amended	16:17 VA.R. 2135	*
9 VAC 5-20-180*	Amended	16:17 VA.R. 2142	*
9 VAC 5-40-10*	Amended	16:17 VA.R. 2144	*
9 VAC 5-40-20*	Amended	16:17 VA.R. 2145	*
9 VAC 5-40-30*	Amended	16:17 VA.R. 2149	*
9 VAC 5-40-40*	Amended	16:17 VA.R. 2150	*
9 VAC 5-40-50*	Amended	16:17 VA.R. 2151	*
9 VAC 5-50-10*	Amended	16:17 VA.R. 2152	*
9 VAC 5-50-20*	Amended	16:17 VA.R. 2152	*
9 VAC 5-50-30*	Amended	16:17 VA.R. 2155	*
9 VAC 5-50-40*	Amended	16:17 VA.R. 2156	*
9 VAC 5-50-50*	Amended	16:17 VA.R. 2157	*
9 VAC 5-60-10*	Amended	16:17 VA.R. 2158	*
9 VAC 5-60-20*	Amended	16:17 VA.R. 2158	*
9 VAC 5-60-30*	Amended	16:17 VA.R. 2159	*
9 VAC 5-60-120 through 9 VAC 5-60-180	Added	17:4 VA.R. 585	1/1/01
9 VAC 5-60-150	Amended	17:4 VA.R. 585	1/1/01
9 VAC 5-80-50 through 9 VAC 5-80-120	Amended	17:4 VA.R. 585	1/1/01
9 VAC 5-80-180 through 9 VAC 5-80-300	Amended	17:4 VA.R. 585	1/1/01
9 VAC 5-80-305	Repealed	17:4 VA.R. 585	1/1/01
9 VAC 5-80-310 through 9 VAC 5-80-350	Amended	17:4 VA.R. 585	1/1/01
9 VAC 5-80-355	Repealed	17:4 VA.R. 585	1/1/01
9 VAC 5-80-360 through 9 VAC 5-80-380	Amended	17:4 VA.R. 585	1/1/01
9 VAC 5-80-400 through 9 VAC 5-80-460	Amended	17:4 VA.R. 585	1/1/01
9 VAC 5-80-480	Amended	17:4 VA.R. 585	1/1/01
9 VAC 5-80-490	Amended	17:4 VA.R. 585	1/1/01
9 VAC 5-80-510	Amended	17:4 VA.R. 585	1/1/01
9 VAC 5-80-540 through 9 VAC 5-80-570	Amended	17:4 VA.R. 585	1/1/01
9 VAC 5-80-610	Amended	17:4 VA.R. 585	1/1/01
9 VAC 5-80-620	Amended	17:4 VA.R. 585	1/1/01
9 VAC 5-80-650	Amended	17:4 VA.R. 585	1/1/01
9 VAC 5-80-660	Amended	17:4 VA.R. 585	1/1/01
9 VAC 5-80-680	Amended	17:4 VA.R. 585	1/1/01
9 VAC 5-80-700	Amended	17:4 VA.R. 585	1/1/01
9 VAC 5-80-705	Repealed	17:4 VA.R. 585	1/1/01
9 VAC 5-80-720	Amended	17:4 VA.R. 585	1/1/01
9 VAC 5-90-10 et seq.	Repealed	17:1 VA.R. 63	10/25/00
9 VAC 5-100-10 et seq.	Repealed	17:1 VA.R. 63	10/25/00
9 VAC 5-121-10 et seq.	Repealed	17:4 VA.R. 585	1/1/01
9 VAC 20-60-18	Amended	17:2 VA.R. 220	11/8/00
9 VAC 25-31-10	Amended	16:25 VA.R. 3252	9/27/00
9 VAC 25-31-30	Amended	16:25 VA.R. 3252	9/27/00
9 VAC 25-31-40	Amended	16:25 VA.R. 3252	9/27/00
9 VAC 25-31-100	Amended	16:25 VA.R. 3252	9/27/00
9 VAC 25-31-120	Amended	16:25 VA.R. 3252	9/27/00
9 VAC 25-31-121 (renumbered from 9 VAC 25-31-125)	Added	16:25 VA.R. 3252	9/27/00
9 VAC 25-31-170	Amended	16:25 VA.R. 3252	9/27/00
9 VAC 25-31-190	Amended	16:25 VA.R. 3252	9/27/00
9 VAC 25-31-200	Amended	16:25 VA.R. 3252	9/27/00
9 VAC 25-31-230	Amended	16:25 VA.R. 3252	9/27/00

* Effective date suspended.

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
9 VAC 25-31-280	Amended	16:25 VA.R. 3252	9/27/00
9 VAC 25-31-340	Amended	16:25 VA.R. 3252	9/27/00
9 VAC 25-31-390	Amended	16:25 VA.R. 3252	9/27/00
9 VAC 25-31-500	Amended	16:25 VA.R. 3252	9/27/00
9 VAC 25-31-570	Amended	16:25 VA.R. 3252	9/27/00
9 VAC 25-31-580	Amended	16:25 VA.R. 3252	9/27/00
9 VAC 25-31-590	Amended	16:25 VA.R. 3252	9/27/00
9 VAC 25-31-620	Amended	16:25 VA.R. 3252	9/27/00
9 VAC 25-31-660	Amended	16:25 VA.R. 3252	9/27/00
9 VAC 25-31-670	Amended	16:25 VA.R. 3252	9/27/00
9 VAC 25-31-710	Amended	16:25 VA.R. 3252	9/27/00
9 VAC 25-31-720	Amended	16:25 VA.R. 3252	9/27/00
9 VAC 25-31-750	Amended	16:25 VA.R. 3252	9/27/00
9 VAC 25-31-770	Amended	16:25 VA.R. 3252	9/27/00
9 VAC 25-31-780	Amended	16:25 VA.R. 3252	9/27/00
9 VAC 25-31-800	Amended	16:25 VA.R. 3252	9/27/00
9 VAC 25-31-810	Amended	16:25 VA.R. 3252	9/27/00
9 VAC 25-31-840	Amended	16:25 VA.R. 3252	9/27/00
9 VAC 25-210-10	Amended	16:25 VA.R. 3252	9/27/00
9 VAC 25-210-50	Amended	16:25 VA.R. 3254	9/27/00
9 VAC 25-210-110	Amended	16:25 VA.R. 3254	9/27/00
9 VAC 25-210-110	Erratum	17:3 VA.R. 433	--
9 VAC 25-400-10	Amended	16:25 VA.R. 3255	9/27/00
9 VAC 25-630-10 through 9 VAC 25-630-60	Amended	17:3 VA.R. 399-409	12/1/00
Title 11. Gaming			
11 VAC 10-100-30	Amended	16:25 VA.R. 3261	8/8/00
11 VAC 10-100-110	Amended	16:25 VA.R. 3261	8/8/00
11 VAC 10-100-170	Amended	16:25 VA.R. 3262	8/8/00
11 VAC 10-100-210	Amended	16:25 VA.R. 3262	8/8/00
11 VAC 10-110-30	Amended	16:25 VA.R. 3262	8/8/00
11 VAC 10-110-90	Amended	16:25 VA.R. 3262	8/8/00
11 VAC 10-110-230	Added	16:25 VA.R. 3263	8/8/00
11 VAC 10-120-50	Amended	16:26 VA.R. 3507	8/14/00
11 VAC 10-120-80	Amended	16:26 VA.R. 3508	8/14/00
11 VAC 10-120-90	Amended	16:26 VA.R. 3508	8/14/00
11 VAC 10-130-10	Amended	17:4 VA.R. 586	10/16/00
11 VAC 10-130-20	Amended	17:4 VA.R. 587	10/16/00
11 VAC 10-130-40	Amended	17:4 VA.R. 588	10/16/00
11 VAC 10-130-60	Amended	17:4 VA.R. 588	10/16/00
11 VAC 10-130-70	Amended	17:4 VA.R. 589	10/16/00
11 VAC 10-130-76	Amended	17:4 VA.R. 589	10/16/00
11 VAC 10-130-77	Amended	17:4 VA.R. 589	10/16/00
11 VAC 10-130-80	Amended	17:4 VA.R. 590	10/16/00
11 VAC 10-150-10	Amended	16:26 VA.R. 3510	8/14/00
11 VAC 10-150-20	Amended	16:26 VA.R. 3510	8/14/00
11 VAC 10-150-30	Amended	16:26 VA.R. 3510	8/14/00
11 VAC 10-150-40	Amended	16:26 VA.R. 3510	8/14/00
11 VAC 10-150-80	Amended	16:26 VA.R. 3510	8/14/00
11 VAC 10-150-90	Amended	16:26 VA.R. 3511	8/14/00
11 VAC 10-150-120	Amended	16:26 VA.R. 3511	8/14/00
11 VAC 10-150-130	Amended	16:26 VA.R. 3511	8/14/00
11 VAC 10-150-170	Amended	16:26 VA.R. 3511	8/14/00
Title 12. Health			
12 VAC 5-371-150	Amended	17:1 VA.R. 64	10/27/00
12 VAC 5-371-260	Amended	17:1 VA.R. 64	10/27/00
12 VAC 5-410-220	Amended	17:1 VA.R. 65	10/27/00

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
12 VAC 30-10-150	Amended	17:5 VA.R. 791	1/1/01
12 VAC 30-40-345	Amended	17:3 VA.R. 410	11/22/00
12 VAC 30-50-30	Amended	17:5 VA.R. 792	1/1/01
12 VAC 30-50-70	Amended	17:5 VA.R. 792	1/1/01
12 VAC 30-50-130	Amended	17:5 VA.R. 792	1/1/01
12 VAC 30-50-229.1	Amended	17:5 VA.R. 798	1/1/01
12 VAC 30-50-250	Amended	17:5 VA.R. 793	1/1/01
12 VAC 30-50-480	Amended	17:5 VA.R. 801	1/1/01
12 VAC 30-60-170	Amended	17:5 VA.R. 802	1/1/01
12 VAC 30-80-21	Added	17:5 VA.R. 793	1/1/01
12 VAC 30-80-111	Added	17:5 VA.R. 803	1/1/01
12 VAC 30-130-850 through 12 VAC 30-130-890	Added	17:5 VA.R. 794-796	1/1/01
12 VAC 30-130-880	Erratum	17:6 VA.R. 932	--
12 VAC 30-130-900 through 12 VAC 30-130-950	Added	17:5 VA.R. 803-806	1/1/01
Title 13. Housing			
13 VAC 10-160-10	Amended	16:26 VA.R. 3512	9/1/00
13 VAC 10-160-30	Amended	16:26 VA.R. 3513	9/1/00
13 VAC 10-160-41	Repealed	16:26 VA.R. 3514	9/1/00
13 VAC 10-160-51	Repealed	16:26 VA.R. 3514	9/1/00
13 VAC 10-160-55 through 13 VAC 10-160-90	Amended	16:26 VA.R. 3515-3518	9/1/00
Title 14. Insurance			
14 VAC 5-200-20 through 14 VAC 5-200-60	Amended	17:4 VA.R. 594-597	12/1/00
14 VAC 5-200-65	Added	17:4 VA.R. 597	12/1/00
14 VAC 5-200-70	Amended	17:4 VA.R. 598	12/1/00
14 VAC 5-200-90	Amended	17:4 VA.R. 598	12/1/00
14 VAC 5-200-110	Amended	17:4 VA.R. 599	12/1/00
14 VAC 5-200-120	Amended	17:4 VA.R. 601	12/1/00
14 VAC 5-200-150	Amended	17:4 VA.R. 601	12/1/00
14 VAC 5-200-155	Added	17:4 VA.R. 602	12/1/00
14 VAC 5-200-170	Amended	17:4 VA.R. 602	12/1/00
14 VAC 5-200-175	Added	17:4 VA.R. 603	12/1/00
14 VAC 5-200-180	Repealed	17:4 VA.R. 603	12/1/00
14 VAC 5-200-185	Added	17:4 VA.R. 603	12/1/00
14 VAC 5-200-187	Added	17:4 VA.R. 605	12/1/00
14 VAC 5-200-200	Amended	17:4 VA.R. 606	12/1/00
14 VAC 5-370-20	Amended	16:25 VA.R. 3264	9/30/00
14 VAC 5-370-100	Amended	16:25 VA.R. 3264	9/30/00
Title 16. Labor and Employment			
16 VAC 15-30-20	Amended	17:1 VA.R. 66	10/25/00
16 VAC 15-30-200	Amended	17:1 VA.R. 66	10/25/00
16 VAC 15-30-210	Added	17:1 VA.R. 68	10/25/00
16 VAC 15-30-220	Added	17:1 VA.R. 68	10/25/00
16 VAC 15-30-230	Added	17:1 VA.R. 69	10/25/00
16 VAC 25-120-1917.1	Amended	16:25 VA.R. 3265	10/1/00
16 VAC 25-120-1917.2	Amended	16:25 VA.R. 3265	10/1/00
16 VAC 25-120-1917.3	Amended	16:25 VA.R. 3265	10/1/00
16 VAC 25-120-1917.23	Amended	16:25 VA.R. 3265	10/1/00
16 VAC 25-120-1917.25	Amended	16:25 VA.R. 3265	10/1/00
16 VAC 25-120-1917.26	Amended	16:25 VA.R. 3265	10/1/00
16 VAC 25-120-1917.27	Amended	16:25 VA.R. 3265	10/1/00
16 VAC 25-120-1917.30	Amended	16:25 VA.R. 3265	10/1/00
16 VAC 25-120-1917.42 through 16 VAC 25-120-1917.45	Amended	16:25 VA.R. 3265	10/1/00
16 VAC 25-120-1917.50	Amended	16:25 VA.R. 3265	10/1/00
16 VAC 25-120-1917.71	Amended	16:25 VA.R. 3265	10/1/00
16 VAC 25-120-1917.73	Amended	16:25 VA.R. 3265	10/1/00

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
16 VAC 25-120-1917.92	Amended	16:25 VA.R. 3265	10/1/00
16 VAC 25-120-1917.95	Amended	16:25 VA.R. 3265	10/1/00
16 VAC 25-120-1917.112	Amended	16:25 VA.R. 3265	10/1/00
16 VAC 25-120-1917.117 through 16 VAC 25-120-1917.122	Amended	16:25 VA.R. 3265	10/1/00
16 VAC 25-120-1917.124	Amended	16:25 VA.R. 3265	10/1/00
16 VAC 25-120-1917.151	Amended	16:25 VA.R. 3265	10/1/00
16 VAC 25-120-1917.152	Amended	16:25 VA.R. 3265	10/1/00
16 VAC 25-120-1917.153	Amended	16:25 VA.R. 3265	10/1/00
16 VAC 25-120-1917.156	Amended	16:25 VA.R. 3265	10/1/00
16 VAC 25-120 Appendix I	Amended	16:25 VA.R. 3265	10/1/00
16 VAC 25-130-1918.1	Amended	16:25 VA.R. 3265	10/1/00
16 VAC 25-130-1918.2	Amended	16:25 VA.R. 3265	10/1/00
16 VAC 25-130-1918.24	Amended	16:25 VA.R. 3265	10/1/00
16 VAC 25-130-1918.25	Amended	16:25 VA.R. 3265	10/1/00
16 VAC 25-130-1918.37	Amended	16:25 VA.R. 3265	10/1/00
16 VAC 25-130-1918.41	Amended	16:25 VA.R. 3265	10/1/00
16 VAC 25-130-1918.42	Amended	16:25 VA.R. 3265	10/1/00
16 VAC 25-130-1918.43	Amended	16:25 VA.R. 3265	10/1/00
16 VAC 25-130-1918.51	Amended	16:25 VA.R. 3265	10/1/00
16 VAC 25-130-1918.52	Amended	16:25 VA.R. 3265	10/1/00
16 VAC 25-130-1918.54	Amended	16:25 VA.R. 3265	10/1/00
16 VAC 25-130-1918.61	Amended	16:25 VA.R. 3265	10/1/00
16 VAC 25-130-1918.62	Amended	16:25 VA.R. 3265	10/1/00
16 VAC 25-130-1918.65	Amended	16:25 VA.R. 3265	10/1/00
16 VAC 25-130-1918.66	Amended	16:25 VA.R. 3265	10/1/00
16 VAC 25-130-1918.69	Amended	16:25 VA.R. 3265	10/1/00
16 VAC 25-130-1918.85	Amended	16:25 VA.R. 3265	10/1/00
16 VAC 25-130-1918.86	Amended	16:25 VA.R. 3265	10/1/00
16 VAC 25-130-1918.94	Amended	16:25 VA.R. 3265	10/1/00
16 VAC 25-130-1918.97	Amended	16:25 VA.R. 3265	10/1/00
16 VAC 25-130-1918.98	Amended	16:25 VA.R. 3265	10/1/00
16 VAC 25-130-1918.100	Amended	16:25 VA.R. 3265	10/1/00
16 VAC 25-130-1918.102	Amended	16:25 VA.R. 3265	10/1/00
16 VAC 25-130-1918.105	Amended	16:25 VA.R. 3265	10/1/00
16 VAC 25-130 Appendix II	Amended	16:25 VA.R. 3265	10/1/00
16 VAC 25-130 Appendix IV	Amended	16:25 VA.R. 3265	10/1/00
Title 18. Professional and Occupational Licensing			
18 VAC 85-20-131 emer	Amended	17:4 VA.R. 610	10/13/00-10/12/01
18 VAC 85-31-10 through 18 VAC 85-31-160	Repealed	16:25 VA.R. 3266-3270	9/27/00
18 VAC 90-20-36 emer	Added	17:2 VA.R. 221	9/19/00-9/18/01
18 VAC 112-10-10 through 18 VAC 112-10-120 emer	Added	17:4 VA.R. 611-612	10/17/00-10/16/01
18 VAC 112-20-10 through 18 VAC 112-20-150	Added	16:25 VA.R. 3266-3270	9/27/00
Title 20. Public Utilities and Telecommunications			
20 VAC 5-200-21	Amended	16:25 VA.R. 3274	7/28/00
20 VAC 5-200-30	Amended	16:25 VA.R. 3296	7/28/00
20 VAC 5-200 Appendix	Amended	16:25 VA.R. 3298	7/28/00
20 VAC 5-202-10 through 20 VAC 5-202-50	Added	17:5 VA.R. 819-824	10/20/00
Title 22. Social Services			
22 VAC 40-35-10	Amended	17:5 VA.R. 825	12/20/00
22 VAC 40-35-125	Amended	17:5 VA.R. 827	12/20/00
22 VAC 40-35-126	Added	17:5 VA.R. 827	12/20/00
22 VAC 40-35-127	Added	17:5 VA.R. 828	12/20/00
22 VAC 40-35-128	Added	17:5 VA.R. 828	12/20/00

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
22 VAC 40-60 (Forms)	Amended	17:1 VA.R. 72	--
22 VAC 40-130-10**	Amended	16:22 VA.R. 2745	7/1/01
22 VAC 40-130-25**	Added	16:22 VA.R. 2748	7/1/01
22 VAC 40-130-30 through 22 VAC 40-130-140**	Amended	16:22 VA.R. 2749-2751	7/1/01
22 VAC 40-130-155**	Added	16:22 VA.R. 2751	7/1/01
22 VAC 40-130-160**	Repealed	16:22 VA.R. 2751	7/1/01
22 VAC 40-130-170 through 22 VAC 40-130-190**	Amended	16:22 VA.R. 2751-2752	7/1/01
22 VAC 40-130-195**	Added	16:22 VA.R. 2753	7/1/01
22 VAC 40-130-198**	Added	16:22 VA.R. 2754	7/1/01
22 VAC 40-130-200**	Amended	16:22 VA.R. 2754	7/1/01
22 VAC 40-130-202**	Added	16:22 VA.R. 2754	7/1/01
22 VAC 40-130-210**	Amended	16:22 VA.R. 2754	7/1/01
22 VAC 40-130-211**	Added	16:22 VA.R. 2756	7/1/01
22 VAC 40-130-212**	Added	16:22 VA.R. 2757	7/1/01
22 VAC 40-130-213**	Added	16:22 VA.R. 2758	7/1/01
22 VAC 40-130-220**	Amended	16:22 VA.R. 2758	7/1/01
22 VAC 40-130-221**	Added	16:22 VA.R. 2759	7/1/01
22 VAC 40-130-223**	Added	16:22 VA.R. 2759	7/1/01
22 VAC 40-130-230 through 22 VAC 40-130-250**	Amended	16:22 VA.R. 2760	7/1/01
22 VAC 40-130-251**	Added	16:22 VA.R. 2760	7/1/01
22 VAC 40-130-260**	Amended	16:22 VA.R. 2760	7/1/01
22 VAC 40-130-261**	Added	16:22 VA.R. 2760	7/1/01
22 VAC 40-130-270**	Amended	16:22 VA.R. 2761	7/1/01
22 VAC 40-130-271**	Added	16:22 VA.R. 2765	7/1/01
22 VAC 40-130-272**	Added	16:22 VA.R. 2765	7/1/01
22 VAC 40-130-280**	Amended	16:22 VA.R. 2766	7/1/01
22 VAC 40-130-289**	Added	16:22 VA.R. 2767	7/1/01
22 VAC 40-130-290**	Amended	16:22 VA.R. 2767	7/1/01
22 VAC 40-130-300**	Amended	16:22 VA.R. 2768	7/1/01
22 VAC 40-130-301**	Added	16:22 VA.R. 2768	7/1/01
22 VAC 40-130-310**	Amended	16:22 VA.R. 2769	7/1/01
22 VAC 40-130-312**	Added	16:22 VA.R. 2770	7/1/01
22 VAC 40-130-314**	Added	16:22 VA.R. 2771	7/1/01
22 VAC 40-130-320 through 22 VAC 40-130-360**	Amended	16:22 VA.R. 2771-2772	7/1/01
22 VAC 40-130-365**	Added	16:22 VA.R. 2773	7/1/01
22 VAC 40-130-370 through 22 VAC 40-130-400**	Amended	16:22 VA.R. 2773-2776	7/1/01
22 VAC 40-130-401**	Added	16:22 VA.R. 2776	7/1/01
22 VAC 40-130-402**	Added	16:22 VA.R. 2777	7/1/01
22 VAC 40-130-403**	Added	16:22 VA.R. 2778	7/1/01
22 VAC 40-130-404**	Added	16:22 VA.R. 2778	7/1/01
22 VAC 40-130-406**	Added	16:22 VA.R. 2778	7/1/01
22 VAC 40-130-410**	Amended	16:22 VA.R. 2778	7/1/01
22 VAC 40-130-420**	Amended	16:22 VA.R. 2779	7/1/01
22 VAC 40-130-424**	Added	16:22 VA.R. 2779	7/1/01
22 VAC 40-130-430 through 22 VAC 40-130-450**	Amended	16:22 VA.R. 2779-2780	7/1/01
22 VAC 40-130-452 through 22 VAC 40-130-459**	Added	16:22 VA.R. 2780-2784	7/1/01
22 VAC 40-130-470 through 22 VAC 40-130-550**	Amended	16:22 VA.R. 2784-2785	7/1/01
22 VAC 40-130-600 through 22 VAC 40-130-820**	Added	16:22 VA.R. 2785-2796	7/1/01
22 VAC 40-170 (Forms)	Amended	17:5 VA.R. 833	--
22 VAC 40-180 (Forms)	Amended	16:25 VA.R. 3331-3332	--
22 VAC 40-600-10	Amended	17:1 VA.R. 70	10/25/00
22 VAC 40-600-50	Amended	17:1 VA.R. 70	10/25/00
22 VAC 40-600-70	Amended	17:1 VA.R. 70	10/25/00

** Effective date delayed. See 17:5 VA.R. Final Regulations section.

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
22 VAC 40-600-90	Repealed	17:1 VA.R. 71	10/25/00
22 VAC 40-600-130	Amended	17:1 VA.R. 71	10/25/00
22 VAC 40-600-140	Amended	17:1 VA.R. 71	10/25/00
22 VAC 40-600-170	Amended	17:1 VA.R. 71	10/25/00
22 VAC 40-600-200	Amended	17:1 VA.R. 71	10/25/00
22 VAC 40-600-210	Amended	17:1 VA.R. 71	10/25/00
22 VAC 40-680-10	Amended	17:5 VA.R. 830	12/20/00
22 VAC 40-680-20	Amended	17:5 VA.R. 830	12/20/00
Title 24. Transportation and Motor Vehicles			
24 VAC 30-380-10	Amended	16:26 VA.R. 3518	8/23/00

NOTICES OF INTENDED REGULATORY ACTION

Symbol Key

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

TITLE 9. ENVIRONMENT

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 that the State Water Control Board intends to consider amending regulations entitled: **9 VAC 25-260-5 et seq. Water Quality Standards**. The purpose of the rulemaking will be to amend the Water Quality Standards regulation to update certain criteria and use designations. Subject areas needing revision include updated surface water criteria for ammonia in freshwater, new alternative indicators for assessing bacterial water quality, updated contact recreational use designations for primary and secondary and/or seasonal uses, and updated use designations for intermittent, ephemeral and/or effluent dependent streams. DEQ also wants to review the existing shellfish classification in tidal waters to determine whether separate classifications/designations and criteria are needed for permanently restricted or prohibited shellfishing areas versus open shellfishing areas.

The intent of this rulemaking is to protect designated and beneficial uses of state waters by adopting regulations that are technically correct, necessary and reasonable. These standards will be used in setting Virginia Pollutant Discharge Elimination System Permit limits and for evaluating the waters of the Commonwealth for inclusion in the Clean Water Act § 305(b) report and on the § 303(d) list. Waters not meeting standards will require development of a Total Maximum Daily Load under the Clean Water Act at § 303(d).

The scope of the federal regulations at 40 CFR 131 is to describe the requirements and procedures for developing, reviewing, revising and approving water quality standards by the states as authorized by § 303(c) of the Clean Water Act. 40 CFR 131 specifically requires the states to adopt criteria to protect designated uses.

The scope and objective of the Clean Water Act is to restore and maintain the chemical, physical, and biological integrity of the nation's waters. The Clean Water Act at § 303(c)(1) requires that the states hold public hearings for the purpose of reviewing applicable water quality standards and, as appropriate, modifying and adopting standards.

The scope and purpose of the State Water Control Law is to protect and to restore the quality of state waters, to safeguard the clean waters from pollution, to prevent and to reduce pollution and to promote water conservation. The State Water Control Law at § 62.1-44.15(3a) of the Code of Virginia requires the board to establish standards of quality and to modify, amend or cancel any such standards or policies. It also requires the board to hold public hearings from time to

time for the purpose of reviewing the water quality standards, and, as appropriate, adopting, modifying or canceling such standards.

The authority to adopt standards as provided by the provisions in the previously referenced citations is mandated, although the specific standards to be adopted or modified are discretionary to the EPA and the state.

Need: This rulemaking is needed because new scientific information is available to update the water quality standards. Changes to the regulation are also needed to improve permitting, monitoring and assessment programs. Subject areas needing revision include updated surface water criteria for ammonia in freshwater, new alternative indicators for assessing bacterial water quality, updated contact recreational use designations for primary and secondary and/or seasonal uses, and updated use designations for intermittent, ephemeral and/or effluent dependent streams. DEQ also wants to consider revising the existing DEQ shellfish classification in tidal waters to determine whether separate classifications/designations and criteria are needed for permanently restricted or prohibited shellfishing areas.

The rulemaking is essential to the protection of health, safety or welfare of the citizens of the Commonwealth. Proper water quality standards protect water quality and living resources of Virginia's waters for consumption of fish and shellfish, recreational uses and conservation in general.

Potential issues that may need to be addressed are listed in the alternatives section. Another issue that may need to be addressed is how these water quality standards changes will effect the § 303(d) listing of state waters and subsequent TMDL development.

Substance: The amendments would change the existing numerical criteria for ammonia and bacteria in certain waters of the state. The existing regulation may also be changed to reflect more accurate designated or beneficial uses of state waters to ensure the correct application of the new criteria. The regulation may also be changed to recognize that intermittent, ephemeral and/or effluent dependent waters do not support all designated uses, particularly aquatic life uses. Also, the regulation may be changed to recognize restricted or prohibited shellfishing areas and define alternate criteria for these waters.

Alternatives: Many alternatives in the subject areas listed will become available as DEQ staff and the public begin to review scientific data, permitting and monitoring needs. DEQ will work in conjunction with other state and federal agencies to consider various alternatives. Alternatives provided by the public will also be considered.

The department has neither accepted nor rejected any alternatives at this point. Some alternatives being considered by the agency now include, but are not limited to, the following:

Notices of Intended Regulatory Action

1. Whether to use enterococci, E. coli, and/or fecal coliforms as a bacterial indicator of pollution, what these numerical values should be, and how and where we should apply these criteria;
2. Whether we should recognize primary and secondary contact and/or seasonal recreational uses, how these uses should be defined and what criteria would apply;
3. Whether we should recognize the limited aquatic life and recreational uses of intermittent streams, ephemeral streams and dry ditches, how these types of streams would be defined, what criteria should apply here, and/or whether any temporary variances that have been approved by DEQ in intermittent streams should be adopted as permanent use changes;
4. Whether effluent dependent streams should be protected as fully supporting aquatic life uses or be protected as intermittent streams, ephemeral streams or dry ditches (see above);
5. Whether information contained in EPA's 1998 Update of Ambient Water Quality Criteria for Ammonia (EPA 822-R-98-008) should be used to recalculate the freshwater ammonia criteria; and
6. Whether we should divide shellfish waters into two classifications (open shellfishing areas versus prohibited areas) and whether alternate criteria should apply here.

The board is seeking comments on the intended regulatory action, including ideas to assist in the development of a proposal and the costs and benefits of the alternatives stated in this notice or other alternatives. A public meeting will be held and notice of the meeting can be found in the Calendar of Events section of the Virginia Register of Regulations.

The board seeks comment from the public on whether to use the participatory approach to assist the agency in the development of a proposal.

The direct impact resulting from the development of water quality standards is for the protection of public health and safety and has an indirect impact on families.

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

Public comments may be submitted until January 8, 2001.

Contact: Eleanore Daub, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4111.

VA.R. Doc. No. R01-13; Filed September 14, 2000, 8:25 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to consider promulgating regulations entitled: **9 VAC 25-650-10 et seq. Closure Plans and Demonstration of Financial Responsibility.** The purpose of the proposed action is to establish requirements for closure plans and demonstration of financial responsibility from owners of certain privately-owned sewerage system or sewerage treatment works.

Need: The unanticipated abandonment of a sewage treatment facility by its owner or operator creates a substantial and imminent threat to the public health or the environment because of the facility ceasing operations while still receiving sewage. When a sewage treatment facility is privately owned, there exists the threat of cessation of operations at the facility resulting from abandonment such that it would be reasonable to expect that operation at the facility will not be resumed by the owner or operator. When such a facility treats domestic waste generated by private residences, abatement of sewage flow to the facility is often impractical or impossible, as this may require the condemnation of property and eviction of homeowners or residents. Therefore, untreated sewage may be discharged directly to state waters, resulting in a substantial and imminent threat to public health and the environment. To protect public health and the environment, it has become necessary to continue operation of such facilities and/or connect to a publicly owned sewage treatment works using public funds.

To ensure that there is a plan in place for continued operation in the event that a privately-owned sewage treatment system ceases operation because of abandonment and to reduce the potential for continued operation of such system using public funds, the State Water Control Board has determined that a closure plan and the demonstration of financial capability to implement the plan is appropriate.

Potential issues that may need to be addressed as the regulation is developed include the following:

1. Sections 62.1-44.15:1.1 and 62.1-44.18:3 have identical requirements regarding closure plans and demonstration of financial capability. However, § 62.1-44.18:3 is very specific as to the population of facilities to which the law applies. Section 62.1-44.15:1.1 is not specific at all in this regard. The issue is, therefore, to what facilities other than as specified in § 62.1-44.18:3 the regulation will apply.
2. The instruments by which the State Water Control Board can require closure plans and demonstration differ under the two sections of the State Water Control Law. Section 62.1-44.15:1.1 limits the board to the issuance of special orders in compliance with the Administrative Process Act, whereas § 62.1-44.18:3 does not. The issue is that if the population of facilities to which the regulation applies is expanded beyond those specified in § 62.1-44.18:3, this disparity will need to be addressed in the regulation.
3. If a facility is sold or transferred in the ordinary course of business or a permit transfer in accordance with board regulations is effected, the board may be required to return the instrument of financial assurance to the previous owner or operator or permit holder. The potential then exists for cessation of operations after return of the instrument of financial assurance to the previous owner or operator but before receipt of financial assurance from the new owner or operator. For the regulation to be effective, the board needs to ensure the new owner or operator will satisfy the financial assurance requirements.

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Substance: This proposed regulation will require owners or operators of privately-owned sewerage systems or sewerage treatment works to file with the State Water Control Board a closure plan to abate, control, remove, or contain any substantial or imminent threat to public health or the environment that is reasonably likely to occur if such facility ceases operations. Such plan shall also include a demonstration of financial capability to implement the plan. Financial capability may be demonstrated by the creation of a trust fund, a submission of a bond, a corporate guarantee based upon audited financial statements, or such other instruments as the board may deem appropriate.

The regulation would not apply to facilities that qualify for a VPDES general permit for facilities that discharge 1,000 gallons per day or less. For those systems or works discharging more than 1,000 gallons per day and less than 40,000 gallons per day, the requirements will be incorporated into the VPDES permitting process. The regulation will require submittal of the closure plan as part of the application for a VPDES permit and compliance with the regulation will become an enforceable condition of the permit. In addition, the proposed regulation will include systems or works discharging more than 40,000 gallons or more per day (those subject to § 62.1-44.15:1.1). These systems or works will be required to submit a closure plan and financial assurance documentation through a special order, not a VPDES permit, and the requirement would be a condition for discharge to state waters. The proposed regulation will address the different means of requiring closure plans and, if possible, result in a single method of requiring closure plans preferably through the permitting process instead of an enforcement mechanism.

For the purposes of the regulation, a privately-owned sewerage system or privately-owned sewage treatment works will be defined as a facility that treats wastes generated by private residences. Private residences include, but are not limited to, single family homes, townhouses, condominiums, mobile homes, and apartments.

For the purposes of the regulation, "ceases operation" will mean to cease conducting the normal operation of a facility under circumstances where it would be reasonable to expect that such operation will not be resumed by the owner or operator at the facility. The term shall not include the sale or transfer of a facility in the ordinary course of business or a permit transfer in accordance with board regulations.

Alternatives: The Department of Environmental Quality will be considering alternatives in the development of this regulation. Although several alternatives are presented here, it is anticipated that additional alternatives may be considered during the development of the regulation and the public participation process. Although one alternative presented (Alternative 6) currently forms the basis for the proposed regulation, no one alternative is currently recommended by the Department of Environmental Quality. However, some alternatives under consideration are not recommended. Alternatives already considered or to be considered include, but are not limited to, the following:

1. No Action Alternative. This alternative is not recommended. Section 62.1-44.18:3 of the Code of

Virginia mandates that the Department of Environmental Quality promulgate regulations necessary to carry out the provisions of the section.

2. Limit Regulation to Facilities Identified in § 62.1-44.18:3 of the Code of Virginia. This alternative is under consideration but is not recommended. Section 62.1-44.18:3 requires that the State Water Control Board promulgate regulations to implement the provisions of the act to be effective within 280 days of its enactment. To meet this requirement, the Department of Environmental Quality is developing an emergency regulation in accordance with § 9-6.14:4.1(c)(5) of the Administrative Process Act. Section 62.1-44.15:1.1 of the Code of Virginia contains requirements for closure plans and demonstration of financial capability identical to the requirements of § 62.1-44.18:3, but does not restrict the population of facilities to which it applies to those discharging more than 1,000 gallons per day and less than 40,000 gallons per day. The threat to public health or the environment created if a privately-owned sewage treatment system ceases to operate is not diminished if such a facility discharges in excess of 40,000 gallons per day. Therefore, the population of facilities subject to regulation should be increased, as authorized under § 62.1-44.15:1.1 of the Code of Virginia.

3. Apply Regulation to All Facilities Permitted by the State Water Control Board. This alternative is not recommended. Under this alternative the regulation would apply to all facilities subject to the Virginia Pollution Elimination System (VPDES) Permit Regulation (9 VAC 25-31-10 et seq.) or to the Virginia Pollution Abatement (VPA) Permit Regulation (9 VAC 25-32-10 et seq.). The intent of the regulation is to reduce the potential for continued operation of privately-owned sewage treatment systems using public funds. Under this alternative, municipal sewage treatment systems, which are already operated using public funds, would be included. Therefore, this alternative is considered overly intrusive and burdensome.

4. Apply Regulation to All Privately Owned Facilities Permitted by the State Water Control Board. This alternative is under consideration. Under this alternative the regulation would apply to all privately-owned facilities subject to the Virginia Pollution Elimination System (VPDES) Permit Regulation (9 VAC 25-31-10 et seq.) and discharges subject to the Virginia Pollution Abatement (VPA) Permit Regulation (9 VAC 25-32-10 et seq.). This alternative is less intrusive than the previous alternative in that publicly-owned treatment facilities would be excluded.

Privately-owned facilities that treat wastes generated by industrial facilities and pollution management activities would be required to submit a plan and demonstration of financial assurance. This alternative would thereby reduce the potential that proper decommissioning and closure of such treatment facilities would not need to be performed using public funding in the event of facility abandonment. Pollution management activities, as defined by the VPA Permit Regulation, include, but are

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not limited to: animal feeding operations, storage or land application of sewage, sludge, industrial waste or other waste; or the complete reuse or recycle of wastewater.

5. Apply Regulation to All Privately-Owned Sewage Treatment Systems Permitted by the State Water Control Board that Treat Domestic Waste Generated by Private Residences. This alternative is under consideration. Under this alternative the regulation would apply to all privately owned facilities subject to the Virginia Pollution Elimination System (VPDES) Permit Regulation (9 VAC 25-31-10 et seq.) or the Virginia Pollution Abatement (VPA) Permit Regulation (9 VAC 25-32-10 et seq.) that treat domestic waste generated by private residences. This alternative further reduces the population of affected facilities by limiting the regulation to privately owned facilities and pollution management activities that treat or handle domestic sewage and/or treatment by-products generated by private residences.

6. Apply Regulation to Privately Owned Sewage Treatment Systems subject to the Virginia Pollution Discharge Elimination System (VPDES) Permit Regulation (9 VAC 25-31-10 et seq.) that Treat Domestic Waste Generated by Private Residences. This alternative is under consideration and forms the current basis for the proposed regulation. It is the least intrusive and burdensome alternative under consideration that addresses the requirements of both §§ 62.1-44.15:1.1 and 62.1-44.18:3 of the Code of Virginia. This alternative limits the population of facilities to those subject to the VPDES permit regulation and treat domestic sewage generated by private residences. Facilities that exclusively treat industrial wastes and pollution management activities subject to the VPA Permit Regulation (9 VAC 25-32-10 et seq.) are excluded from the regulation in this alternative.

Public Participation: The board is seeking comments on the intended regulatory action, including ideas to assist in the development of a proposal and the costs and benefits of the alternatives stated in this notice or other alternatives. Public meetings will be held on the following dates:

January 22, 2001 - 7 p.m.
Department of Environmental Quality, Southwest Regional Office, 355 Deadmore Street, Abingdon, Virginia.

January 23, 2001 - 1 p.m.
Department of Environmental Quality, West Central Regional Office, 3019 Peters Creek Road, Roanoke, Virginia.

January 23, 2001 - 7 p.m.
Department of Environmental Quality, Valley Central Regional Office, 411 Early Road, Harrisonburg, Virginia.

January 24, 2001 - 1 p.m.
Department of Environmental Quality, Tidewater Regional Office, 5636 Southern Boulevard, Virginia Beach, Virginia.

January 24, 2001 - 7 p.m.
Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia.

January 25, 2001 - 1 p.m.
Department of Environmental Quality, Northern Regional Office, 13901 Crown Court, Woodbridge, Virginia.

More information on the meetings may be found in the Calendar of Events section of the Virginia Register of Regulations.

Participatory Approach: The board seeks comment from the public on whether to use the participatory approach to assist the Department of Environmental Quality in the development of the proposed regulation. If sufficient interest is shown, the Department of Environmental Quality intends to form a Technical Advisory Committee (TAC) of affected owners or operators, environmental organizations, citizen groups, private citizens and other interested parties. Therefore, concerned parties interested in participating in a TAC are encouraged to show such interest by attending the public meeting or by contacting the individual named below.

The decision to form a TAC will be made based on the level of interest and public input received at the public meeting.

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

Statutory Authority: §§ 62.1-44.18:3 and 62.1-44.15(10) of the Code of Virginia.

Public comments may be submitted until February 1, 2001.

Contact: Jon van Soestbergen, P.E., Office of Water Permit Programs, Division of Water Program Coordination, Department of Environmental Quality, 629 East Main Street, P.O. Box 10009, Richmond, VA 23240, voice (804) 698-4117, FAX (804) 698-4032, e-mail jvansoest@deq.state.va.us.

VA.R. Doc. No. R01-50; Filed November 14, 2000, 8:47 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to consider promulgating regulations entitled: **9 VAC 25-720-10 et seq. Virginia Total Maximum Daily Load Regulation for Water Quality Management Planning.** The proposed primary action is to adopt a Virginia TMDL regulation for Water Quality Management Planning. A TMDL is the total amount of pollutant load that can be discharged into a stream segment without violating state water quality standards. TMDL is the sum of waste load allocation (WLA) from point sources, pollutant load allocation (LA) from nonpoint sources, and a margin of safety (MOS), or the amount of pollutant that is not allocated to account for estimation errors during derivation of WLA and LA. TMDLs are used to direct efforts at restoring and protecting water quality.

It is envisioned that the proposed TMDL planning regulation will include, among other possible planning items, the public participation process for TMDL development, procedures for submittal of proposed TMDLs to the Environmental Protection Agency (EPA) for approval, subsequent adoption of the TMDL

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by the State Water Control Board (board), and inclusion of TMDLs and TMDL implementation plans into the WQMPs.

The secondary proposed action is the repeal of the existing WQMPs. These plans are basin-wide or area-wide waste treatment or pollution control management plans developed in accordance with §§ 208 and 303(e) of the Clean Water Act (CWA), as implemented by 40 CFR 130. These plans identify water quality problems, consider alternative solutions and recommend 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 (VPDES) permits for point source discharges and through regulatory or voluntary measures for nonpoint source pollution control. The majority of the existing regulatory plans are obsolete because plan recommendations have been implemented. They continue to be carried on the books of the Virginia Registrar of Regulations. The repeal of these plans will clear the Registrar's books of unnecessary and outdated regulations and will eliminate the potential for inconsistencies with TMDLs as they are developed from more current information and collaborative input from stakeholders.

Need: Planning for the management of the quality of the waters of the Commonwealth is essential to protect the health, safety, and welfare of the citizens of Virginia. Water quality management plans identify water quality problems and propose alternative solutions and recommendations for pollution control measures needed to attain or maintain water quality standards.

Federal and state regulations require that VPDES permits be consistent with the applicable WQMPs. 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, any changes in a VPDES permit that will cause it to be inconsistent with the plan will require amendment of the plan. Separating the regulatory TMDL from the WQMP will allow processing of plan amendments in the same time frame as permit amendment or issuance, resulting in administrative and cost efficiencies.

Substance: There are currently 18 WQMPs that have been adopted as regulations by the board during the 1970's through the early 1990's. The plans identify water quality problems, consider alternative solutions and recommend pollution control measures needed to attain or maintain water quality standards.

Most of these existing WQMPs no longer reflect current conditions and need to be updated. The office of the Attorney General has ruled that because the plans contain TMDLs and their associated waste load allocations were incorporated into the VPDES permits, the plans were regulations.

Federal and state laws and regulations require the development of WQMPs; however, there is no requirement that they be regulatory. The proposal to adopt a TMDL regulation and repeal the regulatory WQMPs will provide

efficiencies in the management of water quality programs in Virginia.

The existing WQMPs that will be repealed as regulations will continue to guide the board's water quality management planning activities until updated plans are completed and approved by the board. The board staff will solicit public input as the replacement plans are developed.

Alternatives: The total maximum daily load is considered to be the regulatory component of the existing WQMPs. The preferred alternative to meet the need of bringing impaired waters up to water quality standards is to (i) adopt a TMDL regulation for Water Quality Management Planning and (ii) repeal and update the existing WQMPs. The waste load allocation component of the TMDL, which controls the discharge of pollutants from point sources, will continue to be implemented through the VPDES permit program. Where applicable, regulatory load allocations will be implemented through existing state regulations (e.g., erosion control regulations). Nonregulatory load allocation will continue to be implemented through best management practices and other management strategies for controlling nonpoint sources of pollution.

One alternative that had been considered was the development of a Water Quality Management Plan Framework Regulation that will govern the development and update of WQMPs. This alternative was rejected because federal regulation already exists on specific requirements on how to develop and update WQMPs. It is thought that this is duplicative and could complicate the process of water quality management in Virginia.

Another alternative to repealing the water quality management plans is to do nothing and amend the plans as needed (through the APA process) to accommodate changes in the VPDES permits. Still another alternative is to update each individual plan and maintain them as regulations.

Public Participation: The board is seeking comments on the intended regulatory action, including ideas on how to effectively simplify the process of water quality management planning that meet both federal and state requirements, and the costs and benefits of the alternatives stated in this notice or other alternatives. A public meeting will be held and notice of the meeting can be found in the Calendar of Events section of the Virginia Register of Regulations.

A public meeting was held on December 6, 2000, at 2 p.m. in Glen Allen, Virginia, and a public meeting will be held on December 21, 2000, at 2 p.m. on Roanoke, Virginia. Notice of the meetings can be found in the Calendar of Events section of the Virginia Register of Regulations.

Participatory Approach: The board is using the participatory approach to develop the TMDL proposal. The board has formed an ad hoc advisory group to provide input regarding the proposed TMDL regulation and the proposal to repeal the existing WQMPs. The ad hoc advisory group is composed of representatives from state, federal and local agencies, environmental groups, manufacturing and industrial facilities and the academic community. Anyone interested in joining the existing advisory group should submit a request for the

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board's consideration during the Notice of Intended Regulatory Action comment period.

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

Public comments may be submitted until January 1, 2001.

Contact: Charles Martin, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4462 or FAX (804) 698-4136.

VA.R. Doc. No. R01-27; Filed October 11, 2000, 1:29 p.m.

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

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 85-110-100. Regulations Governing the Practice of Licensed Acupuncturists.** The amendment is necessary pursuant to Chapter 814 of the 2000 Acts of the Assembly to specify a form to be provided to a patient receiving treatment from a licensed acupuncturist recommending a diagnostic examination. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 54.1-2400 and 54.1-2956.9 of the Code of Virginia.

Public comments may be submitted until January 17, 2001.

Contact: William L. Harp, M.D., Executive Director, Board of Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9908 or FAX (804) 662-9943.

VA.R. Doc. No. R01-52; Filed November 17, 2000, 1:56 p.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 135-50-10 et seq. Fair Housing Regulations.** The purpose of the proposed action is to amend and clarify existing fair housing regulations that describe discriminatory housing practices and outline investigative and conciliation procedures. The agency does not intend to hold a public hearing on the proposed regulation after publication.

Statutory Authority: § 36-96.20 of the Code of Virginia.

Public comments may be submitted until January 18, 2001.

Contact: John Cancelleri, Fair Housing Administrator, Real Estate Board, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8581, FAX (804) 367-2475 or (804) 367-9753/TTY ☎

VA.R. Doc. No. R01-55; Filed November 16, 2000, 1:20 p.m.

TITLE 22. SOCIAL SERVICES

STATE 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 promulgating regulations entitled: **22 VAC 40-305-10 et seq. Cash Assistance for Two-Parent Families.** The purpose of the proposed regulation is to establish a separate state program, as that term is defined by federal regulations governing the Temporary Assistance for Needy Families (TANF) Program, 45 CFR 260.30, for the purpose of providing cash assistance payments to two-parent families. The agency does not intend to hold a public hearing on the proposed regulation after publication.

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

Public comments may be submitted until December 20, 2000.

Contact: Stephanie Napper, Human Services Program Consultant, Department of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1736 or FAX (804) 692-1704.

VA.R. Doc. No. R01-42; Filed October 27, 2000, 2 p.m.

PUBLIC COMMENT PERIODS - PROPOSED REGULATIONS



PUBLIC COMMENT PERIODS REGARDING STATE AGENCY REGULATIONS

This section gives 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 4. CONSERVATION AND NATURAL RESOURCES

DEPARTMENT OF MINES, MINERALS AND ENERGY

January 25, 2001 - 10 a.m. -- Public Hearing
Department of Mines, Minerals and Energy, Buchanan-Smith Building, Route 23 South, Rooms 218 and 219, Big Stone Gap, Virginia.

February 16, 2001 - 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 25-90-10 et seq. Regulations Governing the Use of Diesel-Powered Equipment in Underground Coal Mines.** The regulation sets forth the requirements for operation and maintenance, ventilation, air quality, fire protection, and fuel for diesel engines being used in underground coal mining.

Statutory Authority: §§ 45.1-161.3, 45.1-161.106, 45.1-107 and 45.1-161.206 of the Code of Virginia.

Contact: Frank Linkous, Mine Chief, Department of Mines, Minerals and Energy, P.O. Drawer 900, Big Stone Gap, VA 24219, telephone (540) 523-8100 or (540) 828-1120/TTY ☎

January 25, 2001 - 10 a.m. -- Public Hearing
Department of Mines, Minerals and Energy, Buchanan-Smith Building, Route 23 South, Rooms 218 and 219, Big Stone Gap, Virginia.

February 16, 2001 - 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 **repeal** regulations entitled: **4 VAC 25-100-10 et seq. Regulation Governing Vertical Ventilation Holes and Mining near Gas and Oil Wells** and **adopt** regulations entitled: **4 VAC 25-101-10 et seq. Regulation Governing**

Vertical Ventilation Holes and Mining near Gas and Oil Wells. The purpose of the proposed action is to establish guidelines that govern drilling, equipping and operating of vertical ventilation holes that are used to remove methane gas from underground coal mines. This regulation is being developed to replace the existing regulation that is being repealed.

Statutory Authority: §§ 45.1-161.3, 45.1-161.106, 45.1-161.121, 45.1-161.254 and 45.1-161.292 of the Code of Virginia.

Contact: Frank Linkous, Mine Chief, Department of Mines, Minerals and Energy, P.O. Drawer 900, Big Stone Gap, VA 24219, telephone (540) 523-8100 or (540) 828-1120/TTY ☎

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF MEDICINE

January 11, 2001 - 9 a.m. -- Public Hearing
Department of Health Professions, 6606 West Broad Street, 4th Floor, Richmond, Virginia.

February 16, 2001 - 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 Medicine intends to amend regulations entitled: **18 VAC 85-80-10 et seq. Regulations Governing the Licensure of Occupational Therapists.** Amendments are proposed to establish requirements for evidence of continued competency in renewal or reinstatement of licensure and for inactive license.

Statutory Authority: §§ 54.1-103, 54.1-2400 and 54.1-2912.1 of the Code of Virginia.

Contact: William L. Harp, M.D., Executive Director, Board of Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9908.

PROPOSED REGULATIONS

For information concerning Proposed Regulations, see Information Page.

Symbol Key

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

TITLE 4. CONSERVATION AND NATURAL RESOURCES

DEPARTMENT OF MINES, MINERALS AND ENERGY

Title of Regulation: 4 VAC 25-90-10 et seq. **Regulations Governing the Use of Diesel-Powered Equipment in Underground Coal Mines (amending 4 VAC 25-90-10 through 4 VAC 25-90-100; repealing 4 VAC 25-90-120, 4 VAC 25-90-270, 4 VAC 25-90-300, 4 VAC 25-90-340, and 4 VAC 25-90-360).**

Statutory Authority: §§ 45.1-161.3, 45.1-161.106, 45.1-161.107 and 45.1-161.206 of the Code of Virginia.

Public Hearing Date: January 25, 2001 - 10 a.m.

Public comments may be submitted until February 16, 2001.

(See Calendar of Events section for additional information)

Basis: Sections 45.1-161.3 and 45.1-161.106 of the Virginia Mine Safety Act give DMME the authority to promulgate these regulations in the interest of coal mine safety. The latter specifically addresses the maintenance, operation, and transportation of any mechanical or electrical equipment, device or machinery used for any purpose in the underground mining of coal. It also cites that regulations shall relate to the "safety and health standards for the protection of life, health, and property of, and the prevention of injuries to, persons involved in or likely to be affected by any underground coal mining operations which shall include... ventilation and equipment."

Section 45.1-161.107 directs the Chief to consider a number of factors in regulatory development; the federal mine safety law, standards generally recognized by the coal mining industry or set by recognized professional organizations and the results of research and other information that is available regarding the highest degree of protection and the latest technology.

In addition, § 45.1-161.206 states that diesel-powered equipment may be used underground with the written approval of the Chief and that the Chief shall promulgate regulations necessary to carry out the provisions of this section. It also specifies that there shall be good ventilation for a safe, healthful working environment, that the minimum amount of air needed to operate must be included on the approval plate on the machine, and that the equipment must be maintained to meet the manufacturers specifications.

Purpose: The Department of Mines, Minerals, and Energy (DMME) is proposing to amend the Rules and Regulations Governing the Use of Diesel-Powered Equipment in Underground Coal Mines to ensure that coal mining is

performed safely, efficiently and in a manner that most benefits the health, safety and welfare of the citizens of the Commonwealth. The proposed amendments were recommended by the mining industry, stakeholders, and its customers.

The regulation is needed to ensure diesel equipment is safely operated and maintained and that underground miners are protected from the effects of diesel exhaust. The regulation addresses general requirements, operation and maintenance, ventilation, air quality, fire protection, and diesel fuel standards.

Amendments to the regulation are needed to address hazards not addressed by the Mine Safety and Health Administration (MSHA), reflect recent amendments to, and avoid conflicts with, MSHA regulations and federal law, reflect changes in technology, and eliminate duplicative requirements. These revisions, along with less substantive ones, were recommended by the industry and labor representatives that served on the regulatory review committee.

The goals of the proposed regulation are to protect miners from diesel exhaust which may pose health hazards to workers and to encourage productive mining through the efficient uses of diesel-powered equipment. Safe, productive workers and mines accrue benefits to the public's health, safety and welfare.

Substance:

4 VAC 25-90-10 proposes to add definitions of terms used in the regulation not defined in the state mining law and which are consistent with MSHA; i.e., "threshold limit values."

4 VAC 25-90-20 contains more substantial revisions to the regulation. It modifies the provisions stricken in the first section. It also proposes that the Chief's designated representative be authorized to approve diesel-powered equipment to use in a mine provided that the equipment meets federal requirements and the requirements of this regulation as well as meets design and performance requirements for permissible and nonpermissible diesel-powered equipment. It is also proposed that if a diesel particulate filter, a catalytic converter, or both, are installed on underground diesel-powered equipment, they will be installed and maintained according to manufacturer's specifications.

This section of the proposed regulation also modifies the regulation to clarify that the Chief may impose additional requirements for the purpose of eliminating a condition or practice necessary to protect the health and safety of miners. It requires an approved plan to address ventilation, fire protection, fuel handling, storage and any other requirements as the Chief may determine when an operator uses stationary diesel equipment in underground coal mines. It also requires notification to the DMME-DM and emission testing after completion of diesel equipment alterations that affects emissions.

Proposed Regulations

The proper operation and maintenance of underground diesel equipment contributes greatly to safety. 4 VAC 25-90-30 describes the minimum requirements for operating this equipment in underground coal mining. The order of the regulation is modified to improve the clarity and understanding of the regulation.

In 4 VAC 25-90-40 information is proposed to be moved from 4 VAC 25-90-300 and a new section created to improve clarity and to incorporate terminology consistent with Virginia law. It proposes to set forth the qualifications of the person required to inspect equipment, to add a requirement that engines be inspected weekly by a certified diesel engine mechanic, and that engine filters be maintained. The section incorporates the use of an hour meter for engine run time.

Ventilation is an essential component for the safe use of diesel engines underground. 4 VAC 25-90-50 proposes to describe the steps that must be taken to ensure ventilation of diesel-powered equipment. Requirements in subsections A through G are proposed to be moved from the original 4 VAC 25-90-120.

4 VAC 25-90-60 sets forth the requirements for how the mine operator will measure, monitor, evaluate, and maintain diesel engine emissions. The regulatory section also requires written procedures to develop and implement these requirements.

Air quality requirements from the original 4 VAC 25-90-120 are proposed in 4 VAC 25-90-70. The section proposes to modify the location and frequency of air quality measurements to more effectively measure and evaluate exhaust emissions from operating diesel equipment and to be less burdensome to operators, at the same time providing increased miner protection. Proposed air quality measurements will be collected in the immediate return for each working section during the on-shift examination when diesel equipment is in operation in by the loading point. If a problem arises, the Chief may require additional tests.

The section incorporates the Threshold Limit Values (TLV) for nitrogen dioxide and carbon monoxide that are most recent and protective while eliminating the TLV for nitrogen oxide. The requirement to measure sulfur dioxide, formaldehyde, and carbon dioxide was removed. Finally, emission testing and evaluation results will be required to be recorded and securely kept and available at the mine.

4 VAC 25-90-80 is proposed to be moved from old 4 VAC 25-90-270, reworded and reordered for clarity and understanding. In subsection A, for example, a self-contained or dry chemical liquid carbon or no less effective system, is proposed to be replaced with multipurpose dry chemical type (ABC) fire suppression system or an equivalent approved system.

Fuel specifications and use and were separated into 4 VAC 25-90-90 and 4 VAC 25-90-100 respectively. Information is proposed to be moved from other parts of the regulation and information is proposed to be consolidated and simplified. In 4 VAC 25-90-90 A, the regulation lowers the sulfur content from .25% to .05% to be consistent with national standards set by the Environmental Protection Agency and MSHA. In subsection B a requirement is proposed to be added to

require the operator to provide information on fuel sulfur content and flash point. This information is to be kept up to date, corresponding with shipments received at the mine.

In 4 VAC 25-90-100, fuel use, storage, handling, subsections A through I are proposed to be moved from other parts of the regulation and reworded (i.e., old subsections K and L). In addition, the proposed subsection J is reworded with detailed requirements being proposed to clarify and organize the regulation. Subdivision 1 is changed to require fuel storage greater than 1,000 gallons be ventilated with intake air to the return air course or to the surface. Subdivision 2 incorporates old subdivisions K 3 and L 2, requiring an ABC type fire extinguisher and rock dust in a quantity proportionate to the quantity of fuel stored. A 48 hour and 1,000 gallon fuel storage supply limit requirement is proposed to be added to subdivision 3, while concurrently incorporating old subdivision L 3 requirements. Proposed subdivisions 4 and 5 are added to address the temporary and permanent conditions under which fuel should be stored underground.

Issues: The primary advantage of the regulation is that it provides increased health and safety to miners while simplifying and reducing the cost of exhaust monitoring. The disadvantage is an increased cost to a small number of operators using diesel equipment.

In MSHA's publication, Practical Ways to Reduce Exposure to Diesel Exhaust in Mining - A Toolbox, it is pointed out that diesel-powered equipment is widely used in mining operations because it is more powerful than battery-operated equipment and does not use cables which can restrict mobility. However, the use of this equipment is also a source of concern because of the health hazards posed by emissions, e.g., carbon monoxide, carbon dioxide, and oxides of nitrogen. The particulate matter in these emissions can be inhaled and kept in the lungs and may increase the risk of disease. Therefore, it is important to reduce miners' exposure to diesel exhaust emissions, especially in underground mines.

How this reduction is achieved and to what degree, is an important issue being discussed on the national level. MSHA and NIOSH have been working with the mining community to address the potential health risks, look at ways to measure and limit diesel exhaust emissions in mines, and approaches to achieve a safe and healthy work environment where diesel-powered equipment is in operation. The result of this effort supports these conclusions:

- Engine emissions are governed by engine design, work practices, duty cycle, fuel quality and maintenance. Reducing engine emissions will decrease the amount of diesel particulate matter that needs to be controlled by other means and will reduce the exposure of miners.
- There is no single emission control strategy that is a panacea for the entire mining community.
- Diesel engine maintenance is the cornerstone of a diesel emission control program.

Findings were considered along with other scientific information stemming from development of similar regulations in neighboring states. The studies found that using catalytic converters and filters on diesel equipment could reduce the

amount of toxic gases generated by diesel equipment by 90-95% and eliminate one third of the particulate matter emitted. When used with a filter, the particulate matter is reduced still more. Thus, a catalytic converter or filter, or both, are referenced in the regulation because it can provide an effective method for reducing the hazards of diesel equipment, especially when combined with clean fuel and good ventilation.

The regulation will also be of benefit to miners and operators in that the regulations now reflect changes in law and improvements in mining technology, address areas not currently addressed by MSHA and avoid conflicts with federal law and regulations. They are also clearer and easier to understand, which benefits those regulated as well as the agency who must enforce the regulation. Safer mines and healthier miners generate benefits to the public at-large. Localities affected are those in southwestern Virginia in which coal mining with diesel-powered equipment occurs.

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 25 (98). 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. The Department of Mines, Minerals, and Energy (DMME) proposes numerous amendments to this regulation. Many of the changes are proposed in order to match federal law from the U.S. Mine Safety Health Administration (MSHA). Most of these changes do not affect the regulated community since they already must comply with federal law. Changes that may affect the regulated community include: (i) the elimination of the requirements to test air quality for the presence of sulfur dioxide, carbon dioxide, and formaldehyde, (ii) the elimination of the requirement to test diesel equipment emissions for nitric oxide, (iii) the reduction of the threshold limit value for carbon monoxide from 50 ppm to 25 ppm, and (iv) allowing operators to obtain approval for diesel equipment from the Chief of the Virginia Division of Mines' designated representative.

Estimated economic impact.

Reduction of Required Testing. Under the current regulations, air quality and diesel equipment emissions in mines must be tested for concentrations of carbon monoxide, nitrogen dioxide, nitric oxide, carbon dioxide, formaldehyde, and sulfur dioxide. The proposed regulations only require that concentrations of carbon monoxide and nitrogen dioxide be determined. According to DMME, nitric oxide, carbon dioxide, and formaldehyde will only occur at a harmful concentration when carbon monoxide is also occurring at a harmful

concentration. This determination has been made by DMME and MSHA researchers, supported by information provided by the National Institute of Occupational Safety and Health (NIOSH) and the American Conference of Governmental Industrial Hygienists (ACGIH).¹ Thus, based on this determination, testing for nitrogen dioxide would be sufficient to determine if a health risk exists due to any of the four substances. DMME proposes to eliminate testing for sulfur dioxide because, due to U.S. Environmental Protection Agency standards, the diesel fuel used in mines no longer contains enough sulfur to produce dangerous levels of sulfur dioxide emissions.²

DMME estimates that operators currently use three to nine tubes per day to test for nitric oxide, and one tube per month to test for sulfur dioxide, carbon dioxide, and formaldehyde. Also, DMME estimates that the cost of each tube is about \$5.25, that it takes 5 to 10 minutes for each tube test, and that the applicable employees are paid about \$18 per hour. The proposed elimination of the requirements to test for nitric oxide will, therefore, save operators approximately \$79 to \$236 per week in materials,³ and \$22.50 to \$135 per week in labor.⁴ While, the proposed elimination of the requirements to test for sulfur dioxide, carbon dioxide, and formaldehyde will save operators approximately \$15.75 per month in materials,⁵ and \$4.50 to \$9 in labor.⁶

DMME also proposes to reduce the frequency of carbon monoxide diesel equipment emission tests from daily to once a week. According to the agency, the reduction in frequency of carbon monoxide diesel equipment emission tests will not put the miners' health at risk, since carbon monoxide air quality tests will continue to be performed every shift. Based on DMME's assessment that the number of tubes used for tests will decline from a range of 15 to 45 to one per week, operators would save approximately \$73.50 to \$231 per week in materials⁷ and \$21 to \$132 in labor⁸ due to this proposed change.

Assuming that DMME and MSHA's assessments that: (i) testing for carbon monoxide would be sufficient to determine if a health risk exists due to the presence of nitric oxide, carbon dioxide, or formaldehyde is correct, (ii) the determination that the diesel fuel used in mines no longer contains enough sulfur to produce dangerous levels of sulfur dioxide emissions is correct, and (iii) the reduction in frequency of carbon

¹ Source: Department of Mines, Minerals, and Energy

² Source: Department of Mines, Minerals, and Energy

³ Calculation: (3 to 9 tubes per substance per day) x (5 days a week) x (\$5.25 per tube) = \$78.75 to \$236.25 per week

⁴ Calculation: (3 to 9 tubes per substance per day) x (5 days a week) x (5 to 10 minutes per tube) x (\$18 per hour) = \$22.50 to \$135 per week

⁵ Calculation: (1 tube per substance per month) x (3 substances) x (\$5.25 per tube) = \$15.75 per month

⁶ Calculation: (1 tube per substance per month) x (3 substances) x (5 to 10 minutes per tube) x (\$18 per hour) = \$4.50 to \$9 per month

⁷ Calculation: (14 to 44 tubes per week) x (\$5.25 per tube) = \$73.50 to \$231 per week

⁸ Calculation: (14 to 44 tubes per week) x (5 to 10 minutes per tube) x (\$18 per hour) = \$21 to \$132

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monoxide diesel equipment emission tests will not put the miners' health at risk, since carbon monoxide air quality tests will continue to be performed every shift is correct, then the proposed changes to eliminate and reduce the frequency of required tests will not compromise health safety. Since there are cost savings associated with the reduction of required testing, a net benefit would be produced.

Reduced Threshold Limit Value. The proposed regulations would reduce the threshold limit value (TLV) for carbon monoxide from 50 ppm to 25 ppm. The TLV is the airborne concentration of a substance that represents conditions under which it is believed that nearly all workers may be repeatedly exposed day after day without adverse effect as recommended by the American Conference of Government Industrial Hygienists. According to DMME, carbon monoxide concentrations will remain well below 25 ppm as long as the diesel equipment functions properly. Thus, the proposed lower TLV should not produce new costs for operators. The lower TLV may help prevent workers from being exposed to harmful concentrations of carbon monoxide by triggering preventative action sooner.

Approval for Diesel Equipment. Under the current regulations, diesel-powered equipment is not permitted underground without approval from the Chief of the Virginia Division of Mines. DMME proposes to allow operators to obtain approval of diesel-powered equipment from either the Chief or his designated representative. On occasions that the Chief is unavailable due to vacation, illness, or work-related reasons, the ability to obtain approval from a designated representative could speed up the approval process by a number of days. This would be beneficial for operators without producing any cost.

Businesses and entities affected. DMME estimates that 20 coal companies, 1,500 coal miners, and 14 equipment manufacturers will be affected by the proposed regulation.

Localities particularly affected. Virginia's coal industry is primarily located in the southwestern portion of the Commonwealth, including the Counties of Buchanan, Dickenson, Lee, Russell, Scott, Tazewell, and Wise, and the City of Norton.

Projected impact on employment. The proposed reduction of required testing would reduce the need for approximately 2.5 hours to 15 hours a week of labor time.

Effects on the use and value of private property. The proposed reduction of required testing would reduce costs for coal companies, and would perhaps increase their value by a small amount. Some firms that supply testing equipment and parts (tubes) will likely encounter a small reduction in demand for their products. Consequently, the value of these firms may decline slightly.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The Department of Mines, Minerals, and Energy concurs with the economic impact analysis conducted by the Department of Planning and Budget

Summary:

The proposed amendments reorganize the regulation under new subject headings and rewrite provisions for clarity and ease of understanding. The revisions address changes made in Virginia's Coal Mine Safety Act, address hazards not addressed by the Mine Safety and Health Administration (MSHA), avoid conflicts with MSHA regulations and federal law, reflect changes in technology, and eliminate duplicative information. Many of the changes are proposed in order to conform to federal law under MSHA. Significant amendments will (i) eliminate the requirements to test air quality for the presence of sulfur dioxide, carbon dioxide, and formaldehyde; (ii) eliminate the requirement to test diesel equipment emissions for nitric oxide; (iii) reduce the threshold limit value for carbon monoxide from 50 ppm to 25 ppm; and (iv) allow operators to obtain approval for diesel equipment from the Chief of the Virginia Division of Mines' designated representative.

CHAPTER 90.

RULES AND REGULATIONS GOVERNING THE USE OF DIESEL-POWERED EQUIPMENT IN UNDERGROUND COAL MINES.

4 VAC 25-90-10. **General requirements. Definitions.**

~~A. Diesel powered equipment will not be permitted underground without the written approval of the Chief of the Virginia Division of Mines. The approval of use shall incorporate all the requirements of this chapter.~~

~~B. If at any time the chief determines that any condition or practice permitted under this approval may threaten the health or safety of the employees, he may impose additional requirements for the purpose of eliminating the condition or practice.~~

~~C. The operator shall submit to the Virginia Division of Mines a plan which shall contain the ventilation plans as to the quantities of air in the area where the diesel units are to be operating and the number of diesel units which the operator plans to operate. (If in the future the operator exceeds the projected number of units, another amendment must be submitted.) Also, this plan must contain the projected quantities of diesel fuel to be used in a 24-hour period. (Adjustments to the quantities of fuel may be amended by the chief of the division.)~~

~~D. No diesel powered equipment shall be placed in initial operation underground without a check for approval by the state mine inspector. The mine inspector shall report to the chief in writing as to the permissibility, ventilation, air quality of toxic gases, the mine operator's name, type of equipment, serial number, and MSHA certification number where applicable.~~

~~E. All nonface diesel powered equipment used underground shall meet the requirements and be maintained and operated in accordance with the requirements of the Code of Federal Regulations, Title 30, Chapter I, Part 32, Revised as of July 1, 1983.~~

~~F. All mobile diesel powered equipment operated in by the last open crosscut and in return air courses shall be permissible and shall be maintained and operated in a~~

~~permissible condition as defined by the Code of Federal Regulations, Title 30, Chapter I, Part 36, Revised as of July 1, 1983.~~

~~G. Engine adjustments shall be verified by a statement by the engine manufacturer or by the manufacturer's stamped nameplate as being correct before each diesel powered machine is initially operated in a coal mine.~~

~~H. Alteration in design, substitution of components or assemblies, or changes in conditions of operating diesel powered machines shall not be made without prior concurrence of the Virginia Division of Mines. When such changes are permitted, additional engine tests and adjustments shall be required as necessary to ensure the safe operation of the particular machine in a coal mine.~~

~~I. The engine of diesel powered equipment shall not be left idling unattended.~~

~~J. All employees working in mines where diesel powered equipment is used shall be furnished with a filter type self-rescuer or equivalent which they shall carry at all times while on duty in the mine.~~

~~K. The operation of any diesel powered machine in any manner or under any condition that does not comply with the requirements of this chapter may result in the machine being taken out of service until such condition or practice is corrected. Upon review of the violations, the Chief of the Division of Mines may void the approval for use of diesel powered equipment for underground use.~~

~~L. The engine of any diesel powered machine shall not be capable of starting unless the transmission controls are in the neutral position.~~

~~M. Stationary diesel powered equipment or installations shall not be permitted underground without a plan submitted by the operator and the written approval of the Chief of the Division of Mines. The plan shall address ventilation, fire protection, and fuel storage and handling.~~

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

"Chief" means the Chief of the Division of Mines of the Department of Mines, Minerals and Energy.

"Division" means the Division of Mines of the Department of Mines, Minerals and Energy.

"MSHA" means the Mine Safety and Health Administration.

"TLV" or "Threshold Limit Value" means the airborne concentration of a substance that represents conditions under which it is believed that nearly all workers may be repeatedly exposed day after day without adverse effect as recommended by the American Conference of Government Industrial Hygienists.

4 VAC 25-90-20 to 4 VAC 25-90-110. [Reserved]

4 VAC 25-90-20. Diesel equipment approval.

A. Diesel-powered equipment shall not be permitted underground without receiving approval from the Chief or his designated representative. Approval will be based on:

1. Meeting the requirements of this regulation.
2. Compliance with 30 CFR Part 7 Subpart E, design and performance requirements for nonpermissible diesel-powered equipment.

Compliance with 30 CFR Part 7 Subparts E and F, and 30 CFR Part 36, requirements for permissible diesel-powered equipment.

3. An evaluation by the Division of Mines of the equipment, undiluted exhaust emissions, the adequacy of ventilation, fire protection, and air quality for the type of equipment.

4. If an oxidation catalytic converter, a diesel particulate filter, or both, are installed on underground diesel-powered equipment they shall be installed and maintained in accordance with manufacturer's specifications.

B. If at any time the Chief determines that any condition or practice permitted under this approval may threaten the health or safety of employees, additional requirements may be imposed for the purpose of eliminating the condition or practice.

C. Stationary diesel-powered equipment and portable diesel generators shall not be permitted underground without an approved plan. The plan shall address ventilation, fire protection, fuel handling, storage, and any other requirements the Chief determines as necessary to protect the health and safety of miners.

D. The Division of Mines shall be notified after completion of any alterations in design, substitution of components, and any other changes in the condition of operating diesel-powered equipment that affects emissions. Additional engine testing and adjustments shall be required as necessary should any resulting changes be made that may increase diesel emissions.

4 VAC 25-90-30. Operation of diesel equipment.

A. All mobile underground diesel-powered equipment shall be operated safely and shall meet the following requirements:

1. Be free of excess accumulation of coal dust, oil, grease, fuel and other combustible materials; and
2. Be operated with:
 - a. An audible warning device;
 - b. An engine start and stop mechanism;
 - c. Guards over moving components;
 - d. A rerailling device and sanding devices (self-propelled rail equipment only);
 - e. Headlights on each end;
 - f. Park and service brakes;

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- g. A fire suppression system;*
- h. Intake and exhaust couplings in good condition; and*
- i. A self closing filler cap on the fuel tank.*

To avoid contact with energized trolley wires or trolley feeder wires a six-inch minimum clearance shall be maintained or the equipment shall be adequately insulated.

B. All mobile diesel-powered equipment operated in or inby the last open crosscut or in return air courses shall be permissible. Such diesel-powered equipment shall be maintained and operated in accordance with 4 VAC 25-90-20 and as follows:

- 1. Electrical component permissibility shall be maintained;*
- 2. Emergency engine shutdown shall be operable;*
- 3. Flame arresters (intake and exhaust) shall be provided; and*
- 4. Low-level shutdown (water bath/scrubber) shall be operable.*

C. The engine of mobile diesel-powered equipment shall not be left idling unattended.

D. The engine of any mobile diesel-powered equipment shall not be capable of starting unless the transmission controls are in the neutral position.

E. The operation of any diesel-powered equipment in any manner or under any condition that does not comply with the requirements of this chapter shall result in a notice of violation and if not corrected within a reasonable time a closure order shall be issued that requires the machine be taken out of service until such condition or practice is corrected. Upon review of the history of violations, the Chief may void the approval for use of underground diesel-powered equipment at that mine.

4 VAC 25-90-40. Maintenance of diesel equipment.

A. Engine intake and exhaust systems shall be inspected visually by an authorized person at least once each day that the equipment is operated.

B. Permissible and emission components of diesel-powered equipment shall be inspected weekly by a certified diesel engine mechanic in accordance with the instructions of the manufacturer and all applicable federal and state requirements.

C. Fuel filters on diesel engines shall be maintained or replaced as recommended by the manufacturer or more often if necessary.

D. Maintenance and repair work on emission components shall be done by a certified diesel engine mechanic in accordance with the instructions of the manufacturer and all applicable federal and state requirements.

E. All diesel-powered equipment shall be equipped with an hour meter to accurately display engine run time.

F. Maintenance manuals shall be made available for review by interested persons.

G. Records shall be kept of inspections, maintenance, and repair work for at least one year and shall be made available for inspection by interested persons.

4 VAC 25-90-50. Ventilation of diesel equipment.

A. The ventilating air in all active areas where diesel-powered equipment is operated shall not have combustible or other contaminating gases in such concentration that may affect combustion in the diesel engine by materially increasing toxic, poisonous or other objectionable constituents in the engine exhaust.

B. The air supplied for ventilation where diesel-powered equipment is used shall contain less than 1.0% by volume of methane.

C. The minimum ventilating air quantity maintained in the last open crosscut of each working section where units of diesel-powered equipment are operated must be at least the sum of that specified on the approval plates of all the diesel-powered equipment to be operated in these areas.

D. The minimum ventilating air quantity maintained in the intake reaching the working face of each longwall and at the intake end of any pillar line where units of diesel-powered equipment are operated on the working section must be at least the sum of that specified on the approval plates of all the diesel-powered equipment to be operated in these areas.

E. The minimum ventilating air quantity for an individual unit of diesel-powered equipment being operated outby the working section shall be at least that specified on the approval plate for that equipment. Such air quantity shall be maintained:

- 1. In any entry where the equipment is being operated in areas of the mine developed [on or after the effective date of these regulations];*
- 2. In any air course with single or multiple entries where the equipment is being operated in areas of the mine developed prior to [the effective date of these regulations]; and*
- 3. At any other location as the Chief may require.*

F. The quantity of ventilating air supplied to the active areas where diesel-powered equipment is operated must be adequate to dilute and carry away constituents of the engine exhaust so that the composition of the air meets the air quality standards set forth in 4 VAC 25-90-70.

4 VAC 25-90-60. Emission testing and evaluation.

Undiluted exhaust emissions of diesel engines in diesel-powered equipment used in underground coal mines shall be tested and evaluated weekly by an authorized person. The mine operator shall develop and implement effective written procedures for such testing and evaluation and shall include the following:

- 1. The method for which a repeatable load test is conducted that must include an engine RPM reading;*

2. Sampling and analytical methods used to measure diesel engine emission concentrations;
3. Instrumentation calibrated and used to accurately detect, measure and monitor the air emission concentrations in 4 VAC 25-90-70;
4. The evaluation and interpretation of air quality testing and sampling results;
5. The concentration or changes in concentration of carbon monoxide that will indicate a change in engine performance and an action plan to address changes in performance. The operator will compare the MSHA engine approval data with the first four emission tests at the mine and establish an acceptable level of carbon monoxide emissions, subject to approval by the Chief. Carbon monoxide emissions shall not exceed two times the established level and at no time exceed 2500 parts per million.
6. The maintenance of records necessary to track engine performance. These records shall be:

- a. Recorded in a secure book that is not susceptible to alteration, or recorded electronically in a computer system that is secure and not susceptible to alteration; and
- b. Retained at a surface location at the mine for at least one year and made available for inspection by interested persons.

4 VAC 25-90-70. Air quality.

- A. During on-shift examinations required by § 45.1-161.209 of the Code of Virginia, a mine foreman authorized by the operator shall determine the concentration of carbon monoxide (CO) and nitrogen dioxide (NO₂).
- B. In the return of each working section where diesel equipment is used in by the loading point at a location which represents the contribution of all diesel equipment on such section.
- C. At a point in by the last piece of diesel equipment on a longwall or shortwall when mining equipment is being installed or removed. This examination shall be made at a time which represents the contribution of all diesel equipment used for this activity including the diesel equipment used to transport longwall or shortwall equipment to and from the section.
- D. In any other area designated by the Chief where diesel equipment is operated in a manner which can result in significant concentrations of diesel exhaust emissions.
- E. The concentrations of carbon monoxide (CO) and nitrogen dioxide (NO₂) shall not exceed the following threshold limit values:

Threshold Limit Values (TLV)

Carbon Monoxide (CO)	25 ppm
Nitrogen Dioxide (NO ₂)	3 ppm

- F. Samples of CO and NO₂ shall be collected and analyzed:

1. By appropriate instrumentation that has been maintained and calibrated in accordance with the manufacturer's recommendations;
2. In a manner that makes the results available immediately to the person collecting the samples; and
3. During periods that are representative of conditions during normal operations.

G. The results of these tests shall be:

1. Recorded in a secure book that is not susceptible to alteration, or recorded electronically in a computer system that is secure and not subject to alteration; and
2. Retained at a surface location at the mine for at least one year and made available for inspection by interested persons.

4 VAC 25-90-80. Fire protection for diesel-powered equipment.

- A. Mobile, diesel-powered equipment shall have a multipurpose dry chemical type (ABC) fire suppression system or equivalent approved system.
- B. Nozzles and reservoirs shall be placed in accordance with the manufacturer's specifications to provide maximum protection to the fuel tank compartment, motor compartment, battery compartment and hydraulic tanks.
- C. Stationary diesel-powered equipment must be equipped with an automatic multipurpose dry chemical type (ABC) or equivalent approved fire suppression system.

4 VAC 25-90-90. Fuel specifications.

- A. The fuel for diesel-powered equipment approved for service in underground mines shall be low volatile hydrocarbon fuel with a flash point of 100°F or greater at standard temperature and pressure, and shall contain sulfur in a concentration of .05% or less by weight.
- B. The mine operator shall maintain on the mine site and make available for inspection a statement from the diesel fuel supplier certifying the sulfur content and flash point of the diesel fuel to be used underground. This statement shall be updated annually and whenever the fuel distributor is changed.

4 VAC 25-90-100. Fuel use, storage, and handling.

- A. Unless otherwise approved, fuel taken underground shall be transported in metal containers that have self-closing devices.
- B. Fuel taken underground and awaiting transfer to diesel-powered equipment fuel tanks shall be stored in a closed compartment or container constructed of incombustible material and shall be kept in a well-ventilated location until placed in the fuel tank.
- C. Fuel shall be transferred from the storage compartment to a fuel tank through a flexible hose that is fitted with a self-closing valve. This does not apply to portable containers of five gallons or less.

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D. The fuel handling system and the diesel-powered equipment shall be frame grounded when fuel is being transferred from the storage compartment to the fuel tank. This does not apply to portable containers of five gallons or less.

E. The air vents on fuel handling equipment shall be flameproof. This does not apply to portable containers of five gallons or less.

F. When fuel is being transferred from a storage compartment to the diesel equipment fuel tank, the engine shall be stopped.

G. A supply of sand or other suitable incombustible material for absorbing spilled fuel shall be available during the transfer of fuel from a storage compartment to the diesel equipment fuel tank. Fuel spilled shall be cleaned up immediately.

H. In order to prevent unintentional opening, all drain plugs in the fuel handling system shall be threaded, sealed, locked, and protected in the closed position.

I. During fuel handling operations, precautions shall be taken to keep the fuel clean and free from contamination by foreign material such as dirt, sediment and water.

J. Diesel fuel storage and handling in a working section shall comply with the following:

1. Underground storage areas that exceed 100 gallons shall be vented with intake air that is coursed into a return air course or to the surface and not used to ventilate working places.

2. At least one 20-pound approved ABC type fire extinguisher and no less than 200 pounds of rock dust per 100 gallons of fuel storage shall be maintained at the designated underground mine storage area.

3. Storage underground shall be limited to a typical 48-hour supply not to exceed 1,000 gallons.

4. Only one temporary underground diesel fuel storage area is permitted for each working section or in each area of the mine where equipment is being installed or removed. Temporary storage areas must be located within 500 feet of the current loading point, the projected loading point where equipment is being installed, or the last loading point where equipment is being removed.

5. Temporary and permanent underground diesel fuel storage facilities must be:

a. At least 100 feet from shafts, slopes, shops, or explosive magazines;

b. At least 25 feet from trolley wires, power cables, or electrical equipment not necessary for the operation of the storage facilities or areas; and

c. In a location protected from hazards of other mobile equipment.

4 VAC 25-90-120. Proper ventilation. (Repealed.)

~~A. The use of diesel powered machines underground shall be restricted to haulageways and working places where positive ventilation is maintained by mechanical means.~~

~~B. The ventilating air in all mine workings where diesel powered machines are operated shall not contain combustible or other contaminating gases in such concentration that will affect combustion in the diesel engine by materially increasing production of toxic, poisonous or other objectionable constituents in the engine exhaust.~~

~~C. Each set of producing entries in which diesel powered equipment is used shall be placed on a separate split of air.~~

~~D. The air supplied for ventilation where diesel powered machines are used shall contain not less than 19.5% by volume of oxygen (dry basis) and not more than 1.00% by volume of methane.~~

~~E. The quantity of ventilating air to be maintained in the last open crosscut where multiple units are operating in a working section shall be at least 100% of the air quantity specified on the approval plate of the first diesel unit (the unit requiring the highest air quantity on its approval plate) plus 75% of the approval plate air quantity for the second diesel unit and 50% of the approval plate air quantity of each additional diesel unit operating in the split of air. The quantity of ventilating air in the last open crosscut in working sections where diesel powered equipment is used, shall be measured and recorded daily.~~

~~F. The quantity of ventilating air supplied to the working face must be adequate to dilute all toxic and objectionable constituents of the engine exhaust to such extent that the composition of the air meets the air quality standards stipulated in 4 VAC 25-90-120 subdivisions H and O.~~

~~G. The quantity of ventilating air to be maintained along haulageways for outby diesel powered equipment must be adequate to dilute all toxic and objectionable constituents of the engine exhaust to such extent that the composition of the air meets the air quality standards stipulated in 4 VAC 25-90-120 subdivisions H and O. The quantity of ventilating air along haulageways where diesel powered equipment is used shall be measured and recorded daily.~~

~~H. The air quality in which diesel powered equipment is operated shall be sampled to determine that the composition of the air is within safe limits with respect to CO, NO, and NO₂. These safe limits are currently defined as being equal to or less than the following Threshold Limit Values (TLV):~~

TLV

Carbon Monoxide (CO)	50 ppm
Nitrogen Dioxide (NO ₂)	3 ppm
Nitric Oxide (NO)	25 ppm

~~I. Air quality measurements specified in 4 VAC 25-90-120 H shall be taken at least once per shift for each diesel powered machine when it is in operation. The measurements must be taken on the downwind side of the machine not closer than five feet and not greater than 10 feet from the exhaust in the middle of the entry midway between the mine roof and the~~

mine floor. Machine(s) exceeding the TLV must be repaired, removed from service or the quantity of air coursed over the machine(s) be increased to reduce gas concentrations to levels at or below the TLV.

J. Air quality measurements shall also be taken in the immediate return for each working section at least two times per shift (once during the first two hours of the shift and once in the last two hours of the shift) while the unit(s) of diesel powered equipment being employed in the section during the shift are in normal operation. Where test results show levels above the established TLV, the diesel powered equipment shall be shut down until the problem is corrected. When the diesel powered equipment is returned to service, air quality tests shall be made to determine that the equipment is in compliance.

K. If the engine exhaust becomes more noticeable than normal, required air quality tests shall be made. If the results of the air quality tests are not in compliance, the equipment shall be shut down until the problem is corrected. When the equipment is returned to service, air quality tests shall be made to determine that the equipment is in compliance.

L. Frequency of air quality or quantity measurements may be reduced or increased by written notice from the chief if he feels that the performance and compliance records of the operator warrant such action.

M. Air quality measurements may be taken by several recognized methods such as gas concentration indicator tubes or direct readout instruments approved for such use or other such methods as may be developed and subsequently approved in the future for taking such measurements. These testers shall be provided and maintained by the operator.

N. All tests required in Part II of this chapter shall be taken by a competent person designated by the operator and the results of these tests shall be permanently recorded and kept in a designated place for at least one year. When the test results show excursions above the TLV, the corrective measures taken to attain compliance must also be recorded. These records will be made available for inspection by interested persons during normal working hours.

O. The air quality in which diesel powered equipment operates may be affected by constituents other than those stipulated in 4 VAC 25-90-120 H. The operator shall at least once per month perform air quality measurements to ensure safe limits with respect to Carbon Dioxide (CO sub2), Sulfur Dioxide (SO sub2) and Formaldehyde. These safe limits are currently defined as being equal to or less than the following Threshold Limit Values (TLV):

	TLV
Carbon Dioxide (CO ₂)	5000 ppm
Sulfur Dioxide (SO ₂)	2 ppm
Formaldehyde	1 ppm

4 VAC 25-90-270. Fire protection for diesel powered equipment. (Repealed.)

A. Each mobile diesel powered machine shall be equipped with a self-contained dry chemical or liquid carbon system or

no less effective system approved by the Virginia Division of Mines.

B. Stationary diesel powered equipment must be equipped with an automatically activated dry chemical or carbon dioxide system or no less effective system approved by the Virginia Division of Mines.

C. Nozzles and reservoirs shall be placed in accordance with the manufacturer's specifications to provide maximum protection to the fuel tank compartment, motor compartment, battery compartment and hydraulic tanks.

4 VAC 25-90-300. Maintenance of diesel machines. (Repealed.)

A. Maintenance of diesel powered machines shall be performed by competent persons designated by the operator.

B. Engine intake and exhaust systems shall be inspected visually at least once each working shift.

C. Permissible and emission components of diesel powered machines shall be inspected in accordance with the instructions of the manufacturer or applicable requirements of the law.

D. Records shall be kept of inspections for at least one year and shall be made available for inspection by interested persons.

E. Maintenance and repair work on permissible and emission components shall be done in accordance with the instructions of the manufacturer or applicable requirements of the law. Records of maintenance and repair work on permissible and emission components shall be recorded in a permanent notebook and shall be maintained for a minimum of one year in a designated location open for inspection by interested persons.

F. Maintenance manuals shall be made available for review by interested persons.

4 VAC 25-90-340. Fuel usage; specifications. (Repealed.)

A. The fuel for diesel engines of machines approved for service in underground mines shall be a low volatile hydrocarbon fuel classified as ASTM D975 No. 2D diesel fuel with a flash point of 125° F or greater at standard temperature and pressure, and shall contain sulfur in a concentration of 0.25% or less by weight. The mine operator shall maintain on the mine site, and make available for inspection, a statement certifying the sulfur content of the diesel fuel to be used underground. Where diesel fuel with a sulfur content of 0.25% or less by weight is not readily available, the chief may grant a variance to use other fuels for approved diesel machinery.

B. Fuel filters on diesel engines shall be cleaned regularly, replaced or repaired promptly as conditions require.

4 VAC 25-90-360. Fuel usage; storage and handling. (Repealed.)

A. Fuel taken underground shall be transported only in strong metal type containers that are provided with efficient closing devices or other suitable methods approved by the chief.

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~~B. Fuel taken underground and awaiting transfer to diesel powered machine fuel tanks shall be stored in a closed compartment or container constructed of incombustible material and shall be kept in a well ventilated location.~~

~~C. Fuel shall be transferred from the storage compartment to a machine fuel tank through flexible hose that is fitted with a self-closing valve. However, this does apply to portable hand held containers of five gallons or less.~~

~~D. The fuel handling system and the diesel powered machine shall be frame grounded when fuel is being transferred from the storage compartment to the machine fuel tank. However, this does not apply to portable hand held containers of five gallons or less.~~

~~E. The air vents on fuel handling equipment shall be flameproof. However, this does not apply to portable hand held containers of five gallons or less.~~

~~F. When fuel is being transferred from a storage compartment to the machine fuel tank, the diesel engine on the piece of equipment being fueled shall be stopped.~~

~~G. A supply of sand or other suitable incombustible material shall be available during the transfer of fuel from a storage compartment to the machine fuel tank for absorbing spilled fuel. Fuel spilled shall be cleaned up immediately.~~

~~H. In order to prevent unintentional opening, all drain plugs in the fuel handling system shall be threaded and sealed, locked in the "closed" position, or protected by location.~~

~~I. Only persons designated by the operator shall be permitted to handle fuel for diesel powered machines.~~

~~J. In fuel handling operations precautions shall be observed to keep the fuel clean and free from contamination by foreign material such as dirt, sediment and water.~~

~~K. Diesel fuel storage and handling in a working section shall comply with the following:~~

- ~~1. Only one diesel fuel center will be permitted to be in permanent residence;~~
- ~~2. Diesel fuel may be stored in combination with, or in the same area, or both, as hydraulic oil, lubricating oil, and greases;~~
- ~~3. One 20 pound approved ABC fire extinguisher and 200 pounds of rock dust per 100 gallons of diesel fuel stored shall be maintained at the storage area;~~
- ~~4. The storage area shall be vented directly to the return;~~
- ~~5. Storage shall be limited to a typical 24 hour supply not to exceed 500 gallons.~~

~~L. Diesel fuel storage for the mine shall comply with the following:~~

- ~~1. The underground storage area shall be vented directly to the return;~~
- ~~2. One 20 pound approved ABC type fire extinguisher and no less than 200 pounds of rock dust per 100 gallons of fuel storage shall be available at the underground mine storage area;~~

~~3. Storage underground shall be limited to a typical 48-hour supply for all normally operating diesel units in the mine.~~

VA.R. Doc. No. R00-85; Filed November 29, 2000, 11:58 a.m.

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Title of Regulation: 4 VAC 25-100-10 et seq. Regulations Governing Vertical Ventilation Holes and Mining near Gas and Oil Wells (REPEALING).

Title of Regulation: 4 VAC 25-101-10 et seq. Regulations Governing Vertical Ventilation Holes and Mining near Gas and Oil Wells.

Statutory Authority: §§ 45.1-161.3, 45.1-161.106, 45.1-161.121, 45.1-161.254 and 45.1-161.292 of the Code of Virginia.

Public Hearing Date: January 25, 2001 - 10 a.m.

Public comments may be submitted until February 16, 2001.

(See Calendar of Events section for additional information)

Basis: Under the powers of the department, § 45.1-161.3 states that the department has the authority "To promulgate regulations necessary or incidental to the performance of duties or execution of powers conferred under this title and other relevant chapters, which regulations shall be promulgated by the Department, the Chief, or the Director, as appropriate, in accordance with the provisions of Article 2 (§ 9-6.14:7.1 et seq.) of the Administrative Process Act."

Sections 45.1-161.106 and 45.1-161.254 provide the Chief with the authority to promulgate rules and regulations necessary to ensure safe and healthy working conditions in underground coal mines and in surface coal mines respectively.

Additionally, § 45.1-161.121 C states that "The Chief shall promulgate regulations which prescribe the procedure to be followed by mine operators in petitioning the Chief for approval to conduct such activities within 200 feet of a gas or oil well or a vertical ventilation hole."

Finally, § 45.1-161.292 B states that "The Chief shall promulgate regulations which prescribe the procedure to be followed by mine operators in petitioning the Chief for approval to conduct such activities closer than 200 feet to a well. A petition may include a request to mine through a plugged well or plugged vertical ventilation hole. A petition may also include a request to mine through a well or vertical ventilation hole and lower the head of such well or vertical ventilation hole."

Purpose: The proposed regulation will govern the drilling, equipping, operating and plugging of vertical ventilation holes which are used to remove methane gas from underground coal mines. It also will govern the practice of mining near or through a vertical ventilation hole or gas well. Use of vertical ventilation holes affects the safety of underground miners through the removal of explosive methane gas from the mine atmosphere. Safety is also affected by the potential hazards

associated with mining activity occurring in close proximity to the vertical ventilation holes and gas wells. Sufficient barrier must be left around the wells to ensure that underground miners don't accidentally mine into the wells. The regulations also are necessary to protect the welfare of citizens having interests in the vicinity of a location of a vertical ventilation hole.

The proposed regulation will also streamline the regulatory process, eliminate unnecessary regulatory requirements, clarify language, and implement changes based on the Department of Mines, Minerals and Energy's, mine operators', coal miners' and citizens' experiences in implementing the Regulations Governing Vertical Ventilation Holes and Mining Near Gas and Oil Wells (4 VAC 25-100). These regulations were last amended in 1991.

Substance:

4 VAC 25-101-10 (old 4 VAC 25-100-10). Definitions. Several definitions were added (accurate map or plat, bridge plug, coalbed methane gas, coal seam, director, form prescribed by the Chief, gas well operator, gas and oil inspector, gas well, groundwater, intermediate string, log, mfc, minable coal seam, mining, mud, pending, permitted, pipeline, state plane coordinate system, string of pipe, tubing, water protection string) to update to current industry standards, to strengthen the safety standards, and to conform the definitions to those of the Virginia Gas and Oil Regulations (4 VAC 25-150).

4 VAC 25-101-20 (old 4 VAC 25-100-20). Application for permits; maps or plats; notice. Changes to this section were for clarification purposes and formatting changes for better understanding. Specifically, the survey accuracy requirements were removed and detailed requirements for safety equipment were added. The notice of right to object requirement was changed from 15 to 10 days. This change was made to conform the requirement to the Code of Virginia.

4 VAC 25-101-30. Receipt of coal seam information; decision on casing. This is a new section that requires all parties to submit coal seam information to the Chief of the Division of Mines. This section also requires that the Chief must approve seams to be protected by casing.

4 VAC 25-101-40. Expiration of permit. This is a new section that requires drilling to begin on a vertical ventilation hole within two years of the issuance of the permit or the permit expires.

4 VAC 25-101-50 (old 4 VAC 25-100-50 F). Venting methane; bleeder system. The new language prohibits vertical ventilation holes and coalbed methane gas wells from creating hazardous conditions underground and it requires mines to be adequately ventilated in accordance with bleeder plans.

4 VAC 25-101-60 (old 4 VAC 100-110). Requirements for issuance of permit. The new language removes the simultaneous permit application for vertical ventilation holes and coalbed methane gas wells process and it details the requirements for the Chief to issue a permit.

4 VAC 25-101-70 (old 4 VAC 25-100-150). Filing of objections; scheduling of hearings. The new language

removes the simultaneous permit application process for vertical ventilation holes and coalbed methane gas wells.

4 VAC 25-101-80 (similar to old 4 VAC 25-100-170). Location of vertical ventilation holes. The new language changes "workable coal seam" to "minable coal seam or inactive mine."

4 VAC 25-101-90 (old 4 VAC 25-100-180). Recordkeeping. The new language requires drillers log and plugging affidavits be kept by the Chief of the Division of Mines.

4 VAC 25-101-100 (old 4 VAC 25-190). Review of action of chief. No substantive change.

4 VAC 25-101-110 (old 4 VAC 25-100-200). Casing requirements for vertical ventilation holes. The new language conforms it to the Virginia Gas and Oil regulation. The cement wait time is reduced from 12 to 8 hours. The required cement strength is increased from 300 to 500 psi. Operators are required to perform a cement test and keep a record of the test and are required to keep records of the WOC (wait on cement time). These changes were made to be consistent with current industry standards.

Also, includes a minimum depth of 300 feet or 50 feet below groundwater for water protection strings and a minimum of 50 foot above and below coal seams for coal protection strings. Vertical ventilation holes drilled prior to December 11, 1985, must retain such coal protection strings as are in place and keep the space between casing strings open to the extent possible.

For voids, requirements include that casing to 30 feet below and 50 feet above voids are to be cemented. Unanticipated voids or groundwater horizons must be reported to the Chief of the Division of Mines and drilling reports must be submitted within 30 days of completion.

4 VAC 25-101-120 (old 4 VAC 25-100-250). Survey requirements. No substantive change.

4 VAC 25-101-130 (old 4 VAC 25-100-250 B and C). Correction requirements. No substantive change.

4 VAC 25-101-140 (old 4 VAC 25-100-250 D). Filing of report. The new language requires maps and logs including groundwater zones, coal seams, mineral beds and gas bearing formulations be included in the report.

4 VAC 25-101-150 (old 4 VAC 25-100-290). Mining within 500 feet of a vertical ventilation hole or gas well. No substantive change.

4 VAC 25-101-160 (old 4 VAC 25-100-290 C). Mining within 200 feet of a vertical ventilation hole, gas well or pipeline. No substantive change.

4 VAC 25-101-170 (old 4 VAC 25-100-290 E). Pillars of coal to be left unmined, and other protective measures. No substantive change.

4 VAC 25-101-180 (old 4 VAC 100-290 G). Mining within 200 feet of a plugged vertical ventilation hole or gas well. The new language changes from 15 to 10 days the time a gas or oil well operator or mine operator has to object to the notice of intent to drill. This change was made to conform the requirement to the Code of Virginia.

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4 VAC 25-101-190. Mining seams impacted by vertical ventilation holes and coalbed methane wells intended to degas the seams being mined. This is a new section that allows operators to include safe mining procedures in the approved bleeder plan.

4 VAC 25-100-200 (old 4 VAC 25-100-370). Plugging of vertical ventilation holes. This section was changed to conform it to the Virginia Gas and Oil Regulation. The new language sets out the plugging specifications for open hole, cased hole and un-cemented casing. It requires plugging plans to be approved by the Chief of the Division of Mines and sets out a variance procedure for approval by the Chief.

4 VAC 25-101-210. Identifying plugged holes; plugging affidavit. This is a new section based on the Gas and Oil regulations that details the requirements for permanent markers of abandoned vertical ventilation holes. It also provides for a variance procedure and requires that a plugging affidavit be submitted to the Chief of the Division of Mines.

4 VAC 25-101-220 (old 4 VAC 25-100-370). Annual report; abandonment. The new language requires that each July 1, vertical ventilation hole operators must submit a status report of all permitted holes to the Chief of the Division of Mines.

Issues: The primary advantage to the public, both citizens and industry, as well as to the DMME is that the regulation has been reformatted and two sections, 4 VAC 25-160 and 4 VAC 25-180, have been rewritten to conform to the Virginia Gas and Oil Regulation 4 VAC 25-150. This change makes the requirements easier for the public to understand, will promote more efficient operation of vertical ventilation holes by streamlining the regulatory process and eliminating unnecessary requirements, and will clarify what DMME needs to do to help industry comply. Additionally, by conforming this regulation to the Virginia Gas and Oil Regulation, two divisions within DMME have their responsibilities for the management of methane gas more clearly defined. This change will help the DMME respond more promptly and efficiently to industry and the public's request for information.

The department does not believe the proposed regulation will present any disadvantages to the public or the Commonwealth. The department worked with its regulatory work committee to develop recommendations requiring the minimal amount of information necessary to ensure industry operations maintain compliance with applicable statutes.

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 25 (98). 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. Due to extensive formatting changes, the Department of Mines, Minerals, and Energy (DMME) proposes to repeal 4 VAC 25-100, Regulation Governing Vertical Ventilation Holes and Mining Near Gas and Oil Wells, and to promulgate 4 VAC 25-101, under the same title. The proposed regulation includes three changes that will potentially affect the regulated community: (i) an expiration date for drilling permits is introduced, (ii) the minimum time to wait for cement to dry before proceeding with further work has been reduced, and (iii) vertical ventilation hole operators will be required to submit a status report of all permitted vertical ventilation holes to the Chief of the Division of Mines.

Estimated economic impact.

Permit Expiration. When coal deposits exist underground, issues of property rights can be quite complex. According to DMME, it is common to have one entity own the surface land (perhaps a residence), a different entity own a coal pocket directly below that plot of land, a third entity own a different coal pocket further below the surface, and a fourth entity own the gas and oil deposits. When a permit to drill for a vertical ventilation hole (necessary for coal mining) is applied for, affected parties (such as property owners at the surface or different depths) are allowed ten days to file an objection. So, affected parties do have an opportunity to influence the location of the drilling of vertical ventilation holes. But under the current regulation, once a permit to drill a vertical ventilation hole has been granted, the holder of the permit may drill at any time in the future. So, owners and potential owners of the surface land, for example, do not know when, if ever, a ventilation hole may be drilled on their land.

Under the proposed regulation, the permit would expire if the drilling of the hole had not commenced within two years of the date of the issuance of the permit. The proposed expiration date is beneficial to outside parties affected by the potential drilling in that uncertainty is reduced and the affected property owners would have the opportunity to influence the location of drilling that affects their property within a set time frame associated with the potential drilling. The Virginia Coal Association does not object to the proposed expiration date.¹ This implies that the proposed expiration date does not produce a significant cost in reduced flexibility of when to drill. Thus, it is likely that the potential benefits of this proposed change exceed the potential costs.

Wait-on-Cement Time. Under the current regulation, once a cement casing is placed in a vertical ventilation hole, 12 hours must pass before work can resume. This is to allow the cement to dry and become sufficiently strong. Also, the cement must be designed to withstand 300 psi surface pressure. Under the proposed regulation, the minimum wait-on-cement time has been reduced to eight hours and the cement must achieve a calculated compressive strength of 500 psi. According to DMME, the cement currently used in

¹ Based on a 10/18/00 conversation with Thomas Hudson of the Virginia Coal Association.

practice can reach 500 psi within eight hours. Thus, this proposed change allows the operators to resume work four hours earlier without compromising the strength and safety of the cement casing. Since the proposed new language saves operators four hours of idle time without producing any safety risk, it should produce a net benefit.

Based on data provided by DMME, the four-hour reduction in wait-on-cement time would save the operators about \$800 per hole drilled. There are currently approximately 120 vertical ventilation holes in the Commonwealth, but no permits for new holes have been issued within the last two years.

Status Report. Under both the current and proposed regulations, vertical ventilation hole operators are required to plug holes when they are no longer used for the purpose for which they were permitted. This requirement exists for public safety and the protection of the environment. When vertical ventilation holes in disuse are not plugged, methane gas can seep into the water table. If the gas becomes present in tap water, it can dissipate out into homes and businesses. Electric sparks from electric appliances, furnaces, or other machinery can trigger an explosion when methane gas is present. According to DMME, a few such occurrences of explosions involving methane and residential water wells have taken place.

In the proposed new regulation, vertical ventilation hole operators are required to annually submit a status report of all permitted holes to the Chief of the Division of Mines by July 1. The purpose of the report is to provide information that will help aid DMME in enforcing the requirement to plug vertical ventilation holes that are in disuse. DMME believes that once the agency starts receiving the reports, they will be able to reduce the time that disused vertical ventilation holes are left unplugged, thus reducing the risk to the public of methane gas explosions. Since no data is available to estimate by how much the risk of methane gas explosions is reduced by plugging a vertical ventilation hole earlier, or by how much the presence of the proposed status report will speed up the plugging of holes, the benefit of the proposed status report cannot be accurately estimated. But since the cost of potential loss of life, injury and property damage due to methane gas explosions can be quite large, and it is believed that plugging holes does significantly reduce this risk, it is probable that the proposed status report would produce a significant benefit if it does in fact succeed in speeding up the plugging of disused holes.

DMME estimates that coal companies will invest a maximum of five man-days from technical staff to complete the initial report at \$200 per man-day, for a total maximum one-time cost of \$1,000. For subsequent years, DMME estimates that it will take one man-day to update the report for a total cost of \$200 a year. Since the Virginia Coal Association does not object to this proposed new requirement,² it is probable that the potential benefits of the proposed status report outweigh the costs.

² Based on a 10/18/00 conversation with Thomas Hudson of the Virginia Coal Association.

Businesses and entities affected. DMME estimates that two coal companies, four to six gas companies, 1,000 coal miners, and eight to 10 drillers will be affected by the proposed regulation.

Localities particularly affected. Virginia's coal industry is primarily located in the southwestern portion of the Commonwealth, including the Counties of Buchanan, Dickenson, Lee, Russell, Scott, Tazewell, and Wise, and the City of Norton.

Projected impact on employment. The proposed changes are not expected to significantly affect employment.

Effects on the use and value of private property. The implementation of expiration dates for vertical ventilation hole permits may affect both the use and value of private property. Firms that obtain permits will encounter a new restriction as to when they can use the permit. The value of surface property may be increased by the reduction in uncertainty as to whether holes could be drilled through property at any time forward in perpetuity.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The Department of Mines, Minerals, and Energy concurs with the economic impact analysis conducted by the Department of Planning and Budget

Summary:

The proposed regulation will govern the drilling, equipping, operating and plugging of vertical ventilation holes and the practice of mining near or through a vertical ventilation hole or gas well. Due to the extensive formatting changes, DMME is repealing 4 VAC 25-100, Regulations Governing Vertical Ventilation Holes and Mining Near Gas and Oil Wells and promulgating new 4 VAC 25-101, Regulations Governing Vertical Ventilation Holes and Mining Near Gas and Oil Wells.

Changes from the current regulation include (i) conforming the definitions with the Virginia Gas and Oil Regulation (4 VAC 25-150) and current industry standards; (ii) clarifying provisions for citizens' right to object to permit applications; (iii) establishing recordkeeping requirements that are reasonable for industry compliance and easy for citizens to understand; (iv) clarifying casing requirements for vertical ventilation holes, voids and gas and oil wells; (v) establishing safe mining procedures for inclusion in the approved bleeder plan; (vi) clarifying requirements for plugging of open holes, cased holes and uncemented casing; and (vii) providing permanent markers of abandoned vertical ventilation holes.

CHAPTER 101.

REGULATIONS GOVERNING VERTICAL VENTILATION HOLES AND MINING NEAR GAS AND OIL WELLS.

4 VAC 25-101-10. Definitions.

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

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"Accurate map or plat" means a map or plat drawn of a scale of between one inch equals 100 feet (1:1,200) and one inch equals 400 feet (1:4,800) with the scale so stated on the map or plat and certified by a licensed professional engineer or licensed land surveyor.

"Approved" means a device, apparatus, equipment, condition, method, course or practice approved in writing by the Chief. Approvals by federal agencies such as the Mine Safety and Health Administration (MSHA), or the Office of Surface Mining (OSM), shall also be considered "approved" for the purposes of this chapter.

"Bridge plug" means an obstruction intentionally placed in a vertical ventilation hole at a specified depth.

"Building" means a structure regularly occupied in whole or in part as a habitation for human beings, or where people are accustomed to live, work, or assemble.

"Casing" means all pipe set in wells or vertical ventilation holes except conductor pipe and tubing.

"Cement" means hydraulic cement properly mixed with water.

"Chief" means the Chief of the Division of Mines of the Department of Mines, Minerals and Energy, or his authorized agent.

"Coalbed methane gas" means occluded natural gas produced from coalbeds and rock strata associated therewith.

"Coalbed methane gas well" means a well capable of producing coalbed methane gas.

"Coal-protection string" means a casing designed to protect a coal seam by excluding all fluids and gas or gas pressure from the seam, except such as may be found in the coal seam itself.

"Coal seam" means any stratum of coal 20 inches or more in thickness, unless a stratum of less thickness is being commercially worked, or can in the judgment of the department foreseeably be commercially worked and will require protection if wells are drilled through it.

"Directional survey" means a well survey that measures the degree of deviation of a hole from true vertical and direction of points in the hole from the vertical.

"Director" means the Director of the Department of Mines, Minerals and Energy or his authorized agent.

"Division" means the Division of Mines of the Department of Mines, Minerals and Energy.

"Form prescribed by the Chief" means a form issued by the division, or an equivalent facsimile, for use in meeting the requirements of the Code of Virginia or this chapter.

"Gas" or "natural gas" means all natural gas whether hydrocarbon or nonhydrocarbon or any combination or mixture thereof, including hydrocarbons, hydrogen sulfide, helium, carbon dioxide, nitrogen, hydrogen, casing head gas, and all other fluids not defined as oil.

"Gas well operator" means any person who has been designated to operate or does operate a gas well.

"Gas and Oil Inspector" means the Director of the Division of Gas and Oil of the Department of Mines, Minerals and Energy.

"Gas well" means any well that produces or appears capable of producing a ratio of 6,000 cubic feet (6 Mcf) of gas or more to each barrel of oil, on the basis of a gas-oil ratio test.

"Gob well" means a coalbed methane gas well which is capable of producing coalbed methane gas from the de-stressed zone associated with any full-seam extraction of coal that extends above and below the mined-out coal seam.

"Groundwater" means all water under the ground, wholly or partially within or bordering the Commonwealth or within its jurisdiction, which has the potential for being used for domestic, industrial, commercial or agricultural use or otherwise affects the public safety.

"Highway" means any public street, public alley, or public road.

"Inclination survey" means a survey taken inside a vertical ventilation hole that measures the degree of deviation of the point of the survey from the vertical.

"Intermediate string" means a string of casing that prevents caving, shuts off connate water in strata below the water-protection string, and protects strata from exposure to lower zone pressures.

"Log" means the written record progressively describing all strata, water, or gas encountered in drilling, depth and thickness of each bed or seam of coal drilled through, volume of gas, pressures, rate of fill-up, fresh and salt water-bearing horizons and depths, cavings strata, casing records and such other information as is usually recorded in the normal procedure of drilling. The term shall also include electrical survey records or electrical survey logs.

"Mcf" means, when used with reference to natural gas, 1,000 cubic feet of gas at a pressure base of 14.73 pounds per square inch gauge and a temperature base of 60° F.

"Mined coal seam" means a coal seam being mined commercially, or that, in the judgment of the Chief, can reasonably be expected to be mined, and which, when mined, will require protection if holes are drilled through it.

"Mining" means the activity of producing coal from any coal mine.

"Mud" means a mixture of materials which creates a weighted fluid to be circulated downhole during over-balance drilling operations for the purpose of lubricating and cooling the bit, removing cuttings, and controlling formation fluids, oil, gas or gas pressure.

"Owner" means the person or persons listed as owner of record by the Clerk of the Circuit Court of the county in which the property is located.

"Pending" means an application for a vertical ventilation hole or gas well permit that has been submitted to the

department, but where the decision to issue or refuse to issue the permit has not been made.

"Permanent point" means an established physical point of reference on the land surface, based on the applicant's coordinate system, used for a map or plat submitted with a permit application.

"Permitted" means a vertical ventilation hole or gas well that has been approved by the department.

"Person" means individual, corporation, partnership, association, company, business, trust, joint venture, unit of government, or other legal entity.

"Pillar" means a solid block of coal or ore or other material left unmined to support the overlying strata in a mine.

"Pipeline" means any pipe buried or on the surface used or to be used to transport gas.

"Plug" means the sealing of, or a device or material used for the sealing of, a vertical ventilation hole or casing to prevent the migration of formation fluids or gas from one stratum to another.

"Railroad" means any steam, electric or other powered transportation system operating on a track which carries passengers for hire, or over which loaded or empty equipment is transported.

"State plane coordinate system" means the Virginia Coordinate System of 1927 or the Virginia Coordinate System of 1983 as defined in Chapter 17 (§ 55-287 et seq.) of Title 55 of the Code of Virginia.

"String of pipe" or "string" means the total footage of pipe of uniform size set in a vertical ventilation hole. The term embraces conductor pipe, casing, and tubing. When the casing consists of segments of different size, each segment constitutes a separate string. A string may serve more than one purpose.

"Tubing" means the small diameter string set after the vertical ventilation hole has been drilled from the surface to the total depth and through which a substance is produced or injected.

"Vertical ventilation hole" means any hole drilled from the surface to the coal seam used primarily for the safety purpose of removing gas from the underlying coal seam and the adjacent strata, thus, removing the gas that would normally be in the mine ventilation system.

"Water-protection string" means a string of casing designed to protect groundwater-bearing strata.

"Well" means any shaft or hole sunk, drilled, bored or dug into the earth or into underground strata for the extraction, injection or placement of any gaseous or liquid substance, or any shaft or hole sunk or used in conjunction with such extraction, injection or placement. The term shall not include any shaft or hole sunk, drilled, bored or dug into the earth for the sole purpose of pumping or extracting therefrom potable, fresh or usable water for household, domestic, industrial, agricultural, or public use and shall not include water boreholes, vertical ventilation holes where methane is vented

or flared rather than produced and saved, subsurface boreholes drilled from the mine face of an underground coal mine, any other boreholes necessary or convenient for the extraction of coal or drilled pursuant to a uranium exploratory program carried out pursuant to the laws of this Commonwealth, or any coal or non-fuel mineral corehole or borehole for the purpose of exploration.

4 VAC 25-101-20. Application for permits; maps or plats; notice.

A. Before drilling a vertical ventilation hole on any tract of land, the mine operator shall file with the Chief, together with the application required, an accurate map or plat. It shall show:

1. The proposed or actual horizontal location of the vertical ventilation hole shown in accordance with the state plane coordinate system, the latitude and longitude, and the surface elevation;
2. The courses and distances of the proposed location from two permanent points or landmarks as shown on the map or plat;
3. The name and number proposed to be given to the hole;
4. The name of the owner and the boundaries and acreage of the tract on which the hole is to be drilled;
5. The names of the owners of all surface and mineral tracts within 750 feet of the proposed location; and
6. Any building, highway, railroad, stream, vertical ventilation hole, oil or gas operation, oil or gas pipeline, mine, mine openings or workings, or quarry within 750 feet of the proposed location.

B. Notice in the form of a copy of the application and map or plat shall be sent by certified mail to the following:

1. Each owner of the surface of the tract which is to be drilled;
2. Each owner and lessee of record of any coal or mineral rights on, in or under such land; and
3. Each operator or permit holder of any mine, well or quarry within 750 feet of the proposed location.

C. The notice shall inform all persons with standing to object to the permit of their right to object to the proposed location, and shall state the prescribed time limit for objections. Objections filed under this section shall be limited to the proposed location of the vertical ventilation hole and shall state the nature of the objection.

D. Each owner, lessee or operator may, within 10 days of receipt of the notice, file with the Chief an objection to the proposed location.

E. Any person required to be notified under this section may waive the right to receive notice of the application and the right to object to the proposed location of the hole. The waiver shall be in writing and shall include a written agreement specifying the location of the proposed hole.

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F. Each application shall also contain a description of all safety equipment and safety facilities to be used on the surface during drilling and after completion of the hole. The description shall include a diagram showing the placement of equipment and facilities. Safety equipment and facilities described when intersecting active workings shall include, but are not limited to:

1. Flame arresters;
2. Back-pressure systems;
3. Pressure-relief systems;
4. Vent systems; and
5. Fire-fighting equipment.

G. Safety equipment and facilities may be removed when a vertical ventilation hole does not intersect active workings and is not utilized to remove methane from a mine ventilation system.

H. The operator of a coalbed methane or gas well may convert to a vertical ventilation hole by submitting an application to the Chief containing the information specified in subsections A and F of this section.

I. The operator shall notify the Chief in writing prior to converting vertical ventilation hole to a coalbed methane well or gas well.

4 VAC 25-101-30. Receipt of coal seam information: decision on casing.

A. When an application to drill a vertical ventilation hole has been submitted and notice has been given as required in 4 VAC 25-101-20, all interested persons who are owners, lessees, or operators of any coal seams located above the seam from which methane gas is to be removed may furnish information to the Chief regarding the elevations and thickness of the seams, if known.

B. The Chief shall, prior to the drilling of the hole, approve those seams, which the operator will be required to protect by use of casing as described in 4 VAC 25-101-110.

4 VAC 25-101-40. Expiration of permit.

If the drilling of a vertical ventilation hole has not commenced within two years of the date of the issuance of the permit, the permit shall expire.

4 VAC 25-101-50. Venting methane; bleeder system.

A. Nothing in this chapter shall prevent the operator of a permitted coalbed methane gas well from venting methane from the well in accordance with the requirements of the Virginia Gas and Oil Act, Chapter 22.1 (§ 45.1-361.1 et seq.) of Title 45.1 of the Code of Virginia and the Virginia Gas and Oil Regulation, 4 VAC 25-150-10 et seq.

B. The mine bleeder system, when operated in conjunction with vertical ventilation holes or coalbed methane gas wells, shall be operated such that changes in the operation of the vertical ventilation holes or coalbed methane wells shall not create hazardous conditions for the miners working underground. If the operation of a vertical ventilation hole or

coalbed methane gas well affects any mine's ventilation, the mine shall be adequately ventilated in accordance with the mine's bleeder plan approved under § 45.1-161.220 of the Coal Mine Safety Act. Any changes or adjustments to such VVH's or coalbed methane gas wells shall be recorded as required by the mine's approved bleeder plan.

4 VAC 25-101-60. Requirements for issuance of permit.

A. The Chief shall issue a permit when the following criteria have been met:

1. An application for a permit to drill and operate has been received, accompanied by an accurate map or plat showing the proposed location of the hole and other required information;
2. No objection to the proposed location has been made by any interested person within the specified 10-day period, or right to object waivers have been submitted in accordance with 4 VAC 25-101-20 E, in which case, the 10-day period shall not apply;
3. No objection to the proposed location has been raised by the Chief; and
4. All other conditions for the issuance of a permit have been met.

B. If an operator shows compelling safety reasons for drilling a vertical ventilation hole without delay, and submits proof in writing that none of the persons with standing to object to the permit have any objections, the Chief may waive the notice requirements under 4 VAC 25-101-20, and may issue the permit to drill a vertical ventilation hole, provided all other conditions for permit issuance have been met.

4 VAC 25-101-70. Filing of objections; scheduling of hearing.

A. If an objection is filed by any person notified under 4 VAC 25-101-20 or as provided in 4 VAC 25-101-160 and 4 VAC 25-101-180 the Chief shall:

1. Notify the applicant of the source and nature of the objection; and
2. Schedule a hearing for not less than 20 nor more than 30 days after the date on which the application for a permit or plan was filed. The applicant and person to whom notice was required to be sent shall be given at least 10 days written notice prior to the date of the hearing.

B. At the hearing, the Chief shall consider (i) any evidence presented by the applicant; (ii) any evidence presented by the person filing an objection; and (iii) such other evidence that the department may possess.

C. Within 30 days of the hearing the Chief shall issue his decision. All parties to the hearing shall receive, by certified mail, a written summary of the Chief's decision.

1. If the Chief disapproves of the location for the hole or plan, the written summary shall state the reasons for disapproval of the location.

2. If the Chief approves of the location of the hole or plan, a permit shall be issued or the plan approved.

4 VAC 25-101-80. Location of vertical ventilation hole.

A. Should the requested location for a vertical ventilation hole allow it to penetrate a minable coal seam or inactive mine, the Chief shall, if necessary for safety purposes, alter the location of the hole for fixing it on a tract of land as near to the requested location as possible. Placement of the hole shall allow it to pass through a pillar of suitable size and/or minimize impact on minable reserves. The Chief shall take into consideration the dangers from creeps, squeezes or other disturbances caused by the extraction of coal when fixing the location of the hole.

B. If no suitable pillar exists in which to locate the ventilation hole, it may be located and drilled through open workings where, in the judgment of the Chief, it is practical and safe to do so. The Chief shall take into consideration the dangers from creeps, squeezes and other disturbances caused by the extraction of coal.

4 VAC 25-101-90. Recordkeeping.

A. A permanent record of each of the following items will be kept by the Division of Mines:

1. The application;
2. A plat or map;
3. The notice;
4. Drillers report (drillers log, final plat or map, and the results of any log or survey required);
5. Plugging affidavit;
6. The name of each applicant;
7. The date of receipt of any application, plat or map;
8. The date on which an objection was filed;
9. The date on which a hearing was held;
10. The date on which a permit was issued or refused; and
11. The date on which any action was taken by the Chief.

4 VAC 25-101-100. Review of action of chief.

Any person aggrieved by the Chief's action either in fixing or approving the location of a vertical ventilation hole, or in issuing or refusing to issue a drilling permit, shall have the right to request a review of the Chief's action by the circuit court pursuant to Article 4 (§ 9-6.14:15 et seq.) of the Administrative Process Act.

4 VAC 25-101-110. Casing requirements for vertical ventilation holes.

A. Water-protection string.

1. Except as provided in subdivision 5 of this subsection, the permittee shall set a water-protection string to a point at least 300 feet below the surface or 50 feet below the deepest known groundwater horizon, whichever is

deeper, circulated and cemented into the surface. If the cement does not return to the surface, every reasonable attempt shall be made to fill the annular space by introducing cement from the surface.

2. The operator shall test or require the cementing company to test the cement mixing water for pH and temperature prior to mixing the cement and record the results on the cement ticket.

3. After the cement is placed, the operator shall wait a minimum of eight hours and allow the cement to achieve a calculated compressive strength of 500 psi before drilling, unless the Chief approves a shorter period of time. The wait-on-cement (WOC) time shall be recorded within the records kept at the drilling rig while drilling is taking place.

4. When requested by the Chief, the operator shall submit copies of cement tickets or other documents that indicate the above specifications have been followed.

5. A coal-protection string may also serve as a water-protection string.

B. Coal-protection strings.

1. When any vertical ventilation hole penetrates coal seams that have not been mined out, the permittee shall, except as provided in subdivisions 2 and 3 of this subsection, set a coal-protection string. The coal-protection string shall exclude all fluids, gas and gas pressure except that which is naturally present in each coal seam. The coal-protection string shall also exclude all injected material or disposed waste from the coal seams and the vertical ventilation hole. The string of casing shall be set to a point at least 50 feet below the lowest minable coal seam above the targeted seam and shall be circulated and cemented from that point to the surface or to a point not less than 50 feet into the water-protection string or strings which are cemented to the surface.

2. For good cause shown, either before or after the permit is issued, when the procedure specified in subdivision 1 of this subsection is demonstrated by the permittee as not practical, the Chief may approve a casing program involving the cementing of a coal-protection string in multiple stages, or the cementing of two or more coal-protection strings, or the use of other alternative casing procedures. The Chief may approve the program provided he is satisfied that the result will be operationally equivalent to compliance with the provisions of subdivision 1 of this subsection for the purpose of permitting the subsequent safe mining through the vertical ventilation hole or otherwise protecting the coal seams as required by this section. In the use of multiple coal-protection strings, each string below the topmost string shall be cemented at least 50 feet into the next higher string or strings that are cemented to the surface and be verified by a cement top log.

C. In the case of vertical ventilation holes drilled prior to December 11, 1985, through coal seams without coal-protection strings substantially as prescribed in subsection B

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of this section, the permittee shall retain such coal-protection strings as were set. During the life of the vertical ventilation hole, the permittee shall, consistent with a plan approved by the Chief, keep the annular spaces between the various strings of casing adjacent to coal seams open to the extent possible, and the top ends of all such strings shall be provided with casing heads, or such other approved devices as will permit the free passage of gas or oil and prevent filling of the annular spaces with dirt or debris.

D. The casing program for any vertical ventilation hole designed or completed to vent from more than one stratum shall be designed in accordance with the appropriate standard practices of the industry.

E. Casing through voids shall be accomplished according to the following:

1. When a vertical ventilation hole is drilled through a void, the hole shall be drilled at least 30 feet below the void, the annular space shall be cemented from the base of the casing up to the void and to the surface from the top of the void, or it shall be cemented at least 50 feet into the next higher string or strings of casing that are cemented to the surface and be verified by a cement top log.
2. For good cause shown, the Chief may approve alternative casing procedures proposed by the permittee, provided that the Chief is satisfied that the alternative casing procedures are operationally equivalent to the requirements imposed by subdivision E 1 of this section.
3. For good cause shown, the Chief may impose special requirements on the permittee to prevent communication between two or more voids.

F. The permittee shall report to the Chief as soon as possible when an unanticipated void or groundwater horizon is encountered that results in lost circulation during drilling. The permittee shall take every necessary action to protect the lost circulation zone.

4 VAC 25-101-120. Survey requirements.

A. All vertical ventilation holes shall be drilled with due diligence to maintain, within reason, a vertical hole bore.

B. The permittee shall use an inclination survey on any vertical ventilation hole that penetrates a minable coal seam. The inclination survey shall be conducted from the surface to the lowest minable coal seam penetrated by the hole as follows:

1. The first survey point shall be taken at a depth not greater than the most shallow minable coal seam.
2. Thereafter, shot points shall be taken at each minable coal seam or at intervals of 200 feet, whichever distance is less, to the lowest minable coal seam penetrated by the hole.

C. If the deviation of the hole exceeds one degree from true vertical at any point between the surface and the lowest minable coal seam, then the permittee, unless granted a variance by the Chief, shall:

1. Correct the hole to within one degree of vertical; or
2. Conduct a directional survey to the lowest minable coal seam penetrated by the hole and, within 30 days, notify the coal owners or mine operators of the actual location of the hole.

D. All surveys conducted on the hole shall be filed with the Chief at the same time the information is filed under 4 VAC 25-101-140.

4 VAC 25-101-130. Correction requirements.

A. Prior to drilling any vertical ventilation hole into a minable coal seam being actively mined within 500 feet of where the hole will penetrate the seam, the permittee shall conduct an inclination survey to determine whether the deviation of the hole exceeds one degree from true vertical. If necessary, the permittee shall then correct the hole to within one degree of true vertical, unless a variance is obtained from the Chief as specified in 4 VAC 25-101-120.

B. The Chief may grant a variance to the correction requirements contained in 4 VAC 25-101-120 or this section only after the permittee and the owners or operators of any minable coal seams penetrated by the vertical ventilation hole have jointly submitted a written request for a variance. The request shall state that the conduction of a directional survey or the correction of the hole is not needed to protect the safety of persons engaged in active coal mining.

C. The Chief may require the permittee to conduct a directional survey if determined that the lack of assurance of the horizontal location of the hole may pose a danger to persons engaged in active coal mining.

D. All mining operations affected by the vertical ventilation hole shall be furnished, within 30 days, a copy of the completed survey and its interpretations.

4 VAC 25-101-140. Filing of report.

Within 30 days after the date that drilling is completed on a vertical ventilation hole, the operator of the hole shall file with the Chief a drilling report on a form prescribed by the Chief, an accurate map or plat showing the actual surface location of the hole, a drillers log, and the results of any other log or survey required to be run in accordance with this chapter or by the Chief. The drillers log shall state, at a minimum, the character, depth, and thickness of geologic formations encountered including groundwater-bearing strata, coal seams, mineral beds, and gas bearing formations.

4 VAC 25-101-150. Mining within 500 feet of a vertical ventilation hole or gas well.

A. Before removing any coal or other mineral, or extending any mine workings or operations within 500 horizontal feet of any permitted or pending vertical ventilation hole or gas well, the mine operator shall give notice by certified mail to the vertical ventilation hole operator and the Chief or, in the case of a gas well, the mine operator shall give notice as provided for in §§ 45.1-161.121 A and 45.1-161.292 A of the Coal Mine Safety Act.

B. The mine operator shall send to the vertical ventilation hole operator and the Chief an accurate map or plat. The

map shall show the location of the hole and projected mine workings within 500 horizontal feet of the ventilation hole and shall be shown in accordance with the state plane coordinate system.

C. Once notice and the map have been provided, the mine operator may proceed with mining operations as shown on the map. However, the mine operator shall not remove any coal or other mineral, or conduct any mining operations nearer than 200 horizontal feet, as determined by survey, to any permitted or pending vertical ventilation hole or gas well without the approval of the Chief.

D. This provision shall not apply to mining operations in the seam which the vertical ventilation hole or gas well is intended to ventilate if safe mining procedures have been incorporated in the approved bleeder plan as provided in 4 VAC 25-101-190, unless the casing extends through that seam.

4 VAC 25-101-160. Mining within 200 feet of a vertical ventilation hole, gas well or pipeline.

A. A mine operator shall submit a plan to the Chief for approval to conduct mining operations within 200 feet (horizontally or vertically) of any permitted or pending vertical ventilation hole or gas well or to conduct surface mining operations within 200 feet of pipelines.

B. The plan shall comply with requirements developed by the chief. It shall be accompanied by an accurate map or plat showing the location of the hole, well, or pipeline, mine workings within 500 feet of the hole, well, or pipeline, projected mine workings within 200 horizontal feet of the vertical ventilation hole, gas well, or pipeline in accordance with the state plane coordinate system.

C. The Chief may, prior to considering the plan, make or cause to be made any inspections or surveys which he deems necessary.

D. Notice of intent, including a copy of the plan, shall be sent by certified mail to the operator of the vertical ventilation hole or pipeline, which may be affected by the proposed mining operations. Gas well operators, which may be affected by the proposed mining operations, shall be given notice as required in §§ 45.1-161.121.C and 45.1-161.292.B of the Coal Mine Safety Act. The notice shall inform the operator of the right to object to the proposed mining activity. Objections shall be filed with the Chief within 10 days of the date that the notice is received. If the operator files an objection, the Chief shall schedule a hearing in accordance with the provisions in 4 VAC 25-101-70.

E. If the mine operator submits proof in writing that the operator of the vertical ventilation hole, gas well, or pipeline does not object to the projected mining activity, then the Chief may waive the notice requirement and issue a permit, provided all other conditions for permit issuance have been met.

F. The Chief may, if the operator of the vertical ventilation hole, or gas well, or pipeline does not file an objection within the specified period, approve the plan for the mining operations as projected, or with such modifications as the Chief may deem necessary.

G. This section shall not apply to mining operations in the seam that the vertical ventilation hole or gas well is intended to ventilate, if safe mining procedures have been incorporated in the approved bleeder plan as provided in 4 VAC 25-101-190, unless the casing extends through the seam.

4 VAC 25-101-170. Pillars of coal to be left unmined, and other protective measures.

A. When mining using an underground, auger or highwall mining method within 200 horizontal feet of a vertical ventilation hole or a gas well, the mine operator shall submit a plan showing the projected pillars of coal to be left unmined around each hole or well.

B. Pillars shall be situated so that each hole or well is centered within a pillar, and each pillar shall conform to the specifications shown in Table I below, based on the depth of cover above the area being mined. The entries developed adjacent to any pillar may not exceed 20 feet in width without prior approval from the Chief. In no circumstances may the most narrow pillar dimension be less than twice the width of the adjacent entries.

Table I
Pillar Specifications

Cover (in feet)	Required Solid Pillar Area (in square feet)	Required Additional Pillar Area (Solid or Split, in sq. ft.)	Total Area Bearing Surface Required (in sq. ft.)
0-149	3,600		3,600
150-249	5,625		5,625
250-349	10,000		10,000
350-449	10,000	5,600	15,600
450-549	10,000	13,000	23,000
550-649	10,000	22,000	32,000
650 or more	10,000	30,000	40,000

4 VAC 25-101-180. Mining within 200 feet of a plugged vertical ventilation hole or gas well.

A. A mine operator shall submit an application for a permit to mine through or within 200 feet of either a plugged vertical ventilation hole or plugged gas well.

B. The plan shall comply with requirements developed by the chief. It shall be accompanied by an accurate map or plat showing the location of the hole, well, or pipeline, mine workings within 500 horizontal feet of the hole, well, or pipeline, and projected mine workings within 200 horizontal feet of the hole, well, or pipeline in accordance with the state plane coordinate system. The plan shall also contain safety precautions relevant to mining procedures such as: ventilation standards, rock dusting standards, frequency of methane checks, communication procedures, and personnel involved.

C. The application shall contain information from the log completed by the person who conducted the plugging necessary to establish that:

1. The hole or well has been adequately plugged with cement, from a point 50 feet below the coal seam to a

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point 50 feet above the coal seam, unless otherwise approved by the Chief.

2. No gas or fluids can migrate into the mine workings.

D. The Chief may, prior to considering the plan make or cause to be made any inspections or surveys which he deems necessary. The Chief may also prescribe safety precautions he deems necessary.

E. Notice of intent, including a copy of the plan, shall be sent by certified mail to the vertical ventilation hole or gas well operator if applicable and, in the case of mining through a gas well, to the Gas and Oil Inspector. The notice shall inform the hole or well operator and the Gas and Oil Inspector of the right to object to the proposed mining activity. Objections shall be filed with the Chief within 10 days of the date that the notice is received. If the hole or well operator or the Gas and Oil Inspector files an objection, the Chief shall schedule a hearing in accordance with the provisions of 4 VAC 25-101-70.

F. If the mine operator submits proof in writing that none of the persons required to be notified under this section has any objection to the projected mining activity, then the Chief may waive the notice requirement and approve the plan, provided all other conditions for plan approval have been met.

G. The Chief may, if an objection is not filed by the hole or well operator or the Gas and Oil Inspector within the specified period, approve the plan for the mining operations as projected, or with such modifications and written safety precautions as the Chief may deem necessary.

4 VAC 25-101-190. Mining seams impacted by vertical ventilation holes and coalbed methane wells intended to degas the seams being mined.

Mining through vertical ventilation holes, coalbed methane wells, or gas wells intended to degas the seam being mined shall comply with safe mining procedures which have been incorporated in the approved Bleeder Plan required by § 45.1-161.220 of the Coal Mine Safety Act.

4 VAC 25-101-200. Plugging of vertical ventilation holes.

A. Permit requirements; variances.

1. Plugging operations shall not commence until a detailed plugging plan has been submitted to and approved by the Chief. A permit modification is required if the vertical ventilation hole was not previously permitted for plugging.

2. Any person may file an application with the Chief to re-plug a previously plugged vertical ventilation hole in any manner permissible under provisions of this section to facilitate the safe mining-through of the vertical ventilation hole at a later date.

3. The Chief may, upon application by the permittee, approve a variance to the prescribed plugging methods for the following reasons if it is determined that the alternate plan meets the requirements of §§ 45.1-161.121 and 45.1-161.292 of the Coal Mine Safety Act:

a. The coal owner, operator, or lessee of record requests a special plugging program to facilitate mine safety or to obtain approval from another governmental agency for the safe mining-through of a vertical ventilation hole. The application for a variance must include documentation of the request from the coal owner or operator.

b. The permittee has obtained written authorization from the coal owner or operator for alternate plugging of the coal-bearing section. The application for a variance must include documentation of approval by the coal owner or operator.

c. Downhole conditions such as junk in the hole, stuck or collapsed casing, caving or other adverse conditions which would prevent proper execution of the prescribed plugging methods.

d. A permittee presents an alternate plugging plan, which may differ in method from that prescribed herein, but which will achieve the desired result.

B. Plugging in open hole. When a vertical ventilation hole or section of a vertical ventilation hole without casing is to be plugged or plugged back, it shall be sealed and filled as prescribed in this section.

1. At each coal seam, a cement plug shall be placed from not less than 50 feet below the base of the coal to not less than 50 feet above the top of the coal. Whenever two or more coal seams are not widely separated, they may be treated as a single seam and plugged accordingly.

2. If a source of groundwater capable of having a beneficial use is exposed in open hole below surface (water-protection) casing, a cement plug at least 100 feet in length shall be placed below the base of the lowest such groundwater zone.

3. A cement plug of minimum length of 100 feet shall be placed across the bottom of the surface (water-protection) casing. The plug shall be placed so as to have approximately equal lengths in open hole and inside casing. If the vertical ventilation hole is without surface casing, a continuous cement plug shall be placed at least 50 feet below the base of the lowest known aquifer or 300 feet depth, whichever is deeper, to the surface.

4. All intervals below and between plugs shall be filled with drilling mud, bentonite gel, or other appropriately weighted materials approved by the chief.

C. Plugging in cased hole. When a cased hole or section of a cased hole is to be plugged or plugged back, it shall be sealed and filled as prescribed in this section.

1. All perforated intervals shall be either squeeze-cemented or otherwise isolated from the hole by suitable plugs placed across or immediately above the perforated interval. Cement plugs placed across perforations shall extend to at least 50 feet above the top perforations. A cement plug shall be placed to at least 50 feet above squeezed perforations. Cement plugs placed entirely above perforations shall be at least 100 feet in length. At

least 20 feet of cement shall be placed on top of bridge plugs, cement retainers, or other tools left in the hole.

2. At each minable coal seam which is behind a properly installed and cemented coal-protection casing, a cement plug shall be placed from not less than 50 feet below the base of the coal to not less than 50 feet above the top of the coal. Whenever two or more coal seams are not widely separated, they may be treated as a single seam and plugged accordingly.

3. If casing is not to be pulled, and there is uncemented annulus behind the pipe, plugging shall be as follows:

a. Each gas or water-bearing stratum present behind the pipe in an uncemented annulus must be isolated by perforating the casing at each zone and squeezing cement up into the zone, or circulating cement up the annulus such that a cement fill up of not less than 100 feet is achieved. When squeezing or circulating the annulus, a cement plug of at least 50 feet shall be placed inside the casing above the perforations.

b. If there is uncemented annulus between an inner casing and the coal-protection string, the casing shall be perforated to allow cement to be circulated over the prescribed interval, and a plug of equal length shall be placed inside the inner casing.

c. If a fresh water aquifer is exposed to the hole in an uncemented annulus, it shall be isolated by perforating the casing at least 100 feet below the aquifer and squeezing cement into the annulus or circulating it up the annulus so that a fill-up of not less than 100 feet is achieved. When squeezing or circulating cement, a cement plug of at least 100 feet shall be placed inside the casing above the perforation.

d. At a point no less than 50 feet below the bottom of the surface (water-protection) string, the casing shall be perforated and cement circulated up the annulus to a minimum fill-up of 100 feet. A plug of equal length shall be placed inside the casing.

e. From a point not less than 50 feet below the surface, a cement plug shall be installed which reaches the surface. If any uncemented annuli are present at the surface, the voids should be filled and sealed to the greatest extent possible by introducing cement from the surface.

f. All intervals below and between plugs shall be filled with drilling mud, bentonite gel, or other appropriately weighted materials approved by the chief.

4. If casing is to be pulled, plugging shall be as follows:

a. All perforated intervals shall be isolated as described in subdivision C 1 of this section.

b. Casing stubs shall be isolated by placing a plug across or above the cut-off point. Cement plugs shall be at least 100 feet in length and shall be placed so as to have approximately equal length inside and above the remnant casing. Permanent bridge plugs may be

placed above the stub and shall be capped by at least 20 feet of cement.

D. Plugging operations involving uncemented water-protection casing or coal-protection casing.

1. If the annulus of the largest casing present across a minable coal-bearing section is not cemented across that section, then one of the two procedures listed below must be followed:

a. The casing must be perforated at least 50 feet below the lowest coal seam, and cement circulated in the annulus to the surface (if water-protection casing is absent or not properly placed and cemented to surface), or to at least 100 feet above the highest coal (if the casing is to be partially pulled to facilitate plugging operations in the fresh water zone). Plugging shall proceed according to cased hole requirements; or

b. The casing shall be pulled from the hole, and plugging shall proceed according to open hole requirements.

2. If the annulus of the largest casing present across the fresh-water-bearing section is not cemented across that section, then one of two procedures listed below must be followed:

a. The casing shall be perforated below the lowest known fresh-water zone or at a minimum depth of 300 feet. Cement shall be circulated in the annulus to the surface. Plugging shall proceed according to cased hole requirements; or

b. The casing shall be pulled from the hole, and a continuous cement plug shall be placed from below the base of the lowest known fresh-water aquifer exposed to the hole or 300-foot depth, whichever is deeper, to the surface.

E. Unfillable cavities. When an unfillable cavity, such as a cavern, mine void, blast stimulation zone, or gob completion is encountered, the section shall be plugged as follows:

1. If the stratum with the unfillable cavities is the lowest stratum in the hole, a plug shall be placed at the nearest suitable point not less than 20 feet above the stratum. Cement plugs shall be at least 100 feet long, and at least 20 feet of cement shall be placed on top of bridge plugs.

2. If the stratum with unfillable cavities is above the lowest stratum, a plug shall be placed below the stratum and shall extend to within 20 feet of its base. A plug shall also be placed above the stratum as described in subdivision 1 of this subsection.

4 VAC 25-101-210. Identifying plugged holes; plugging affidavit.

A. Plugged holes shall be permanently marked in a manner as follows:

1. The marker shall extend not less than 30 inches above the surface and enough below the surface to make the marker permanent.

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2. *The marker shall indicate the permittee's name, the hole name, the hole number and date of plugging.*

B. A permittee may apply for a variance from the Chief to use alternate permanent markers. Such alternate markers shall provide sufficient information for locating the plugged hole. Provisions shall also be made to provide for the physical detection of the plugged hole from the surface by magnetic or other means.

C. When any hole has been plugged or replugged in accordance with this section, two persons experienced in plugging holes who participated in the plugging of a hole shall complete a plugging affidavit on a form prescribed by the Chief, or equivalent thereof, setting forth the time and manner in which the hole was plugged and filled and a permanent marker was placed.

D. One copy of the plugging affidavit shall be retained by the permittee, one shall be mailed to any coal owner or operator on the tract where the hole is located, and one shall be filed with the division within 30 days after the day the hole was plugged.

4 VAC 25-101-220. Annual report; abandonment.

Annually by July 1, the vertical ventilation hole operator shall submit to the Chief a status report of all permitted holes. When it is determined by the Chief that a vertical ventilation hole is no longer used for the purpose for which it was permitted, the hole shall be plugged in accordance with 4 VAC 25-101-200 unless otherwise approved by the Chief.

<p>NOTICE: The forms used in administering 4 VAC 25-101-10 et seq., Regulations Governing Vertical Ventilation Holes and Mining near Gas and Oil Wells, are listed below and are published following the listing.</p>
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FORMS

Application for a Permit to Drill a Vertical Ventilation Hole, DM-VVH-1 (rev. 9/00).

V. PURPOSE OF VVH:

VI. NOTIFICATION:

The Regulations Governing Vertical Ventilation Holes and Mining Near Gas Wells requires the mine operator to give notice to each owner of the surface of the tract which the VVH is to be drilled; each owner or lessee of any coal or mineral rights on, in or under such land; and each operator of any mine, well or quarry within 750 feet of the proposed location. The notice must also inform all persons with standing of their right to object to the proposed location within 10 days of receipt of the notice.

Copies of this application and an accurate map or plat meeting the requirements of the Regulations Governing Vertical Ventilation Holes and Mining Near Gas Wells have been sent to the following persons (name and address):

- _____
- _____
- _____
- _____
- _____
- _____
- _____
- _____

VII. CERTIFICATION:

I certify that the information contained in this application is correct and complete and meets the requirements of the Regulations Governing Vertical Ventilation Holes and Mining Near Gas Wells.

Please Type or Print Name _____ Signature _____
 Title _____ Date _____

Attachments: Accurate Map or Plat
 Certified Return Receipts

DM-VVH-1
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COMMONWEALTH OF VIRGINIA
 DEPARTMENT OF MINES, MINERALS AND ENERGY
 DIVISION OF MINES
 801 State Court, VA, 24219
 (540) 523-8100

APPLICATION FOR A PERMIT TO DRILL A VERTICAL VENTILATION HOLE

II. PRIMARY INFORMATION (Please type or print):

VVH Name or Number: _____ Date: _____
 Company Name: _____
 Address: _____ City _____ State _____ Zip _____

III. OWNERSHIP:

The undersigned hereby makes application for a permit to drill a vertical ventilation hole on the _____ District of _____ County, Virginia, having the fee title thereto, or as the case may be, under grant or lease dated _____, made by _____ to _____ in the office of County Clerk for said County in Book _____ Page _____

IV. LOCATION OF VVH:

State Plane Coordinates North: _____ East: _____ Surface Elevation: _____
 Proposed depth of vertical ventilation hole: _____ Target Seam: _____
 Distance in feet to nearest property or lease line: _____
 Distance in feet to nearest mine opening or quarry: _____
 Distance in feet to nearest permitted, abandoned, or pending gas well: _____
 Mine Name _____ Mine Index No. _____
 Intended to Deput: _____
 Mine Company Name: _____
 Mine Address: _____

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 Rev. 8/99 Page 1 of 2

VA.R. Doc. Nos. R00-92 and R00-95; Filed November 29, 2000, 11:57 a.m.

Proposed Regulations

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF MEDICINE

Title of Regulation: 18 VAC 85-80-10 et seq. **Regulations Governing the Licensure of Occupational Therapists (amending 18 VAC 85-80-10, 18 VAC 85-80-70, and 18 VAC 85-80-80; adding 18 VAC 85-80-71 and 18 VAC 85-80-72).**

Statutory Authority: §§ 54.1-103, 54.1-2400 and 54.1-2912.1 of the Code of Virginia.

Public Hearing Date: January 11, 2001 - 9 a.m.

Public comments may be submitted until February 16, 2001.

(See Calendar of Events section for additional information)

Basis: Section 54.1-103 of the Code of Virginia authorizes the regulatory boards within the Department of Professional and Occupational Regulation and the Department of Health Professions to promulgate regulations specifying additional training or conditions for individuals seeking certification or licensure, or for the renewal of certificates or licenses.

Section 54.1-2400 of the Code of Virginia establishes the general powers and duties of health regulatory boards including the power to establish qualifications for licensure and responsibility to promulgate regulations.

Section 54.1-2912.1 of the Code of Virginia mandates the board to establish continued competency requirements.

Purpose: Amendments are proposed pursuant to a statutory mandate in Chapter 227 of the 1997 Acts of the Assembly for the Board of Medicine to promulgate regulations that ensure that licensed practitioners continue to be competent to practice. The proposed amendments are intended to establish those requirements for renewal or reinstatement of licensure that are necessary to protect the public health and safety in the delivery of occupational therapy services. The proposed amendments also establish an inactive license for licensees who are not engaged in practice and do not want to meet the requirements for renewal of an active license, and they set forth the conditions that must be met to reactivate such a license.

Substance:

18 VAC 85-80-10. Amendments are technical and not substantive.

18 VAC 85-80-70. Completion of continuing competency is required for biennial renewal. Other amendments are editorial only.

18 VAC 85-80-71. Continuing competency requirements for renewal of an active license. This new section requires the following: (i) completion of a Continuing Competency Assessment and Activity Form showing an assessment of practice needs and at least 20 hours of continuing learning activities, 10 of which must be Type 1 offered by a sponsor recognized by the professions; (ii) exemption for newly licensed practitioners for their first renewal; (iii) retention of

records for six years and a random audit by the board; and (iv) provisions for an extension or exemption for all or part of the requirements.

18 VAC 85-80-72. Inactive license. A new section is proposed to allow a practitioner to request an inactive license without requiring evidence of continuing competency. Such a license does not entitle the licensee to perform any act that would require a license to practice. The proposed amendments would also add requirements for reinstatement of an inactive license to active status to include: evidence of continuing competency hours equal to the number of years of inactivity, not to exceed four years; and documentation of hours of active practice or completion of a board-approved practice under the supervision of a licensed occupational therapist if the license has been inactive for six or more years.

18 VAC 85-80-80. Reinstatement. Proposed amendments will require that anyone who has allowed his license to lapse to submit information on practice in any other jurisdiction during that period. Anyone whose license has been lapsed for more than six years and who has not been practicing in another jurisdiction would be required to complete a board-approved practice under supervision for 320 hours in four consecutive months. Amendments would also require that a person who seeks to reinstate a lapsed license provide evidence of completion of continuing competency hours equal to the number of years the license has been lapsed, not to exceed four years.

Issues:

A. Type and amount of continuing competency requirements. Chapter 227 of the 1997 Acts of the Assembly amended the medical practice act by adding § 54.1-2912.1, which mandates that the board promulgate regulations for the establishment of continuing competency requirements. To carry out that mandate, the board requested that each of the advisory boards study the need for and type of continuing competency requirements for its profession, review what other states require, and develop a recommendation in the form of proposed amendments to regulation.

The goal of the Advisory Board on Occupational Therapy and the intent of the board was to develop requirements that would (i) encourage learner-directed continuing education through which a practitioner can identify a practice question or problem, seek the learning activity that provides needed information or teaches a new skill, and thereby enhance his expertise or ability to practice; (ii) offer a choice of content and form that is flexible enough to meet the needs of occupational therapists in a variety of practice settings in any location in Virginia; and (iii) assure the public that occupational therapists have maintained their skills and competencies.

As a result, the Advisory Board recommended and the board adopted a requirement that is aimed at involving the practitioner as a continuing learner who is consistently assessing the questions and problems encountered in his practice. The 20 hours of continuing competency required are divided into two types. In Type 1 continuing learning activities, the 10 hours required biennially must be offered by a sponsor or organization that is sanctioned by the profession and that provides documentation of hours to the practitioner. The hours may include formal course work, in-service training, or

specialty certification. In Type 2 continuing learning activities, the 10 hours required biennially may or may not be approved by a sponsor or organization but shall be activities considered by the learner to be beneficial to practice or to continuing learning; occupational therapists document their own participation on the Continued Competency Activity and Assessment Form.

After the activity is completed, the practitioner should indicate on the form provided by the board the predicted outcome. He should indicate whether he will (i) make a change in his practice, (ii) not make a change in his practice, and/or (iii) needs additional information on this topic.

In its adoption of these requirements, the board is responding to the research that indicates that the most effective continuing learning occurs when it is self-directed and designed to be practitioner-specific. It is also most effective if there has been some assessment of practitioner's needs and some evaluation of outcome and possible effects on practice. In addition, the board is cognizant of the need to have at least half of these continuing learning hours validated through some recognized organization or sponsor.

B. Requirements for reactivation of an inactive or lapsed license. Along with requirements for continuing competency for renewal of licenses, the board is proposing an inactive license for those practitioners who want to take a leave of absence or are now out of state and have no intention of engaging in active practice in the Commonwealth. In doing so, requirements for reactivation of such a license are necessary to ensure that practitioners are competent to resume practice. The board determined that it was necessary for a practitioner whose license has been inactive to provide evidence of continuing competency hours equal to the amount of time the license has not been active, not to exceed four years. If a practitioner has not engaged in active practice for two years but less than six years, the board is requiring that he serve a board-approved practice of 160 hours under the supervision of a licensed occupational therapist. If a practitioner has not actively practiced for more than six years, the board has concerns about his knowledge and skills and his ability to provide safe, effective care to patients. Therefore, the proposed regulations would require that practitioner to serve a board-approved practice under supervision for 320 hours in four consecutive months.

C. Advantages to the licensees. The proposed continuing competency requirements are intended to provide some assurance to the public that licensees of the board are maintaining current knowledge and skills, while providing the maximum amount of flexibility and availability to licensees. The members of the Advisory Board believe that the vast majority of occupational therapists already have more than 20 hours of continuing competency activities or courses in a biennium. Occupational therapists work for organizations which often require in-service training or continuing education for employment. Only 10 of the hours must be offered by a recognized sponsor, the other 10 may be acquired by the practitioner on his own time and schedule. The resources for earning the hours and engaging in the required learning are numerous and readily available in all parts of Virginia.

D. Disadvantages to the licensees. For a small minority of practitioners who do not currently engage in any continuing

learning in their profession, these requirements will represent an additional burden. However, it was determined by enactment of the statute and by the board's concurrence that those practitioners and their patients would greatly benefit from continuing learning requirements, and that the public is better protected if there is some assurance of that effort.

E. Advantages or disadvantages to the public. There are definite advantages of the proposed amended regulations to the public, which will have greater assurance that the licensees for the board are engaged in activities to maintain and improve their knowledge and skills in providing care to their patients. The public is also better served by a requirement for a board-approved practice under supervision if an occupational therapist has not been professionally active for a period of time. Such a practice will provide assurance by the observation and guidance of a licensed occupational therapist that the applicant for licensure or relicensure has regained his ability to practice.

Estimated Impact:

A. Projected number of persons affected and their cost of compliance. There are currently 1,769 occupational therapists who would be affected by these regulations.

The cost for compliance will vary depending on the practitioner and the type of continuing learning activities chosen.

In many organizations where occupational therapists are employed, such as hospitals or school systems, attendance at in-service courses and presentations are expectations of employment and part of the employee's evaluation. Courses are available without any charge through a hospital or other health care organization that provides continuing education for persons on staff. Entities that employ occupational therapists, such as home health agencies, also routinely make in-service training available and encourage participation by their employees. Since an occupational therapist is only required to obtain five hours per year of Type 1 continuing learning (Type 1 must be offered and documented by a recognized entity such as a hospital or other organization), those hours could be obtained during the hours of employment at no cost to the employee.

For those occupational therapists who do not have such in-service training readily available, the Virginia Occupational Therapy Association (VOTA) has state conferences in different parts of Virginia that offer the sufficient number of continuing education hours. The VOTA is also divided into regional districts, each of which offer continuing education at their meetings. Yearly membership in the VOTA is \$40, but it is not necessary to be a member of the VOTA to attend one of the district meetings and obtain the continuing education offered.

The American Occupational Therapy Association offers a number of continuing learning opportunities ranging from its annual convention to courses by teleconferencing. On their website, there is a lengthy list of continuing education offered, including: (i) on-line workshops in which the practitioner can participate and communicate with faculty through e-mail (participation can occur at any time of the day or night); (ii) courses on disc, which range in cost from \$17 to \$62 and could be shared by a number of O.T.s; and (iii) telephone

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seminar at which the course would be transmitted to a site for an average of \$115. Since occupational therapists typically work within organizations, costs for these offerings could be underwritten by the employer or shared by a group of O.T.s.

The five hours per year of Type II continuing learning is self-directed and self-verified. It is the type of learning in which every professional should routinely be engaged, consisting of reading journals, learning from colleagues, or self-study of any type. There should be no cost to the O.T. for acquiring hours of Type II learning.

There would also be some very minimal costs involved with maintaining records. With the promulgation of these regulations, the board will send each occupational therapist the required form for assessment of practice needs and planning the activities to meet those needs. The form will also be available on the board's website and may be downloaded into a file on the individual's personal computer. The O.T. will have to maintain that form and the documentation of continuing learning activities for a period of six years.

For those practitioners who have not engaged in practice for two or more years, the proposed regulations would require supervised practice before a license could be issued, reactivated or reinstated. Such persons would be able to have employment in occupational therapy, but they would not be able to call themselves occupational therapists or function as licensees until the board-approved practice under supervision was completed -- either 160 hours in two months (two to six years) or 320 hours in four months (six or more years).

B. Cost to the agency for implementation.

Impact on board revenue. For those practitioners who are taking a leave of absence or who are living out of state, there may be a percentage who would choose to take the inactive status and avoid the renewal requirements for continuing learning, but it is not known how many licensees would do so. Of the 1,769 licensed occupational therapists, 344 list an out-of-state address. Most of those are likely to be working in Virginia but living in D.C. or a bordering state. It is estimated that 15 to 20 may take an inactive status, which would be a very modest loss in revenue each biennium. If, however, the inactive status is not incorporated into any regulation that includes continuing competency or active practice requirements for renewal, it is likely that many of those persons who are not actively practicing in Virginia would allow their license to lapse. If the 15 to 20 persons who are estimated to become inactive in a biennium let their license lapse instead, it would result in a greater loss in revenue to the board each biennium. Therefore, the establishment of a category of inactive licensure may serve to preserve income for the board.

Impact on board expenditures. The agency will incur some costs (less than \$1,000) for mailings to the Public Participation Guidelines mailing list, conducting a public hearing, and sending copies of final regulations to regulated entities. Since these regulations are being amended simultaneously with other regulations of the board, the costs of mailings, meetings and hearings will be shared by several professions. In addition,

every effort will be made to incorporate those into anticipated mailings and board meetings already scheduled.

It would also be expected that there will be additional costs to the board for compliance enforcement. The board will conduct a 1.0 to 2.0% audit of its licensees at the conclusion of each biennium. Each practitioner selected for the audit will be required to submit the required documentation of continuing learning activities. There will be some staff time involved in review of the documentation and in communicating with licensee about their deficiencies. Since the number selected for audit will be less than 35, no additional personnel will be required to accomplish this activity.

It is also expected that a small percentage of licensees selected for audit will result in a disciplinary case being opened. From the experience of boards within the agency that currently have continuing competency requirements for renewal, the majority of those cases (estimated to be five to 10 per biennium) will probably be settled with a prehearing consent order. In those cases, the only costs would be for charges back to the board from the Administrative Proceedings Division (APD) of the department. Costs for cases that do result in an informal conference committee proceeding (estimated to be one to two per biennium) would include travel expenses and per diem for board members as well as costs for the services of APD. Informal conference committees typically hear several cases in a day, so the costs per case for board member and APD time would be minimized.

Cost estimates for disciplinary cases related to the failure to comply with continuing competency regulations range from \$100 to cases resulting in prehearing consent orders to \$500 per case for those that result in an informal conference committee. All expenses relating to enforcement of these regulations can be absorbed in the existing budget of the Board of Medicine.

In addition, there would be some costs in terms of staff time associated with review of applications for reactivation of an inactive license. The applicant would be required to submit documentation of continuing competency, and if he had been practicing in another jurisdiction, evidence of an unencumbered license or certification would be required. Since the number applying to reactivate a license would be small (five to 10 per biennium), the costs could be absorbed within the existing budget of the board and with existing staff for occupational therapy.

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 25 (98). 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. The Board of Medicine proposes the following changes to the Regulations Governing the Licensure of Occupational Therapists:

- Addition of continuing education requirements (20 hours per biennium) for the renewal of an active license and for the reactivation of an inactive or lapsed license, and
- Establishment of an inactive license.

Estimated economic impact.

Continuing education requirements. The most significant change proposed to the current regulations is the addition of continuing education (CE) requirements for the renewal of an active license and for the reactivation of an inactive or lapsed license. Although the existing rules require licensees to be “professionally active” in order to renew their license each biennium, they do not require any proof of continuing competency in the profession. The economic costs of this provision are the costs of any courses offered for the purposes of meeting the requirements of this regulation (whether paid for by the practitioner, his employer or professional association).

Compliance costs for meeting the CE requirements will differ across licensees. Some licensees may already be obtaining CE hours during school, hospital, or medical center in-service training sessions or for professional credentialing. For these individuals, the proposed requirements will not result in any additional costs aside from those associated with the documentation and maintenance of records. For other practitioners, however, the proposed CE requirements can be expected to represent a significant personal cost. Based on information provided by the Board of Medicine, the out-of-pocket costs for earning the required CE hours could range up to several hundred dollars per biennium for each of the 1,769 licensees. Additionally, practitioners would incur the cost of the time spent on pursuing such activities, whether in lost income or lost leisure time, and any costs associated with the documentation and maintenance of the records.

Inactive licenses and reactivation criteria. In light of the additional CE requirements for licensure renewal, the Board of Medicine proposes to establish an inactive license for those practitioners who are either retired or out of state, and do not intend to engage in active practice in Virginia, which would be exempt from on-going CE requirements. Since this would be a voluntary action, it can be expected that the associated renewal costs would not exceed the perceived benefits for any practitioner who chose to obtain an inactive license.

Requirements are set forth that the reactivation of an inactive license or reinstatement of a lapsed license include documentation of having completed continued competency hours equal to the requirement for the length of time, not to exceed four, that the license has been inactive. In addition, practitioners who have not engaged in active practice (160 hours of professional practice within the previous 24-months) must serve a board-approved practice under the supervision of a licensed occupational therapist.¹

Conclusion. The proposed CE requirements and license reactivation criteria can be expected to provide some beneficial results. The proposed rules would provide some assurance to the public that occupational therapy licensees of the Board of Medicine are maintaining their knowledge, skills, and competencies. While there is no empirical evidence currently available with which to estimate the potential benefits resulting from the proposed requirements, even just a few instances of premature death or serious injury avoided due to additional safeguards to assure the competency of practitioners would justify the anticipated costs of this regulation.

The Board of Medicine will also incur costs related to enforcement of the proposed CE requirements. Based on experience with other professions, the board estimates that the biennially audits of licensees will result in five to 10 cases settled with a prehearing consent order (\$100 per case) and one to two cases requiring informal conference committee proceedings (\$500 per case). Enforcement of the proposed requirements will increase compliance, and if the requirements themselves result in a net economic benefit, then the enforcement costs are also justified.

Businesses and entities affected. There are 1,769 occupational therapists currently licensed in Virginia who would be affected by the proposed changes to this regulation.

Localities particularly affected. The proposed changes to this regulation should not disproportionately affect any particular locality.

Projected impact on employment. The proposed changes to this regulation are not expected to have any significant impact on employment in Virginia.

Effects on the use and value of private property. The proposed changes to this regulation are not expected to have any significant effects on the use and value of private property in Virginia.

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

Summary:

The proposed amendments establish requirements for renewal of licensure that include continuing competency evidenced by 160 hours of active practice each biennium and the completion of at least 20 hours of continuing learning activities. The proposed amendments also establish an inactive license for licensees who are not engaged in practice and do not want to meet the requirements for renewal of an active license. Finally, proposed amendments set forth the conditions that must be met to reactivate an inactive license or reinstate a lapsed license.

¹ 160 hours of supervised practice for individuals who have not engaged in active practice for two but less than six years, and 320 hours of supervised

practice for individuals who have not engaged in active practice for more than six years.

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18 VAC 85-80-10. Definitions.

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

"ACOTE" means the Accreditation Council for Occupational Therapy Education.

"Active practice" means a minimum of 160 hours of professional practice as an occupational therapist within the 24-month period immediately preceding renewal or application for licensure, if previously licensed or certified in another jurisdiction. The active practice of occupational therapy may include supervisory, administrative, educational or consultative activities or responsibilities for the delivery of such services.

"Advisory board" means the Advisory Board of Occupational Therapy.

"Board" means the Virginia Board of Medicine.

"Contact hour" means 60 minutes of time spent in continued learning activity.

"NBCOT" means the National Board for Certification in Occupational Therapy, under which the national examination for certification is developed and implemented.

"National examination" means the examination prescribed by NBCOT for certification as an occupational therapist and approved for licensure in Virginia.

"Occupational therapy personnel" means persons who provide occupational therapy services under the supervision of a licensed occupational therapist.

18 VAC 85-80-70. Biennial renewal of licensure.

A. An occupational therapist shall renew his licensure biennially during his birth month in each even-numbered year by:

1. Paying to the board the renewal fee prescribed in 18 VAC 85-80-120; ~~and~~
2. Indicating that he has been engaged in the active practice of occupational therapy as defined in 18 VAC 85-80-10 for at least 160 hours during each biennial renewal cycle; ~~and~~
3. Attesting to completion of continued competency requirements as prescribed in 18 VAC 85-80-71.

B. An occupational therapist whose licensure has not been renewed by the first day of the month following the month in which renewal is required shall pay an additional late fee as prescribed in 18 VAC 85-80-120.

18 VAC 85-80-71. Continued competency requirements for renewal of an active license.

A. In order to renew an active license biennially, a practitioner shall complete the Continued Competency Activity and Assessment Form that is provided by the board and that shall indicate completion of at least 20 contact hours of continuing learning activities as follows:

1. A minimum of 10 of the 20 hours shall be in Type 1 activities offered by a sponsor or organization recognized by the profession and may include in-service training, self-study courses, continuing education courses, specialty certification or professional workshops.

2. No more than 10 of the 20 hours may be Type 2 activities, which may include consultation with another therapist, independent reading or research, preparation for a presentation or other such experiences that promote continued learning.

B. A practitioner shall be exempt from the continuing competency requirements for the first biennial renewal following the date of initial licensure in Virginia.

C. The practitioner shall retain in his records the completed form with all supporting documentation for a period of six years following the renewal of an active license.

D. The board shall periodically conduct a random audit of at least one to two percent of its active licensees to determine compliance. The practitioners selected for the audit shall provide the completed Continued Competency Activity and Assessment Form and all supporting documentation within 30 days of receiving notification of the audit.

E. Failure to comply with these requirements may subject the licensee to disciplinary action by the board.

F. The board may grant an extension of the deadline for continuing competency requirements for up to one year for good cause shown upon a written request from the licensee prior to the renewal date.

G. The board may grant an exemption for all or part of the requirements for circumstances beyond the control of the licensee, such as temporary disability, mandatory military service, or officially declared disasters.

18 VAC 85-80-72. Inactive licensure.

A. A licensed occupational therapist who holds a current, unrestricted license in Virginia shall, upon a request on the renewal application and submission of the required fee, be issued an inactive license. The holder of an inactive license shall not be required to maintain hours of active practice or meet the continued competency requirements of 18 VAC 85-80-71 and shall not be entitled to perform any act requiring a license to practice occupational therapy in Virginia.

B. An inactive licensee may reactivate his license upon submission of the following:

1. An application as required by the board;
2. A payment of the difference between the current renewal fee for inactive licensure and the renewal fee for active licensure;
3. If the license has been inactive for two to six years, documentation of having engaged in the active practice of occupational therapy or having completed a board-approved practice of 160 hours within 60 consecutive days under the supervision of a licensed occupational therapist; and

4. Documentation of completed continued competency hours equal to the requirement for the number of years, not to exceed four years, in which the license has been inactive.

C. An occupational therapist who has had an inactive license for six years or more and who has not engaged in active practice as defined in 18 VAC 85-80-10, shall serve a board-approved practice of 320 hours to be completed in four consecutive months under the supervision of a licensed occupational therapist.

D. The board reserves the right to deny a request for reactivation to any licensee who has been determined to have committed an act in violation of § 54.1-2914 of the Code of Virginia or any provisions of this chapter.

18 VAC 85-80-80. Reinstatement.

A. An occupational therapist who allows his licensure to lapse for a period of two years or more and chooses to resume his practice shall ~~make a new~~ submit a reinstatement application to the board and information on any practice and licensure or certification in other jurisdictions during the period in which the license was lapsed, ~~shall serve a board-approved practice of 160 hours which is to be completed in two consecutive months under the supervision of a licensed occupational therapist,~~ and shall pay the fee for reinstatement of his licensure as prescribed in 18 VAC 85-80-120.

B. An occupational therapist who has allowed his licensure to lapse for two years but less than six years, and who has not engaged in active practice as defined in 18 VAC 85-80-10, shall serve a board-approved practice of 160 hours to be completed in two consecutive months under the supervision of a licensed occupational therapist.

C. An occupational therapist who has allowed his licensure to lapse for six years or more, and who has not engaged in active practice, shall serve a board-approved practice of 320 hours to be completed in four consecutive months under the supervision of a licensed occupational therapist.

D. An applicant for reinstatement shall meet the continuing competency requirements of 18 VAC 85-80-71 for the number of years the license has been lapsed, not to exceed four years.

~~B.~~ E. An occupational therapist whose licensure has been revoked by the board and who wishes to be reinstated shall make a new application to the board and payment of the fee for reinstatement of his licensure as prescribed in 18 VAC 85-80-120 pursuant to § 54.1-2921 of the Code of Virginia.

NOTICE: The forms used in administering 18 VAC 85-80-10 et seq., Regulations Governing the Licensure of Occupational Therapists, are listed below. Any amended or added forms are reflected in the listing and are published following the listing.

FORMS

Instructions for Completing an Occupational Therapist Application (rev. 8/99).

Application for a License to Practice Occupational Therapy (rev. 2/99).

Form #A, Claims History Sheet (rev. 7/98).

Form #B, Activity Questionnaire (rev. 7/98).

Form #C, Clearance from Other State Boards (rev. 7/98).

Form #L, Certificate of Professional Education (rev. 2/99).

Verification of Certification Request Form (NBCOT) (rev. 1999).

Instructions for Completing Reinstatement of Licensure Application for Occupational Therapy (rev. 8/99).

Instruction for Supervised Practice, Occupational Therapy (rev. 8/99).

Supervised Practice Application, Occupational Therapy (rev. 8/99).

Report of Supervised Practice (rev. 8/99).

Continued Competency Activity and Assessment Form (rev. 9/00).

Renewal Notice and Application (rev. 2/00 9/00).

CONTINUED COMPETENCY ACTIVITY AND ASSESSMENT FORM
 Please *photocopy this original form to record your learning activities.*
 The completed forms and all documentation must be maintained for a period of six years.

PART A: ACTIVITY		PART B: ASSESSMENT	# OF HOURS/TYPE		PART C: OUTCOME
Learning Activity, Resources, Strategies & Experiences; e.g. conferences, consultations, self-study courses, peer-reviewed journals, continuing education courses, specialty certification.	Date	Knowledge or Skills You Maintained or Developed. What questions or problems encountered in your practice were addressed by this learning activity?	Type 1 (10 hours) Sponsored by a professional organization	Type 2 (10 hours) Learner approved	Outcome: Indicate whether you will: a) make a change in your practice, b) not make a change in your practice, and/or c) need additional information on this topic.

CONTINUED COMPETENCY ACTIVITY AND ASSESSMENT FORM: SUMMARY AND VERIFICATION

This page should be completed at the end of your two year renewal cycle and inserted as the final page of your CONTINUED COMPETENCY ACTIVITY AND ASSESSMENT FORM.

Record at least 20 contact hours of continuing learning activities you completed during the preceding two-year period of professional license. Recorded hours should indicate 10 hours of Type 1 activities offered by a sponsor or organization recognized by the profession to designate learning activities for credit or other value. The other 10 hours should be Type 2 educational activities you consider to be beneficial to your career development that may or may not be approved for credit by a sponsor or organization recognized by the profession. The CONTINUED COMPETENCY ACTIVITY AND ASSESSMENT FORM and all documentation should be maintained in your records for six years.

As you consider your completed CONTINUED COMPETENCY ACTIVITY AND ASSESSMENT FORM, please reflect upon your career and in the space below identify problems or questions you expect to address during the next biennial period of medical license renewal:

As required by law and regulation, I certify that I have completed the CONTINUED COMPETENCY ACTIVITY AND ASSESSMENT FORM and have participated in 20 hours of continuing education or learning activities as required for renewal of occupational therapy licensure in the Commonwealth of Virginia.

Signature

Date

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Department of Health Professions
6606 West Broad Street, Fourth Floor
Richmond, Virginia 23230-1717

Presorted
First-Class Mail
US Postage Paid
Richmond, VA
Permit No. 1902

«License_No»

LICENSE RENEWAL NOTICE AND APPLICATION

To Open - Fold & Tear Along Perforation

«First_Name» «Last_Name»
«L_Address_Line_1»
«L_Address_Line_2»
«L_Address_Line_3»

To Open - Fold & Tear Along Perforation

RECEIPT—KEEP THIS PORTION FOR YOUR RECORDS—DO NOT RETURN

«First_Name» «Last_Name»		Renewal Fee—Amount «renewal_fee»
«License_Type» - «License_No»		
Renewal Period: «begin_period» to «end_period»	Current Expiration Date: «L_Expiration_Date»	

1. For name changes, cross out any incorrect information on the front of the renewal form, write the correct name and check the box on return envelope. Enclose a copy of your marriage license or court order for name changes.
2. Address changes, cross out any incorrect information on the front of the renewal form, write the correct address and check the box on return envelope.
3. Detach "renewal form" portion and return completed form with your check in attached return envelope.
4. Make checks payable to "Treasurer of Virginia." Visit our website at www.dhp.state.va.us

Please fold and tear on perforated line

Renewal Form for Occupational Therapist		Amount Due:
«License_No»	Renewal Period: «begin_period» to «end_period»	«renewal_fee»
«First_Name» «Middle_Name» «Last_Name»		
«L_Address_Line_1», «L_Address_Line_2», «L_Address_Line_3»		
<input type="checkbox"/> I wish to renew in an active status and enclose fee of \$ 135.00 <input type="checkbox"/> I wish to renew in an inactive status and enclose fee of \$ 70.00. (No practice authorized) <input type="checkbox"/> I wish to renew and I certify that I have met all continuing education requirements to renew this license. <small>More detailed information on inactive licensure is provided at our website www.dhp.state.va.us or call the board office at 804-662-9924.</small>		
I swear that I have not made any misrepresentation on this renewal application and understand that furnishing false information constitutes cause for loss of licensure to practice. Signature _____		
If Payment is Received by Board After «L_Expiration_Date», Amount Due «combined_date_fee» Do not staple check to renewal form or fold renewal form.		

«Scan_Line»

To Open - Fold & Tear Along Perforation

To Open This Side - Slide Finger Under This Edge

To Open - Fold & Tear Along Perforation

Name/Address Change Enclosed
 Licensure Status Change Enclosed

Place Postage Stamp Here

Department of Health Professions
P.O. Box 26566
Richmond, VA 23261-6566

VA.R. Doc. No. R99-5; Filed November 17, 2000, 1:57 p.m.

Title of Regulation: 18 VAC 85-101-10 et seq. **Regulations Governing the Licensure of Radiologic Technologists and Radiologic Technologists-Limited (amending 18 VAC 85-101-150; adding 18 VAC 85-101-151 and 18 VAC 85-101-152).**

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

Public Hearing Date: January 10, 2001 - 1 p.m.

Public comments may be submitted until February 16, 2001.

(See Calendar of Events section for additional information)

Basis: Section 54.1-2400 of the Code of Virginia establishes the general powers and duties of health regulatory boards including the power to establish qualifications for licensure and renewal, to promulgate regulations and to issue inactive licensees.

Section 54.1-2912.1 of the Code of Virginia mandates the board to prescribe by regulation such requirements as may be necessary to ensure continued practitioner competence that may include continuing education, testing, or other requirements.

Purpose: The purpose of the proposed amendments is to establish a continuing education requirement for active practice as an indication of the practitioner's competency to have his license renewed and to establish inactive licensure for radiologic technologists and radiologic technologists-limited pursuant to the specific authority granted in the Code of Virginia by Chapter 469 of the 1998 Acts of the Assembly. The amended regulations set forth the qualifications and requirements for reactivation of an inactive or reinstatement of a lapsed license that are consistent with protection of the public health and safety.

Substance: An amendment is proposed to add a requirement in 18 VAC 85-101-150 for renewal that a licensed radiologic technologist must obtain 24 hours of continuing education (CE) approved and documented by the American Registry of Radiologic Technologists (including 12 hours of Category A) during the past biennium. For the radiologic technologist-limited to renew a license biennially, 12 hours of approved CE in the anatomical area in which the licensee practices would be required.

A new section on reinstatement (18 VAC 85-101-151) is added to set forth requirements for reinstatement of a license that has been lapsed for two years or more. The board would require evidence of hours of continuing education equal to those required for a biennial renewal, information on practice and licensure in other jurisdictions during the period in which the license was lapsed in Virginia, and payment of a reinstatement fee.

A licensee whose license has been revoked is required to submit a new application and the reinstatement fee according to these regulations and provisions of § 54.1-2921 of the Code of Virginia.

18 VAC 85-101-152 is a proposed new section that would establish a category of inactive licensure and specify that such a license holder may renew by indicating his request for inactive licensure on a renewal form and payment of the required fee. An inactive licensee is not required to maintain continuing education but is not permitted to practice radiography.

To reactivate an inactive license, a radiologic technology practitioner is required to verify that he has completed continuing education equal to that required for the period in which he has been inactive, not to exceed one biennium; submit the required application; and pay the difference between the current inactive and active renewal fee.

The board reserves the right to deny a request for reactivation to any person determined to have committed a violation of these regulations or of § 54.1-2914 of the Code of Virginia.

Issues:

ISSUE 1: Evidence of continuing competency for renewal of licensure. The Board of Medicine is mandated by § 54.1-2912.1 to prescribe continued competency requirements for the practitioners it licenses. It currently requires some evidence of continuing competency for licensed practitioners such as physical therapists (320 hours of active practice within the past four years), licensed acupuncturists (certification by NCCAOM requiring 100 hours of CME's in a two-year period), physician assistants (certification by NCCPA requiring 60 professional development activities in a four-year period) and occupational therapists (requirement for active practice during the renewal cycle). In addition, the board is proposing specific hours of continued competency for physicians, chiropractors, podiatrists, and occupational therapists.

Radiological technology practitioners have been licensed by the Board of Medicine since 1997. Prior to that they were certified, and no competency requirement was imposed for certification, which was title protection and, therefore, voluntary for practitioners. Since they are now a licensed profession, it is expected that there be some measure of competency to determine qualification for continued renewal of licensure.

The board considered what type of requirement would be reasonable and appropriate for radiologic technologists and radiologic technologists-limited and would, at the same time, provide the needed assurance to the public that minimal competency had been maintained. The recommendation of the Advisory Committee on Radiological Technology was that a requirement for continuing education would provide the best assurance that practitioners were gaining new knowledge and were keeping up with new technology in their practice.

Advantages and disadvantages. There are no disadvantages to the public, which is better protected by having a continuing competency requirement for radiologic technology practitioners in order to renew an active license.

For the licensees, the CE requirement will necessitate some effort and costs to maintain an active license. The proposed regulations would minimize the expense and time away from practice because the required hours of CE are widely

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available from a variety of sources. It should not be unnecessarily burdensome for the practitioner who is maintaining an active license to practice to be able to acquire the needed hours during the biennium.

ISSUE 2: Establishment of an inactive license. The Department of Health Professions sought legislation in the 1998 General Assembly to give authorization to all boards to issue an active license. Some boards within the department already had such authority in the practice act for the particular professions regulated, but an amendment to § 54.1-2400 granted general authority to set out the qualifications, fees, and conditions for reactivation of inactive licensure.

With the initiation of CE requirements for biennial renewal of licensure as a radiologic technology practitioner, the board determined that all its licensees should have the option of requesting an inactive license if they are not currently practicing their profession and do not want to be responsible for acquiring continuing education.

In order to reactivate that license, the practitioner must provide documentation that he has acquired continuing education hours equal to the number that would have been required for an active licensee, not to exceed one biennium.

Advantages and disadvantages. There are no disadvantages for the public, which remains protected by requirements that assure that an active practitioner is current in his skills and knowledge. By requiring an inactive licensee to provide evidence of continued competency to practice, the board has the opportunity to determine whether the practitioner has remained professionally current or has taken courses to update his knowledge and skills. For persons who do not want to actively practice for a period of time, these regulations will allow them to maintain an inactive license and eliminate the need to reapply for reinstatement of an expired license. Renewal of an inactive license is also less expensive than renewal of an active license.

ISSUE 3: Requirements for reinstatement of an expired license. In proposing regulations for reactivation of an inactive license, the board determined that it was also necessary to specify requirements for reinstatement of a license lapsed for more than two years or one that was revoked. The lapsed license may only be reinstated by payment of a reinstatement fee, documentation of completion of continuing education hours equal to those required for a biennial renewal, and submission of a reinstatement application which includes information on practice and licensure in other states during the period in which the license was lapsed in Virginia. A practitioner whose license has been revoked must submit a new application and meet requirements of § 54.1-2921.

Advantages and disadvantages. The proposed regulation protects the public by requiring that the applicant complete continuing education hours and provide complete information on practice and licensure in other jurisdictions during that period. That provides the board with an opportunity to check on the safety and professionalism of the licensee who may have been in practice elsewhere during the time the license was lapsed in Virginia. The board also maintains its authority

to deny reinstatement to anyone who has committed acts in violation of law or regulation.

Estimated Fiscal Impact:

A. Number of entities affected by this regulation. There are 1,832 radiologic technologists and 1,066 radiologic technologists-limited licensed in Virginia; 153 of the fully licensed persons and 42 of those with the limited license list an out-of-state address. Some of those who live out of state may choose an inactive license if they are not actively practicing in Virginia.

B. Projected cost to the agency. The agency will incur some costs (less than \$1,000) for mailings to the Public Participation Guidelines mailing list, conducting a public hearing, and sending copies of final regulations to regulated entities. Since these regulations are being amended simultaneously with other regulations of the board, the costs of mailings, meetings and hearings will be shared by several professions. In addition, every effort will be made to incorporate those into anticipated mailings and board meetings already scheduled.

The potential loss of income to the board from persons who choose inactive licensure is minimal. It is estimated that only 20 or 30 licensees will become inactive at a very modest cost per biennium in reduced revenue to the board. What is unknown is how many of those licensees might choose to allow their license to lapse if an inactive licensure status is not available. If the estimated 20 to 30 radiologic technologists who are not practicing in the state let their licenses lapse, there could be a greater loss in revenue to the board each biennium. Therefore, offering the option of inactive licensure could, in fact, result in a greater retention of revenue to the board.

C. Projected costs to the affected entities. The costs of acquiring the continuing education hours accredited by the ARRT or some other entity approved by the board will depend on the type of courses a licensee selects. The costs could range from zero to several hundred dollars. Courses offered through the Virginia Society of Radiologic Technologists (VSRT) are accredited by the ARRT. Membership in the VSRT is \$20 per year, but most continuing education offerings may be taken without first becoming a member. The VSRT is divided into districts with local societies, each of which meet on a monthly basis; some districts charge \$10 a year to belong to the local society and others are free. At each of those meetings, there is a presentation that offers one hour of CE, so a licensee could obtain 12 hours of CE each year from meetings that are free to attend and that are held on weeknights so as not to interfere with work schedules.

In addition, there are weekend seminars at a cost of \$75 (including meals), at which 12 hours can be acquired over a Saturday and Sunday. No membership fee is required to attend those seminars sponsored by the district or local societies. The VSRT holds professional meetings twice a year in different parts of the state; costs for those meetings are typically \$60 a day, and the practitioners may choose one or more days to attend. VSRT maintains a website, which lists all the available meetings, seminars and courses.

Hours of continuing education are also available through the Internet, through professional journals (the bimonthly journal of the ASRT has a self-study course offering one credit for a total of six per year), and through home study or in-service programs on cassette. Costs for the radiology courses on cassette vary, but can be obtained for as little as \$60 for 20 hours of credit. Many institutions or organizations in which radiologic technologists practice make these self-study materials available to their personnel to be used on their own schedule.

Offerings from other professional associations or societies may also qualify for continuing education credit. The ARRT lists activities approved by the American Medical Association, the American Nurses Association, and CPR certification through the Heart Association or the Red Cross. Many in-service courses required by many hospitals and other organizations for their practitioners will be recognized by the ARRT and will qualify for the CE requirement in Virginia.

For those radiologic technologists-limited whose practice is limited to podiatry, the board proposed to allow the required hours to be offered by a board-approved sponsor. The Virginia Podiatric Society is in the process of developing in-service training and continuing education of those practitioners who perform radiography in podiatric practices. Since they will be able to obtain hours in their practice settings and through their professional group, they will be able to meet the requirements for renewal with minimum costs.

For those persons who are not actively practicing in Virginia but who want to maintain an inactive license, there would be no costs for continuing education and a savings in biennial renewal fees.

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 25 (98). 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. The Board of Medicine proposes the following changes to the Regulations Governing the Licensure of Radiologic Technology Practitioners:

- Addition of continuing education requirements for the renewal of an active license and for the reactivation of an inactive or lapsed license (24 hours per biennium for a fully licensed radiologic technologist; 12 hours per biennium for a radiologic technologist-limited), and
- Establishment of an inactive license.

Estimated economic impact.

Continuing Education Requirements. The most significant change proposed to the current regulations is the addition of continuing education (CE) requirements for the renewal of an active license and for the reactivation of an inactive or lapsed license. The existing rules do not require any proof of continuing competency in the profession. The economic costs of this provision are the costs of any courses offered for the purposes of meeting the requirements of this regulation (whether paid for by the practitioner, his employer or professional association).

Compliance costs for meeting the CE requirements will differ across licensees. Some licensees may already be obtaining CE hours during hospital or medical center in-service training sessions or for professional credentialing. For these individuals, the proposed requirements will not result in any additional costs aside from those associated with the documentation and maintenance of records. For other practitioners, however, the proposed CE requirements can be expected to represent a significant personal cost. Based on information provided by the Board of Medicine, the monetary costs for earning the required CE hours could range from zero to several hundred dollars per biennium for each of the 2,898 licensees.¹ Additionally, practitioners would incur the cost of the time spent on pursuing such activities, whether in lost income or lost leisure time, and any costs associated with the documentation and maintenance of the records.

The proposed CE requirements can be expected to provide some beneficial results. The proposed rules would provide some assurance to the public that radiologic technologists and radiologic technologists-limited licensees of the Board of Medicine are maintaining their knowledge, skills, and competencies. While there is no empirical evidence currently available with which to estimate the potential benefits resulting from the proposed CE requirements, even just a few instances of premature death or serious injury or illness avoided due to additional safeguards to assure the competency of practitioners would justify the anticipated costs of this regulation.

The Board of Medicine will also incur costs related to enforcement of the proposed CE requirements. Based on experience with other professions, the board estimates that the biennially audits of licensees will result in 10 to 20 cases settled with a prehearing consent order (\$100 per case) and between three and five cases requiring informal conference committee proceedings (\$500 per case). Enforcement of the proposed requirements will increase compliance, and if the requirements themselves result in a net economic benefit, then the enforcement costs are also justified.

Inactive Licenses and Reactivation Criteria. In light of the additional CE requirements for licensure renewal, the Board of Medicine proposes to establish an inactive license for those practitioners who are either retired or out of state, and do not intend to engage in active practice in Virginia, which would be

¹ Based on information from the Board of Medicine that the local societies of the Virginia Society of Radiologic Technologists (VSRT) offer ARRT accredited CE hours at each monthly meeting, many of which are free of charge. Other opportunities include 20-hour cassette courses which can be obtained starting at \$60 and VSRT seminars and professional meetings, which costs between \$60 and \$75 and offer 12 or more hours of credit.

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exempt from on-going CE requirements. Since this would be a voluntary action, it can be expected that the associated renewal costs would not exceed the perceived benefits for any practitioner who chose to obtain an inactive license. Requirements are set forth that the reactivation of an inactive license include documentation of having completed continued competency hours equal to the requirement for the length of time, not to exceed two, that the license has been inactive.

Businesses and entities affected. There are 2,898 radiologic technologists and radiologic technologists-limited licensees who would be affected by the proposed changes to this regulation.²

Localities particularly affected. The proposed changes to this regulation should not disproportionately affect any particular locality.

Projected impact on employment. The proposed changes to this regulation are not expected to have any significant impact on employment in Virginia.

Effects on the use and value of private property. The proposed changes to this regulation are not expected to have any significant effects on the use and value of private property in Virginia.

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

Summary:

The proposed amendments add a requirement of 24 hours of continuing education per biennium for a radiologic technologist or 12 hours per biennium for a radiologic technologist-limited to have his active license renewed. Proposed amendments also establish inactive licensure for radiologic technologists and radiologic technologists-limited pursuant to the specific authority granted in the Code of Virginia by Chapter 469 of the 1998 Acts of the Assembly. The amended regulations set forth the qualifications and requirements for reactivation of an inactive license or reinstatement of a lapsed license.

18 VAC 85-101-150. Biennial renewal of license.

A. A radiologic technologist or radiologic technologist-limited who intends to continue practice shall renew his license biennially during his birth month in each odd numbered year and pay to the board the prescribed renewal fee.

B. A license ~~which~~ *that* has not been renewed by the first day of the month following the month in which renewal is required shall be expired.

C. An additional fee ~~to cover administrative costs for processing a late application~~ *as prescribed in 18 VAC 85-101-160* shall be imposed by the board.

D. *In order to renew an active license as a radiologic technologist, a licensee shall attest to having completed 24 hours of continuing education as approved and documented by the ARRT within the last biennium. At least 12 of the hours must be approved by the ARRT as Category A.*

E. *In order to renew an active license as a radiologic technologist-limited, a licensee shall attest to having completed 12 hours of Category A continuing education within the last biennium that corresponds to the anatomical areas in which the limited licensee practices. Hours shall be approved and documented by the ARRT or by any other entity approved by the board for limited licensees whose scope of practice is podiatry.*

18 VAC 85-101-151. Reinstatement.

A. *A licensee who allows his license to lapse for a period of two years or more and chooses to resume his practice shall submit to the board a new application, information on practice and licensure in other jurisdictions during the period in which the license was lapsed, evidence of completion of hours of continuing education equal to those required for a biennial renewal and the fees for reinstatement of his license as prescribed in 18 VAC 85-101-160.*

B. *A licensee whose license has been revoked by the board and who wishes to be reinstated shall submit a new application to the board, fulfill additional requirements as specified in the order from the board, and pay the fee for reinstatement of his license as prescribed in 18 VAC 85-101-160.*

18 VAC 85-101-152. Inactive license.

A. *A licensed radiologic technologist or radiologic technologist-limited who holds a current, unrestricted license in Virginia may, upon a request on the renewal application and submission of the required fee, be issued an inactive license. The holder of an inactive license shall not be required to maintain continuing education hours and shall not be entitled to perform any act requiring a license to practice radiography in Virginia.*

B. *To reactivate an inactive license, a licensee shall:*

- 1. Submit the required application;*
- 2. Pay a fee equal to the difference between the current renewal fee for inactive licensure and the renewal fee for active licensure; and*
- 3. Verify that he has completed continuing education hours equal to those required for the period in which he held an inactive license in Virginia, not to exceed one biennium.*

C. *The board reserves the right to deny a request for reactivation to any licensee who has been determined to have committed an act in violation of § 54.1-2914 of the Code of Virginia or any provisions of this chapter.*

² 1,832 fully licensed radiologic technologists and 1,066 radiologic technologists-limited.

NOTICE: The forms used in administering 18 VAC 85-101-10 et seq., Regulations Governing the Licensure of Radiologic Technologists and Radiologic Technologists-Limited are not being published due to the large number; however, the name of each form is listed below. The forms are available for public inspection at the Board of Medicine, Southern States Building, 6606 W. Broad Street, 4th Floor, Richmond, Virginia, or at the office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia.

FORMS

Instructions for Completing an Application for Licensure as a Radiologic Technologist By Examination/Endorsement (rev. ~~8/99~~ 4/00).

Application for a License as a Radiologic Technologist (rev. 11/98).

Form #A, Claims History Sheet (rev. ~~7/97~~ 4/00).

Form #B, Activity Questionnaire (rev. ~~7/97~~ 4/00).

Form #C, Clearance from Other States (rev. ~~7/97~~ 4/00).

Form #E, Letter of Good Standing (rev. ~~7/97~~ 4/00).

Form #F, Traineeship Application (rev. ~~7/97~~ 4/00).

Form #L, Certificate of Radiologic Technology Education (4/00).

Instructions for Completing an Application for Licensure as a Radiologic Technologist-Limited (rev. ~~8/99~~ 4/00).

Application for a License as a Radiologic Technologist-Limited (rev. ~~2/99~~ 1/00).

Form #2 (a), Radiologic Technologist-Limited Training Application (rev. ~~5/99~~ 4/00).

Instructions for Completing Reinstatement of Radiologic Technology Licensure (rev. 8/99).

Instructions for Completing Reinstatement of Radiologic Technologist-Limited Licensure (rev. 8/99).

License Renewal Notice and Application - Renewal Form for Radiologic Technologist (rev. ~~2/99~~ 9/00).

License Renewal Notice and Application - Renewal Form for Limited Radiologic Technologist (9/00).

VA.R. Doc. No. R99-6; Filed November 17, 2000, 1:57 p.m.

Title of Regulation: 18 VAC 85-110-10 et seq. Regulations Governing the Practice of Licensed Acupuncturists (amending 18 VAC 85-110-150 and 18 VAC 85-110-160; adding 18 VAC 85-110-155).

Statutory Authority: §§ 54.1-2400 and 54.1-2956.9 of the Code of Virginia.

Public Hearing Date: January 10, 2001 - 9 a.m.
Public comments may be submitted until February 16, 2001.

(See Calendar of Events section

for additional information)

Basis: Section 54.1-2400 of the Code of Virginia establishes the general powers and duties of health regulatory boards including the power to establish qualifications for licensure and renewal, to promulgate regulations and to issue inactive licensees.

Chapter 29 (§ 54.1-2900 et seq.) of Title 54.1 of the Code of Virginia establishes the definitions and requirements for the practice of these regulated professions and specifies the powers and duties of the Board of Medicine. Section 54.1-2956.9 mandates licensure of acupuncturists by the board.

Purpose: The purpose of the proposed amendments is to establish inactive licensure for acupuncturists pursuant to the specific authority granted in the Code of Virginia by Chapter 469 of the 1998 Acts of the Assembly. The amended regulations set forth the qualifications and requirements for reactivation of an inactive license that are consistent with protection of the public health and safety.

Substance:

18 VAC 85-110-150. Biennial renewal of licensure. A proposed amendment deletes the provision that a person could renew his license if he was not originally NCCAOM certified, if he provides evidence of continuing competency substantially equivalent to the requirements for NCCAOM recertification. Other amendments to this section are editorial and not substantive.

18 VAC 85-110-155. Inactive licensure. The proposed new section establishes a category of inactive licensure and specifies that such a license holder is not required to maintain certification by the National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM), but is likewise not entitled to practice acupuncture.

To reactivate an inactive license, the acupuncturist is required to provide documentation of having renewed or maintained NCCAOM certification and to pay the difference between the current inactive and active renewal fee.

The board reserves the right to deny a request for reactivation to any person determined to have committed a violation of these regulations or of § 54.1-2914 of the Code of Virginia.

18 VAC 85-110-160. Reinstatement. Amendments to the section on reinstatement add a requirement for information on practice and licensure in other jurisdictions during the period in which the license was lapsed in Virginia. That information is currently required on the application but has not been so stated in regulation.

Issues:

ISSUE 1: Establishment of an inactive license. The Department of Health Professions sought legislation in the 1998 General Assembly to give authorization to all boards to issue an active license. Some boards within the department already had such authority in the practice act for the particular professions regulated, but an amendment to § 54.1-2400 of the Code of Virginia granted general authority to set out the qualifications, fees, and conditions for reactivation of inactive licensure.

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The Board of Medicine currently requires a licensed acupuncturist to maintain current certification by the National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM) in order to renew a license. NCCAOM requires 60 PDA's (professional development activities) within a four-year recertification period and practice of 250 patients during a 12-month period within the last four years. For someone who is not planning to actively practice for a period of time, it may be unnecessarily burdensome to have to take the continuing education hours required by NCCAOM to maintain certification. By taking an inactive status, the licensee is not required to maintain certification but is also not permitted to practice. If the licensee wants to reactivate a license, it would be necessary to provide documentation that he has first taken the continuing education hours necessary to reactivate his certification with NCCAOM.

Advantages and disadvantages. There are no disadvantages for the public, which remains protected by requirements that assure that a licensed acupuncturist is current in his skills and knowledge. By requiring an inactive licensee to be recertified by the NCCAOM, the board is providing assurance of minimal competency as it does in initially granting a license to practice. For persons who do not want to actively practice for a period of time, these regulations will allow them to maintain an inactive license and eliminate the need to reapply for reinstatement of an expired license.

ISSUE 2: Requirements for renewal and reinstatement of an expired license. The board proposes to delete the provision that would permit a licensee who was not initially NCCAOM certified to renew licensure if the licensee provided evidence of continuing competency substantially equivalent to requirements for NCCAOM recertification. That provision is now unnecessary because NCCAOM is required for initial licensure; it was put in the regulations because one individual was initially licensed without NCCAOM certification. That individual now has NCCAOM certification, so the regulation is no longer needed.

In proposing regulations for reactivation of an inactive license, the board determined that it was also necessary to amend requirements for reinstatement of a license expired for two years or more to state that the expired license may only be reinstated by submission of a reinstatement application which includes information on practice and licensure in other states during the period in which the license was lapsed in Virginia.

Advantages and disadvantages. The proposed regulation protects the public by requiring that the applicant provide complete information on practice and licensure in other jurisdictions during that period. That provides the board with an opportunity to check on the safety and professionalism of the licensee who may have been in practice elsewhere during the time the license was lapsed in Virginia. The board also maintains its authority to deny reinstatement to anyone who has committed acts in violation of law or regulation.

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 25 (98). 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. The proposed regulatory action establishes inactive licensure for licensed acupuncturists and sets forth the requirements for reactivation of such a license. Language is also added in the regulation to specify that applicants for reinstatement of a lapsed license must provide information on practice and licensure in other jurisdictions during the period in which the license was lapsed in Virginia.

Estimated economic impact. The Board of Medicine proposes to establish an inactive license for practitioners who are either retired or out of state, and do not intend to engage in active practice in Virginia, which would be exempt from continuing education and active practice requirements. Since this would be a voluntary action, it can be expected that the associated costs would not exceed the perceived benefits for any practitioner who chose to obtain an inactive license.

Language is added into the regulation to specify that licensees who have let their license lapse (expired for more than two years) must provide information on practice and licensure in other jurisdictions during the period in which the license was lapsed in Virginia. This information is currently required on the reinstatement application, therefore, this change will not have any economic impact.

The proposed regulations also require evidence of recertification by the National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM) for biennial renewal of an active license, reactivation of an inactive license or reinstatement of a lapsed license. In the current regulations there is a provision that permits licensees to renew by providing evidence of continuing competency substantially equivalent to the requirements for NCCAOM recertification if the licensee was not initially NCCAOM certified. NCCAOM certification is now *required* for initial licensure and the Board of Medicine reports that all current licensees hold this certification, therefore, this change should not have any economic consequences.

Businesses and entities affected. There are currently 52 acupuncturists licensed in Virginia.

Localities particularly affected. The proposed changes to this regulation should not disproportionately affect any particular locality.

Projected impact on employment. The proposed changes to this regulation are not expected to have any significant impact on employment in Virginia.

Effects on the use and value of private property. The proposed changes to this regulation are not expected to have any significant effects on the use and value of private property in Virginia.

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

Summary:

The proposed amendments establish inactive licensure for acupuncturists. The amended regulations set forth the qualifications and requirements for reactivation of an inactive license or reinstatement of a lapsed license, which include continuing competency as evidenced by recertification by the National Certification Commission for Acupuncture and Oriental Medicine.

18 VAC 85-110-150. Biennial renewal of certification licensure.

A. A licensed acupuncturist shall renew his certification license biennially during his birth month in each odd-numbered year by:

- 1. Paying to the board the renewal fee as prescribed in subdivision 2 of 18 VAC 85-110-35; and
2. Providing proof of recertification Attesting to having documentation of current certification by the NCCAOM. If the licensee was not originally NCCAOM certified, his license may be renewed by providing evidence of continuing competency which is substantially equivalent to requirements for NCCAOM recertification and which is satisfactory to the board.

B. A licensed acupuncturist whose license has not been renewed by the first day of the month following the month in which renewal is required shall be dropped from the registration roll not be licensed in Virginia.

C. An additional fee to cover administrative costs for processing a late application renewal shall be imposed by the board as prescribed by subdivision 3 of 18 VAC 85-110-35.

18 VAC 85-110-155. Inactive licensure.

A. A licensed acupuncturist who holds a current, unrestricted license in Virginia shall, upon a request on the renewal application and submission of the required fee, be issued an inactive license.

- 1. The holder of an inactive license shall not be required to maintain certification by the NCCAOM.
2. An inactive licensee shall not be entitled to perform any act requiring a license to practice acupuncture in Virginia.

B. An inactive licensee may reactivate his license by:

- 1. Submission of the required application;
2. Payment of the difference between the current renewal fee for inactive licensure and the renewal fee for active licensure for the biennium in which the license is being reactivated;
3. Submission of documentation of having maintained current certification or having been recertified by the NCCAOM; and

4. Providing information on practice and licensure in other jurisdictions for the period in which the license was inactive in Virginia.

C. The board reserves the right to deny a request for reactivation to any licensee who has been determined to have committed an act in violation of § 54.1-2914 of the Code of Virginia or any provisions of this chapter.

18 VAC 85-110-160. Reinstatement.

A. A licensed acupuncturist who allows his license to lapse for a period of two years or more and chooses to resume his practice shall submit to the board a new reinstatement application, information on practice and licensure in other jurisdictions for the period in which the license was lapsed in Virginia, proof of recertification current certification by the NCCAOM or, if not originally NCCAOM certified, other evidence of continuing competency satisfactory to the board, and the fee for reinstatement of his license as prescribed in subdivision 4 of 18 VAC 85-110-35.

B. A licensed acupuncturist whose license has been revoked by the board and who wishes to be reinstated must make a new application to the board, be certified or recertified hold current certification by the NCCAOM, and pay the fee for reinstatement of his license as prescribed in subdivision 6 of 18 VAC 85-110-35.

NOTICE: The forms used in administering 18 VAC 85-110-10 et seq., Regulations Governing the Practice of Licensed Acupuncturists, are listed below. Any amended or added forms are reflected in the listing and are published following the listing.

FORMS

Instructions for Completing the Application for Licensed Acupuncturist, American Graduates (rev. 8/99).

Instructions for Completing the Application for Licensed Acupuncturist, Non-American Graduates (rev. 8/99).

Application for a License to Practice as an Acupuncturist (rev. 7/98).

Form #A, Claims History Sheet (rev. 1/98).

Form #B, Activity Questionnaire (rev. 1/98).

Form #C, Clearance from Other State Boards (rev. 1/98).

Verification of NCCAOM Certification (rev. 7/98).

Renewal Notice and Application (rev. 2/00 11/00).

TITLE 22. SOCIAL SERVICES

STATE BOARD OF SOCIAL SERVICES

Title of Regulation: 22 VAC 40-690-10 et seq. Virginia Child Care Provider Scholarship Program (formerly Child Day Care Scholarship Programs) (amending 22 VAC 40-690-10, 22 VAC 40-690-20, 22 VAC 40-690-30, 22 VAC 40-690-40, and 22 VAC 40-690-60; adding 22 VAC 40-690-15, 22 VAC 40-690-35, 22 VAC 40-690-55, and 22 VAC 40-690-65; repealing 22 VAC 40-690-50 and 22 VAC 40-690-70).

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

Public Hearing Date: N/A -- Public comments may be submitted until February 16, 2001.

(See Calendar of Events section for additional information)

Basis: This regulation exists to inform the public of the process used by the Virginia Department of Social Services to administer the Virginia Child Care Provider Scholarship Program. Section 63.1-25 of the Code of Virginia provides the board with the authority to promulgate regulations as may be necessary or desirable to carry out its work. The regulation is not required by federal or state law or regulation. Funding and eligibility information for the college tuition scholarship program is contained in Virginia's Appropriation Acts (Chapter 924 of the 1997 Acts of Assembly and Chapter 464 of the 1998 Acts of Assembly) and the Child Care and Development Fund Plan that was submitted to the U.S. Department of Health and Human Services. Specifically, \$600,000 has been set aside each year to be used for scholarships for those who are currently employed or plan to become employed in a child care program for courses in early childhood education or related majors offered at state community colleges or state supported senior institutions of higher education. Currently, there is no mandate or funding set aside for scholarships for persons attending private colleges and universities.

Purpose: This regulation establishes the process used by the Virginia Department of Social Services to administer the Virginia Child Care Provider Scholarship Program. The regulation is necessary so that the public will be aware of the process for applying for a scholarship and so that the agency may use funds to award scholarships to current and future child care providers. The amendments to the regulation will accurately reflect the current scholarship program and will remove any misconceptions by the public about the types and benefits of available scholarships.

Substance: Most of the changes contained in the proposed amended regulation have already been incorporated into the department's procedures. Changes that are new to the regulation and procedure are:

1. The regulation requires additional criteria for being eligible for a scholarship. Recipients will not be able to have more than three occurrences of not registering for a course following receipt of a scholarship award, not completing a course, and not receiving passing final grades (proposed 22 VAC 40-690-30 B 4). The practice

of awarding conditional awards for those in jeopardy of becoming ineligible for scholarships because they no longer meet the criteria has been added (proposed 22 VAC 40-690-30 D). These stipulations were added so that recipients can demonstrate responsibility and commitment and the stipulations create a more accountable program.

2. The stipulation that recipients who attended institutions of higher education other than community colleges could only receive up to the amount of community college tuition has been deleted (current 22 VAC 40-690-20 E and proposed 22 VAC 40-690-30 E and 22 VAC 40-690-30 I). All recipients are eligible to receive approximately the same total monetary amount in scholarships. Recipients will be able to receive scholarships for more community college courses than for other institutions of higher learning as those colleges and universities have higher tuitions that will consume scholarship funds at a faster rate.

3. A new section on appeals has been added (proposed 22 VAC 40-690-35).

4. Proposed 22 VAC 40-690-40 B discusses requirements of those institutions that regularly receive scholarship funds. Currently, the department only has agreements with the community colleges and this subsection now requires all who regularly receive scholarship funds to follow the same procedures for verification of Virginia residency, billing, and provision of final course grades. This subsection also changes the timing of the billing by the colleges and universities. No real effect on the institutions is expected. All colleges and universities are already determining Virginia residency. All community colleges are already providing the department with recipient final grades, and most community colleges are already billing after the first class and probably after the official add/drop period (proposed 22 VAC 40-690-40 B).

5. Proposed 22 VAC 40-690-40 C discusses how courses will be paid for those institutions that have not entered into a written agreement with the department.

Changes that are new to the regulation, but that have already been incorporated in the department's procedures, are:

1. 22 VAC 40-690-10 contains changes that have been removed because they are not needed for the operation of the scholarship program. The proposed regulation totally removes all language that pertained to the Child Development Associate Credential Scholarship Program as this program no longer exists (proposed 22 VAC 40-690-10 et seq.). Also, the definitions of a child care provider and a child care program expand eligibility to receive scholarships.

2. The regulation has been revised to replace all references to "community colleges" with "Virginia public and private colleges and universities" (proposed sections 22 VAC 40-690-10, 22 VAC 40-690-20 D, 22 VAC 40-690-20 E, 22 VAC 40-690-30 J, 22 VAC 40-690-40, and 22 VAC 40-690-65). This informs recipients that

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scholarship funds can be used for all types of Virginia-based institutions of higher learning.

3. The regulation states that applicants must select the courses they plan to take and verify that those are offered through their choice of institution. No substitutions will be made for failure to follow this procedure (proposed 22 VAC 40-690-20 D and 22 VAC 40-690-20 E).

4. Proposed 22 VAC 40-690-55 states how scholarship funds will be disbursed for both institutions that do and do not have agreements with the department.

5. Proposed 22 VAC 40-690-60 outlines the types of information the department will maintain and specifies retention.

6. Proposed 22 VAC 40-690-65 has been added, which outlines the responsibilities of the recipients.

Issues: The public will benefit from the changes in the proposed regulation as it will be informed of the current process. The changes outlined in the regulation allow more people to use the scholarship funds at more Virginia institutions. The agency and Commonwealth will benefit by knowing that the regulation is updated and accurate. There are no disadvantages to the public, agency, or Commonwealth because of the changes made to the regulation.

Fiscal Impact:

- (a) There is no projected cost to the state.
- (b) There is no projected cost to the localities.
- (c) This regulation affects current and future child care providers.
- (d) There are approximately 10,000 child care facilities, including homes and centers, that are known to the department. As most of the child care provided in private homes is not regulated, it is impossible to know how many additional people are affected. Funding allows for child care providers to attend all Virginia public institutions of higher learning. At this time, there is no funding for private institutions. Current funding allows for approximately 5,179 community college courses to be paid for each year using scholarship funds. The total number of courses actually paid is less because not all who are awarded scholarships actually enroll in classes. The total number of courses that can be paid for with scholarship funds decreases when funds are used to purchase courses at other Virginia institutions since the tuition is generally higher than that for courses taught at the community colleges.

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 25 (98). 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. The Virginia Child Care Provider Scholarship Program provides tuition assistance to Virginians taking courses in child care or child development who are either employed in or plan to work in a child care program. The State Board of Social Services proposes to substantially amend two aspects of these regulations: the formulas determining the dollar amounts of scholarships awarded and the eligibility criteria for receiving scholarships.

Estimated economic impact. Under the current regulations, students attending classes at institutions other than community colleges may only receive scholarship funds equal to the amount contemporaneously charged for a similar course in the community college system. Presently, Virginia community colleges charge \$115.86 per course,¹ which is substantially less than the per course tuition at many four-year colleges. Under the proposed regulations, individuals are eligible to receive a total lifetime award of scholarship funds equal to the tuition for eight community college courses. Going by the current community college fee rate, individuals would now be eligible for \$926.88² in scholarship funds over their lifetime. If community college tuition rates increase, the cap on lifetime scholarship dollars awarded would increase accordingly. Students would be eligible to receive scholarship funds for the full tuition cost of a course at a four-year college, or for a lesser amount still in excess of the community college rate, as long as the amount does not put the recipient over their lifetime limit.

This proposed change would likely transfer some demand for scholarships and courses from community colleges to four-year institutions. For example, without the change, some potential scholarship recipients that live closer to a four-year college may have traveled to a more distant community college in order to have their tuition fully paid for by the program. With full tuition scholarships at four-year institutions, these same individuals will be more likely to attend the closer school. Also, some potential applicants may believe the courses at a four-year school may be superior or otherwise fit their needs better. The proposed change permitting a full tuition scholarship may allow some individuals to afford to take child care or child development classes at a four-year school when it would not otherwise have been financially feasible. Clearly, the proposal to permit the awarding of scholarships for the full tuition amount at relatively expensive schools would be beneficial for some potential applicants by increasing their choice and opportunity to take courses. Increasing the number of individuals with college-level child care training, and possibly the quality of training received, will likely improve the care given to the Commonwealth's children. According to a U.S. General Accounting Office report, research has shown that the

¹ Source: Virginia Department of Social Services (June 22, 2000).

² Calculation: \$115.86 multiplied by 8 equals \$926.88.

education and training of caregivers is "one of the most critical areas for ensuring and improving the quality of child care."³

The proposal to permit the awarding of scholarships for the full tuition amount at relatively expensive schools would likely result in increased demand for scholarship funds. There is insufficient information to conclusively determine whether the potential additional cost would outweigh the potential additional benefit. If more child care and child development courses were taken by more potential child care providers, or if courses at more expensive schools provided greater skill acquisition, it seems likely that the benefits could be substantial and would likely outweigh the costs.

Under the current regulations, applicants are permitted to apply repeatedly for courses without any penalty for not following through. According to the Department of Social Services (DSS), 43% of all courses approved for scholarship reimbursement are not registered, not completed, or failed. Under the proposed regulations, potential applicants will not be eligible for scholarship funds if they have, on four or more occasions, failed to register, complete, or pass courses for which they have received a scholarship.

It seems probable that prohibiting the awarding of scholarships to potential applicants who have failed to register, complete, or pass courses on four or more occasions would reduce the percentage of scholarships awarded for courses that are not completed with a passing grade. The time of DSS' staff would be used more efficiently by dedicating a higher percentage of their time on processing applications for scholarships that will actually be used. The benefits created by successfully educating students in child care and child development per hour of time spent on processing applications by DSS staff would most likely be higher. According to DSS, their staff is currently working at full capacity to handle scholarship applications. Reducing the time spent on processing applications for unused scholarships will help enable DSS to handle somewhat more applications for used scholarships without increasing labor costs.

Businesses and entities affected. All potential applicants for the Virginia Child Care Provider Scholarship Program, as well as colleges and universities in the Commonwealth, may be affected by the proposed amendments. According to DSS, 5,428 persons applied for at least one scholarship from the Spring 1999 semester through the Summer 2000 semester.

Localities particularly affected. The proposed regulations potentially affect citizens in all localities within the Commonwealth.

Projected impact on employment. The proposed change that allows for full reimbursement of tuition for courses at institutions of higher learning other than community colleges will likely produce an increase in demand for courses at these other institutions and a smaller decrease in demand at community colleges. Thus, there may be an increase in employment (number or course sections taught) at four-year

colleges and a small decrease in employment (number or course sections taught) at community colleges.

Effects on the use and value of private property. Demand for courses on child care and child development may increase at private colleges due to the new formulas on determining scholarship award amounts.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The Department of Social Services concurs with the economic impact analysis prepared by the Department of Planning and Budget with one exception. The analysis contains one error in two places. On page 3, first and second full paragraphs contain the phrase "on four or more occasions." It should say "on three or more occasions" to be consistent with the proposed regulation.

Summary:

The regulation is being amended to accurately reflect the current scholarship program. The regulation originally was written for the administration of two scholarship programs. The Child Development Associate (CDA) Credential scholarship program was discontinued in 1995. The other scholarship program is the college tuition program and this program currently exists. The current regulation only addresses scholarships for courses taken at the community colleges and the proposed regulation addresses scholarships for courses taken at all Virginia public institutions of higher learning and Virginia private colleges and universities.

CHAPTER 690.

VIRGINIA CHILD DAY CARE PROVIDER SCHOLARSHIP PROGRAMS PROGRAM.

PART I.

~~INTRODUCTION: GENERAL PROVISIONS.~~

22 VAC 40-690-10. Definitions.

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

"Applicant" means any individual who is applying for a ~~Child Development Associate Credential~~ *scholarship for college tuition.*

"Career Studies Certificate in Early Childhood" means a certificate program offered by an accredited two-year college in the area of early childhood development. The specific course work for the certificate is determined by the college, but should include at least 12 semester hours of course work.

"CDA" means the abbreviation for ~~Child Development Associate.~~

"Child Development Associate (CDA) credential" means the competency-based national credential awarded to individuals who work with children ages five and under. A CDA credential can be earned in three settings (center-based, family day care, and home visitor) and with two age groups (0 through 36 months and three through five years old). In addition, a bilingual specialization can be obtained. The credential is valid for three years and can be renewed for five-year periods.

³ U.S. General Accounting Office, Health, Education, and Human Services Division, "Child Care: Use of Standards to Ensure High Quality Care," Washington, D.C., Publication number B-280544, July 31, 1998.

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~~"Competency areas" means the areas of child care in which the CDA candidate must demonstrate competency.~~

~~"Council for Early Childhood Professional Recognition" means the subsidiary of the National Association for the Education of Young Children which is responsible for the issuance of the CDA credential.~~

~~"Evaluation process" means the CDA requirement that the candidate document and demonstrate skill in the above-referenced competency areas while working with young children.~~

~~"Family unit" means persons residing within the same household.~~

~~"Foundation course" means the course CHD 120 taught by the community colleges.~~

~~"Income eligibility" means that applicants meet the current federal or state criteria for eligibility based on income.~~

~~"Preapproved" means that a candidate for a CDA credential has been approved for award of CDA registration and assessment fees prior to requesting disbursement of funds to the Council for Early Childhood Professional Recognition.~~

~~"Registration and assessment fees" means the amount charged by the Council for Early Childhood Professional Recognition for registration and assessment in the Child Development Associate Credential Program.~~

~~"State-approved program" means licensed child care centers, group family day care homes, and family day care systems, religiously exempt child care facilities, and family day care homes approved or registered by local social services agencies or community agencies approved by the Department of Social Services.~~

~~"Child care 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. Child care includes care provided in the child's own home as well as care provided outside of the child's home in settings such as a private home, child care center, school, camp, recreational facility, or religious organization.~~

~~"Child care provider" means a person who is currently employed or plans to work in a child care program.~~

~~"Colleges and universities" means those Virginia based public and private accredited institutions of higher learning approved by the State Council of Higher Education for Virginia. This includes all in-state accredited Virginia public colleges, universities, two-year colleges, and community colleges; and all accredited Virginia private not-for-profit and private for-profit colleges and universities.~~

~~"Course" means any class at the foundation level in the areas of child care or child development of children from birth through age 12 taught by Virginia's public or private colleges and universities that has been approved by the department.~~

~~"Department" means the Virginia Department of Social Services.~~

22 VAC 40-690-15. Purpose and intent.

~~The purpose of the Virginia Child Care Provider Scholarship Program is to provide tuition assistance to child care providers. The intent of the program is to provide child care providers with a foundation in child care and child development. The anticipated benefit of an increased knowledge and skills base of child care providers will be an improved level of care provided to Virginia's children.~~

PART II. ADMINISTRATIVE PROCEDURES.

Article 1. Application and Selection.

22 VAC 40-690-20. Application process.

~~A. All persons interested in obtaining a scholarship applicants must submit a scholarship application form, available from the Division of Licensing Programs, to the Division of Licensing Programs Virginia Department of Social Services.~~

~~Note: Applications are available through the Virginia Department of Social Services.~~

~~B. A separate application must be filled out submitted for each scholarship award applied for, i.e., for the foundation course, other courses applicable to the career studies certificate program, and the registration and assessment award semester.~~

~~C. A Certificate of Income Verification, also available from the Division of Licensing Programs, must be included as part of the first application.~~

~~D. Applicants must be domiciled in Virginia and currently working in a child care program which meets the eligibility requirements of the granting agency. Preference will be given to applicants who have worked in a child care setting for at least three months before the course begins.~~

~~E. Applicants must indicate which community college they plan to attend. If the applicant wishes to attend another institution of higher learning, tuition will be paid up to the amount currently charged for the same course in the community college system.~~

~~F. Applications must be C. Only complete applications, both initial and resubmitted, received at least one month prior to by the beginning of a course for full consideration deadline indicated on the application shall be considered. Applications received after this date may be funded if moneys are available.~~

~~G. Applicants will be notified by telephone of incomplete applications.~~

~~D. Applicants shall verify that the selected courses are being offered by the selected college or university for the applicable semester prior to applying for scholarships.~~

~~E. The selection of courses or colleges and universities may not be changed once the scholarship has been awarded unless the selected class is full or has been cancelled.~~

22 VAC 40-690-30. Selection.

A. Applications will be processed and scholarships awarded in order of date received, ~~with the following exceptions: until all available funds designated for the semester have been obligated or the application deadline has occurred, whichever comes first.~~

- ~~1. Preference will be given to persons who wish to take the foundation course (CHD 120);~~
- ~~2. Preference will be given to persons indicating an intent to obtain the CDA;~~
- ~~3. To the extent possible, scholarships will be awarded to reflect the general diversity of child care providers considering such factors as rural or urban and profit or nonprofit settings and the various types of child care providers (center-based, family day care, and home visitor); or~~
- ~~4. To the extent possible after the above three considerations are met, scholarships will be awarded in proportion to the concentration of child day care programs within the geographic areas served by the various community colleges.~~

~~Article 2.
Disbursement of Funds.~~

B. In order for an applicant to be eligible for a scholarship, he must meet all of the following criteria. The applicant must:

- 1. Be domiciled in Virginia as defined in § 23-7.4 of the Code of Virginia as determined by the institution's domicile officer or other qualified person;*
- 2. Be employed in or plan to work in a child care program;*
- 3. Select a department-approved course for which he has not previously received scholarship funds; and*
- 4. Have no more than three occurrences of the following for courses for which the applicant received a Virginia Child Care Provider Scholarship:*
 - a. Did not register for the course after receiving an award;*
 - b. Did not complete the course and received a grade of "W" for withdrawal; or*
 - c. Did not receive a passing grade.*

C. An applicant does not have to be enrolled in or have already taken a course in early childhood education or a related major to be eligible for a scholarship.

D. Scholarships will only be awarded if the department has adequate information to process scholarship requests. The department must have received final course grades and payment information on courses that have been previously approved for scholarships. In addition, scholarships will be awarded on a conditional basis for those persons who are approved to be currently enrolled in one or more courses paid for by scholarship funds and who are in jeopardy of becoming ineligible to receive a scholarship as specified in subdivision B

4 of this section. In these instances, the department will review enrollment and grade information when provided by the institution for the current enrollment period and if the applicant is in compliance with subdivision B 4 of this section, the scholarship will be fully awarded.

E. The scholarship will only pay tuition and the technology fee for each course. Public institutions will only be reimbursed at the in-state rates.

F. Applicants shall not receive scholarships for more than two courses per semester.

G. Scholarships shall not be transferred between semesters or individuals.

H. Scholarships are awarded only for courses approved by the department. The department will determine whether a course qualifies as a foundation level course in the areas of child care or child development.

I. Recipients may receive a total lifetime award of no more than eight community college courses or their monetary equivalent.

J. A recipient may use scholarship funds to attend any combination of Virginia community colleges, public two-year colleges, or public or private four-year institutions over time.

K. All applicants will be notified in writing regarding the acceptance or denial of their application.

22 VAC 40-690-35. Appeal process.

A. Any person denied a scholarship who believes the denial was contrary to law or regulations may request an informal conference, as provided for by § 9-6.14:11 of the Code of Virginia, with the designee of the Commissioner, by filing a written Notice of Appeal with the department within 33 days of the denial letter. The Notice of Appeal must be received by the department within the 33-day time period. The decision of the informal conference shall constitute a final agency case decision and shall be appealable as provided for in Article 4 (§ 9-6.14:15 et seq.) of Chapter 1.1:1 of Title 9 of the Code of Virginia. The informal conference may be conducted by telephone if both parties consent.

B. No person shall have a right to appeal any denial due to lack of scholarship funds, untimely application, or incomplete application.

22 VAC 40-690-40. Community College scholarships and university agreements.

~~*A. Community colleges or other accredited institutions of higher learning Colleges and universities will be notified in writing when scholarships are awarded to applicants in their regions planning to attend their institutions.*~~

~~*B. When scholarship holders have enrolled and attended the first class, the community college or accredited institution of higher learning may bill the Division of Licensing Programs for tuition, using an Interagency Transfer or invoice. The department shall enter into a written agreement with all colleges and universities that ordinarily have five or more students per semester using scholarship funds regarding the operation of the scholarship program. The agreement shall*~~

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address the areas of, but not limited to, verification of Virginia residency, billing procedures, and provision of final course grades. Specifically, these institutions shall:

1. Only accept a scholarship from a person who is determined to be domiciled in Virginia as defined in § 23-7.4 of the Code of Virginia;
2. Submit one bill to the department per institution per semester after the college or university's published add/drop period has occurred. Colleges and universities shall submit a request for payment prior to the end of the semester for which the scholarship was awarded. Such request must be in a department-approved format; and
3. Provide the department with final course grades for classes paid for by the scholarship program within one month following the end of each semester.

C. ~~If a scholarship holder withdraws from the class, the community college or accredited institution of higher learning will reimburse the Division of Licensing Programs as provided in college procedures and policies. All other eligible Virginia public and private colleges and universities may enter into an agreement as outlined in subsection B of this section or place the responsibility on the student to seek reimbursement from the department.~~

22 VAC 40-690-50. CDA registration and assessment scholarship. (Repealed.)

A. ~~Two months prior to applying for assessment, the GDA candidate, who must have been preapproved for this scholarship, must notify the Division of Licensing Programs of their intent to be assessed by sending the CDA assessment request form to the Division of Licensing Programs.~~

B. ~~Upon the preapproved candidate's notification of intent to be assessed, the division will prepare a check for the full amount of registration and assessment fees and send it to the Council for Early Childhood Professional Recognition with the GDA assessment request form.~~

Article 3.

Maintenance of Statistical Information.

22 VAC 40-690-55. Disbursement of funds.

Funds will be disbursed to the colleges and universities upon receipt of an Interagency Transfer (IAT) or invoice in accordance with the Commonwealth Accounting Policies and Procedures. In the event that the department does not have a written agreement with a college or university, the funds will be disbursed to the recipient upon verification of Virginia residency, proof of tuition payment and proof of course enrollment through the end of the college's or university's published add/drop period.

22 VAC 40-690-60. Wage Gathering and maintaining information.

~~Current hourly wage information will be requested in writing from those individuals successfully obtaining the CDA credential:~~

1. ~~At the time they request disbursement of funds to the Council for Early Childhood Professional Recognition;~~

~~2. One year later; and~~

~~3. Two years later.~~

A. ~~The department will maintain identifying, employment, and educational information on all applicants for a minimum of five years. This information will be obtained from the applications and subsequent information submitted by the colleges or universities or recipients as requested.~~

B. ~~Additional information may be requested of any applicant receiving a scholarship as the department deems necessary to carry out its accountability functions.~~

22 VAC 40-690-65. Recipient responsibilities.

A. ~~A recipient must submit final course grades for classes paid by the Virginia Child Care Scholarship Program to the department within one month of completion of the course unless the college or university does so.~~

Note: ~~All colleges and universities are requested to provide final course grades to the department for the classes paid by the scholarship program as outlined in 22 VAC 40-690-40 B 3. Grades will be used to determine eligibility as outlined in 22 VAC 40-690-30 B 4 of this regulation.~~

B. ~~By accepting the award, the recipient agrees to participate in any surveys conducted by the department regarding the scholarship program and comply with any requests for additional information as stated in 22 VAC 40-690-60.~~

C. ~~The recipient is responsible for all expenses related to taking the courses with the exception of the amount of the award which only pays for tuition and the technology fee. Awards will pay for the entire amount of the in-state tuition rate and technology fee at the community colleges. Recipients who attend other types of institutions may be required to pay a portion of their tuition and technology fees for the amount that exceeds the total lifetime award. Additional expenses for all recipients include, but are not limited to, other college or university fees, books, transportation, and child care.~~

22 VAC 40-690-70. Additional statistical information. (Repealed.)

~~Other statistical information may be requested of any applicant receiving a scholarship from this program.~~

NOTICE: The forms used in administering 22 VAC 40-690-10 et seq., Virginia Child Care Provider Scholarship Program, are listed below. Any amended or added forms are reflected in the listing and are published following the listing.

FORMS

Virginia Child Care Provider Scholarship Program Application Form, Form # 032-05-032/4 (rev. 2/01).

~~Virginia Child Care Provider Scholarship Program Certificate of Income.~~

**VIRGINIA CHILD CARE PROVIDER SCHOLARSHIP PROGRAM
APPLICATION FORM TO ATTEND
VIRGINIA'S PUBLIC AND PRIVATE COLLEGES AND UNIVERSITIES**

Deadline: Your application must be postmarked no later than May 15 for summer semesters, August 31 for fall semesters, and December 15 for spring semesters to be considered.

Directions for completing the application:

- Please type or print clearly. Applications will only be considered if complete and readable. Incomplete or illegible applications will not be processed and will be returned.
- Before mailing application, contact the Virginia college/university of your choice to determine if the course(s) you have selected will be offered during the semester that you are requesting a scholarship. You must also confirm your college's registration dates and class start dates. If you are requesting a scholarship for two courses, you have the option of attending two different institutions.
- Only mail in one scholarship application per semester. All questions must be answered and the application signed for the application to be considered.
- This form is only for those persons interested in attending Virginia's public and private colleges and universities. Scholarship funds can not be used to attend any other type of institution or organization.

<p>I. Indicate the period for which you are requesting a scholarship. Check the semester and fill in the year.</p> <p><input type="checkbox"/> FALL 20____</p> <p><input type="checkbox"/> SPRING 20____</p> <p><input type="checkbox"/> SUMMER 20____</p> <p>2. Personal Information</p> <p>Full Legal Name: _____</p> <p>Daytime Telephone: (____) _____</p> <p>Social Security Number: _____</p> <p>Home Address: _____</p> <p>_____ Telephone: (____) _____</p> <p>Zip _____</p> <p>Are you a Virginia domicile resident (eligible for in-state tuition rates)? <input type="checkbox"/> yes <input type="checkbox"/> no</p> <p>Have you ever applied for a scholarship beginning with Spring 1999 semester? <input type="checkbox"/> yes <input type="checkbox"/> no</p> <p>3. Employment Information</p> <p>I. All applicants must complete this section</p> <p>Please indicate type of facility where you are employed:</p> <p><input type="checkbox"/> Licensed Child Day Center</p> <p><input type="checkbox"/> Religious Exempt Child Day Center</p> <p><input type="checkbox"/> Licensed Family Day Home</p> <p><input type="checkbox"/> Voluntary Registered Family Day Home</p> <p><input type="checkbox"/> Local DSS Approved Family Day Home</p> <p><input type="checkbox"/> Other</p> <p><input type="checkbox"/> Not Currently Working in Child Care</p> <p>II. Only complete if you are currently employed in child care</p> <p>a. How long have you worked in child care?</p> <p>_____ weeks _____ months _____ years</p> <p>b. Name, address, and telephone number of center/home at which you work:</p> <p>Name: _____</p> <p>Address: _____</p> <p>_____ Telephone: (____) _____</p> <p>Zip _____</p> <p>III. Only complete if you currently do not work in the field of child care</p> <p>If you are not employed in child care, you are only eligible for scholarship program funds if you plan to work in child care in the future. By initialing this section, you are indicating your plan to enter the field of child care.</p> <p>_____ (initial here)</p>	<p>4. Course Selection</p> <p>A. Complete this section if you are planning to attend a PUBLIC COMMUNITY COLLEGE.</p> <p>Check the course(s) you are applying for. (You may select up to two courses)</p> <p><input type="checkbox"/> Methods & Materials in the Language Arts for Children (CHD 118)</p> <p><input type="checkbox"/> Introduction to Early Childhood Education or Foundation Course (CHD 120)</p> <p><input type="checkbox"/> Creative Activities (CHD 125/145)</p> <p><input type="checkbox"/> Methods & Materials for Developing Science & Mathematical Concepts in Children (CHD 126/146)</p> <p><input type="checkbox"/> Guiding Behavior (CHD 205)</p> <p><input type="checkbox"/> Introduction to Exceptional Children (CHD 210)</p> <p><input type="checkbox"/> Child Health & Nutrition (HLT 135/EDU 235)</p> <p><input type="checkbox"/> Child Care Psychology (PSY 135) or Child Psychology (PSY 235)</p> <p><input type="checkbox"/> Introduction to School-Age Child Care (CHD 220)</p> <p><input type="checkbox"/> Curriculum Development for School-Age Child Care (CHD 225)</p> <p><input type="checkbox"/> Behavior Management for School-Age Child Care (CHD 230)</p> <p><input type="checkbox"/> Health and Recreation for School-Age Child Care (CHD 235)</p> <p>B. Complete this section if you are planning to attend a PRIVATE OR PUBLIC COLLEGE OR UNIVERSITY other than a community college.</p> <p>Below provide the title and number of the course(s) you are requesting a scholarship for and the equivalent community college course(s) listed in part A of this section. (You may select up to two courses.) Courses will only be approved if they are comparable to the approved community college courses. You <u>must</u> submit a course description for the course(s) for which you are requesting a scholarship.</p> <p>Requested course title and number: Course 1: _____</p> <p>Course 2: _____</p> <p>Equivalent community college course title or number: Course 1: _____</p> <p>Course 2: _____</p> <p>Requested course description attached <input type="checkbox"/> yes <input type="checkbox"/> no</p> <p>5. College or University Selection</p> <p>Check the institution you plan to attend:</p> <p align="center">PUBLIC: COMMUNITY COLLEGES</p> <p><input type="checkbox"/> Blue Ridge Community College</p> <p><input type="checkbox"/> Central Virginia Community College</p> <p><input type="checkbox"/> Dabney S. Lancaster Community College</p> <p><input type="checkbox"/> Danville Community College</p> <p><input type="checkbox"/> Eastern Shore Community College</p> <p><input type="checkbox"/> Germanna Community College</p> <p><input type="checkbox"/> J. Sargeant Reynolds Community College</p> <p><input type="checkbox"/> John Tyler Community College</p> <p><input type="checkbox"/> Lord Fairfax Community College</p> <p><input type="checkbox"/> Mountain Empire Community College</p> <p><input type="checkbox"/> New River Community College</p> <p><input type="checkbox"/> Northern Virginia Community College</p> <p><input type="checkbox"/> Patrick Henry Community College</p> <p><input type="checkbox"/> Paul D. Camp Community college</p> <p><input type="checkbox"/> Piedmont Virginia Community College</p> <p><input type="checkbox"/> Rappahannock Community College</p> <p><input type="checkbox"/> Southside Virginia Community College</p> <p><input type="checkbox"/> Southwest Virginia Community College</p> <p><input type="checkbox"/> Thomas Nelson Community College</p> <p><input type="checkbox"/> Tidewater Community College</p> <p><input type="checkbox"/> Virginia Highlands Community College</p> <p><input type="checkbox"/> Virginia Western Community College</p> <p><input type="checkbox"/> Wytheville Community College</p>
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Proposed Regulations

<p>5. College or University Selection (continued)</p> <p>Check the institution you plan to attend:</p> <p>PUBLIC: TWO-YEAR AND FOUR-YEAR</p> <ul style="list-style-type: none"> <input type="checkbox"/> Christopher Newport University <input type="checkbox"/> College of William and Mary <input type="checkbox"/> George Mason University <input type="checkbox"/> James Madison University <input type="checkbox"/> Longwood College <input type="checkbox"/> Mary Washington College <input type="checkbox"/> Norfolk State University <input type="checkbox"/> Old Dominion University <input type="checkbox"/> Radford University <input type="checkbox"/> Richard Bland College <input type="checkbox"/> University of Virginia <input type="checkbox"/> University of Virginia's College at Wise <input type="checkbox"/> Virginia Commonwealth University <input type="checkbox"/> Virginia Military Institute <input type="checkbox"/> Virginia Polytechnic Institute and State University <input type="checkbox"/> Virginia State University <p>PRIVATE: NOT-FOR PROFIT AND FOR-PROFIT</p> <ul style="list-style-type: none"> <input type="checkbox"/> American Military University <input type="checkbox"/> Appalachian School of Law <input type="checkbox"/> Atlantic University <input type="checkbox"/> Averett College <input type="checkbox"/> Bluefield College <input type="checkbox"/> Bridgewater College <input type="checkbox"/> Bryant and Stratton College <input type="checkbox"/> Catholic Distance University <input type="checkbox"/> Christendom College <input type="checkbox"/> CHRV College of Health Sciences <input type="checkbox"/> Dominion College <input type="checkbox"/> Eastern Mennonite University <input type="checkbox"/> ECPI College of Technology <input type="checkbox"/> ECPI Technical College <input type="checkbox"/> Emory and Henry College <input type="checkbox"/> Ferrum College <input type="checkbox"/> Hampden-Sydney College <input type="checkbox"/> Hampton University <input type="checkbox"/> Hollins University <input type="checkbox"/> Institute of Textile Tech <input type="checkbox"/> Institute for Faith and Psychological Sciences <input type="checkbox"/> Liberty University <input type="checkbox"/> Lynchburg College <input type="checkbox"/> Mary Baldwin College 	<ul style="list-style-type: none"> <input type="checkbox"/> Marymount University <input type="checkbox"/> Medical College of Hampton Roads –EVMS <input type="checkbox"/> National Business College <input type="checkbox"/> Patrick Henry College <input type="checkbox"/> Protestant Episcopal Theological Seminary in Virginia/Virginia Theological Seminary <input type="checkbox"/> Randolph-Macon College <input type="checkbox"/> Randolph-Macon Women's College <input type="checkbox"/> Regent University <input type="checkbox"/> Roanoke College <input type="checkbox"/> Saint Paul's College <input type="checkbox"/> School of Islamic and Social Sciences <input type="checkbox"/> Shenandoah University <input type="checkbox"/> Southern Virginia College <input type="checkbox"/> Stratford College <input type="checkbox"/> Sweet Briar College <input type="checkbox"/> Tidewater Tech <input type="checkbox"/> Union Theological Seminary and Presbyterian School for Christian Education <input type="checkbox"/> University of Management and Technology <input type="checkbox"/> University of Northern Virginia <input type="checkbox"/> University of Richmond <input type="checkbox"/> Virginia Intermont College <input type="checkbox"/> Virginia International University <input type="checkbox"/> Virginia Union University <input type="checkbox"/> Virginia University of Lynchburg <input type="checkbox"/> Virginia Wesleyan College <input type="checkbox"/> Washington and Lee University <input type="checkbox"/> World College <p>6. Please read and sign the statement below.</p> <p>My signature declares under penalty of perjury that information provided is true. I give my permission for the college/university to release my grade(s) to the Virginia Department of Social Services. I agree to participate in providing any additional information to the Virginia Department of Social Services that is required of scholarship recipients.</p> <p style="text-align: center;">_____</p> <p style="text-align: center;">Signature</p> <p>Date: _____</p>
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RETURN COMPLETED APPLICATION TO:
Ms. Charlene Harris
Virginia Child Care Provider Scholarship Program
Virginia Department of Social Services
Division of Licensing Programs, 730 East Broad Street, 7th Floor
Richmond, Virginia 23219-1849

FAXED OR E-MAILED APPLICATIONS WILL NOT BE ACCEPTED.

INQUIRIES

Most applications are processed within five days of receipt which means that you should receive your notification within 14 days of mailing your application. We ask that you allow a minimum of 14 days from the date you mailed the application form before contacting us. This will help expedite the application process for everyone. Should you need to reach us, please contact us at (804) 692-0006.



FORM# 032-05-032/4 (2/01)

**OVERVIEW OF THE
VIRGINIA CHILD CARE PROVIDER
SCHOLARSHIP PROGRAM**

What is the scholarship program?

The Virginia Child Care Provider Scholarship Program provides assistance to those employed in child care and those who plan to enter the field of child care. The scholarship program is funded through the Child Care and Development Fund which is financed through federal funding. The purpose of the scholarship program is to provide child care providers with a foundation in child care and child development. Approved courses may be used toward obtaining such achievements as a *Career Studies Certificate in Early Childhood Education*, a *Career Studies Certificate in School-Age Child Care Education*, an *Advanced Career Studies Certificate in Early Childhood Education*, and an *Associates Degree in Early Childhood Education*.

How does the scholarship program operate?

Application Process

- **Application Periods.** Scholarship applications must be submitted during the appropriate application period. Application periods are: fall semesters: June 15 – August 31, spring semesters: October 1 – December 15, and summer semesters: March 15 – May 15. Applications received outside these periods will not be processed and will be returned.
- **Process Order.** All awards will be made on a first come, first served basis to those applicants who submit completed applications and meet program eligibility requirements.
- **Notification.** If you are awarded a scholarship, you will be notified by mail. We will notify your institution that you have been awarded a scholarship. Duplicate award letters will not be provided. Thus, it is essential that you maintain the award letter for at least one year.
- **Appeals.** If you are denied a scholarship you have a right to appeal that decision except when your denial was based on lack of scholarships funds, untimely application, or incomplete application. If you wish to appeal the decision, you must file a written notice of appeal with the Virginia Department of Social Services (Department) within 33 days of your receipt of the decision.

Establishing and Maintaining Eligibility

- **Residency.** The program is only available to Virginia residents. You must be determined a Virginia domicile resident by your college/university to use this scholarship.
- **Good Standing.** In order to be eligible for a scholarship, you must not have three or more occurrences of the following for courses that you have received a Virginia Child Care Provider Scholarship: (1) did not register for the course after receiving an award, (2) did not complete the course and received a grade of "W" for withdrawal, and (3) did not receive a passing grade.

Courses and Institutions

- **Course approval.** The scholarship only pays for courses that have been approved by the Virginia Department of Social Services and are taught at Virginia's public and private colleges and universities.
- **Selection.** The selection of course and college may not be changed once the scholarship has been awarded unless the course was canceled or is filled. This office must be contacted prior to making any substitutions for a course that was canceled or is filled.

Awards

- **Limitations.** The scholarship is only good for the semester for which it was awarded and to the person to whom it was awarded.
- **Amount.** The scholarship award pays the cost of the in-state tuition and technology fee for each course up to the lifetime maximum award. Any additional fees, tuition, or expenses will be the responsibility of the recipient. Most fees will be the student's responsibility.
- **Conditional Award.** Applicants who are in jeopardy of becoming ineligible to receive a scholarship will be awarded a conditional scholarship. Once the Department has received adequate information to process the application and if the applicant is determined to be eligible for the award, a "full" award will be issued.
- **Maximum Benefits.** The scholarship will pay for a maximum of two courses per semester and a maximum lifetime award of eight community college courses or their monetary equivalent.

Billing

- **Limitations.** Funds can only be used to pay for a course one time. If you can not use the scholarship this semester, either do not enroll or withdraw prior to the end of the add/drop period to prevent the Department from being billed. It is very important that you follow registration and withdrawal policies of the college.
- **Payee.** Payment will either be made to the student or college/university. Currently, payment for all students attending community colleges is made to the college. The Department is billed for all students who enroll and do not withdraw prior to the closing of the institution's published add/drop period. Any other college or university may bill this Department. For those institutions that do not have an agreement with the Department, it may be necessary for the student to pay for the course and then request reimbursement from the Department.

Additional Responsibilities

- **Final Course Grades.** Final course grades for all courses paid with scholarship funds must be provided to the Virginia Department of Social Services within one month of the end of the semester. Institutions have been requested to provide this information to the Department. However, if we do not receive your grade, it will be your responsibility to submit it as part of the terms for using a scholarship and in order to be eligible for subsequent scholarships.
- **Additional Information.** Recipients are expected to provide any additional information requested by the Department to carry out program accountability functions.

VA.R. Doc. No. R98-314; Filed November 21, 10:23 a.m.

Proposed Regulations

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Title of Regulation: 22 VAC 40-900-10 et seq. **Community Service Block Grant Guidelines (REPEALING).**

Statutory Authority: §§ 2.1-590 and 63.1-25 of the Code of Virginia.

Public Hearing Date: N/A -- Public comments may be submitted until February 16, 2001.

(See Calendar of Events section for additional information)

Basis: Chapter 39 (§ 2.1-587 et seq.) of Title 2.1 of the Code of Virginia gives broad authority to promulgate rules and regulations for administering the Community Services Block Grant Program. Section 2.1-590 provides the authority to promulgate regulations.

Purpose: The regulation was intended to provide guidance for the transition from federal to state administration of the program funding the Community Action Agencies, and to provide rules for administering the program. The regulation covers areas that, while permitted by the broad authority granted in the state statute, are now unnecessary. Further, in some instances, the information has been superceded by changes in federal law. Most of the regulation is not essential to protect the health, safety, or welfare of citizens, or for the efficient and economical performance of an important governmental function. In particular, the regulation goes into detail about how and when each agency would move from federal to state oversight. This happened over 16 years ago. Some of those agencies no longer exist; others have changed names. The regulation also describes board composition. This and most other sections in the regulation are now covered in detail in federal and state law and in the local agencies' contracts with the department.

Substance: This regulatory action will repeal the existing regulation for the Community Services Block Grant Program. The regulation contains the process to help transition from federal to state program administration. This transition was accomplished over 16 years ago. In addition, the regulation contains rules governing board structure, contracting, insurance, fiscal management, and by-laws construction. This regulation was based on federal law that has since changed, making the terminology and references obsolete. Many of the areas it addresses do not require regulation as they are covered by current federal and state law, and by state contract. In addition, many of the requirements went beyond what was required under the law even in 1982 and were intrusive.

An accompanying regulatory package proposes new regulations that will address the minimum required by law or needed to protect the health, safety, or welfare of the citizens, or for the efficient and economical performance of the governmental functions carried out in the operation of this program. The new regulation contains only the two requirements that are mandated. Both of those requirements are also in this regulation. The first is a requirement that community action agencies provide a local match for the funds they receive under their contract with the department (22 VAC 40-900-10). The second is detail on the formula used by the Department of Social Services to disburse the

Block Grant funds. The instruction to the department to develop this formula is 22 VAC 40-900-20. This section reflects the formula that has been developed and continues to be incorporated into the Appropriations Act, becoming a part of the state budget.

Issues: The repeal of this regulation, in combination with the promulgation of the accompanying new regulation for the Community Services Block Grant Program, will remove from the Administrative Code outdated and excessive regulations that could prove confusing to individuals researching the Code for information on this program. No changes to the program will be apparent to the public because the program operates in compliance with current state and federal law and disregards any regulation that has been superceded by those laws. The requirements in the proposed regulation are only those mandated by state law.

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 25 (98). 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. The Department of Social Services proposes to repeal this regulation which was promulgated in 1982 and has not been updated since. A replacement regulation that reflects current practice is being proposed in a separate regulatory action.

Estimated economic impact. The existing regulation for the Community Services Block Grant Program was intended to provide guidance for the transition from federal to state administration of the program. This transition was completed over 16 years ago. Many of the areas addressed in the regulation are now covered in detail in federal and state law and in the local agencies' contracts with the Department of Social Services.

Provisions in the existing regulation that have been superceded by federal or state law have not been enforced by the department. The proposed replacement regulation accompanying this repeal includes only those provisions mandated by state law, both of which are also in the existing regulation. Therefore, the repeal and replacement of this regulation is not expected to have any economic impact aside from removing outdated and excessive regulations from the Virginia Administrative Code that could be confusing to the public.

Businesses and entities affected. The repeal and replacement of this regulation is not expected to affect either the Department of Social Services or local community action

agencies since a replacement regulation that reflects current practice of the program is being promulgated.

Localities particularly affected. The repeal of this regulation is not expected to particularly affect any localities.

Projected impact on employment. The repeal of this regulation is not anticipated to have a significant effect on employment.

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

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The Department of Social Services concurs with the economic impact analysis conducted by the Department of Planning and Budget.

Summary:

This proposed action repeals the regulation entitled "Community Services Block Grant Guidelines." The regulation was promulgated in 1982 and has not been updated since. This regulation is being replaced by a new regulation in a separate regulatory package.

VA.R. Doc. No. R00-14; Filed November 29, 2000, 11 a.m.

Title of Regulation: **22 VAC 40-901-10 et seq. Community Services Block Grant Program.**

Statutory Authority: § 2.1-590 and 63.1-25 of the Code of Virginia.

Public Hearing Date: N/A -- Public comments may be submitted until February 16, 2001.

(See Calendar of Events section for additional information)

Basis: Chapter 39 (§ 2.1-587 et seq.) of Title 2.1 of the Code of Virginia gives broad authority to promulgate rules and regulations for administering the Community Services Block Grant Program. Section 2.1-590 provides the authority to promulgate regulations for this program.

Purpose: These regulations are intended to meet the minimum requirements mandated by §§ 2.1-589 and 2.1-598 of the Code of Virginia. The regulation requiring a match for the CSBG funds makes the local community action agencies demonstrate that they have the commitment of the local government and the community in the area in which they provide services. It also increases the funding available to provide services. The regulation also contains details of the formula used to disburse the CSBG funds. The formula provides an equitable distribution of funds among the community action agencies. The funding formula is primarily based on the number of low-income individuals within each agency's service area. This ensures that CSBG funds are distributed in a way that best meets the needs of Virginia's low-income children and families.

Substance: These regulations will replace those promulgated in 1982 when funding for community action agencies was changed from direct funding from the federal agency to a

block grant administered by the state. The new regulations will include the minimum required by state statute. The regulations reflect current practice and will not result in any change in the Community Services Block Grant Program. The program operates in compliance with current state and federal law and does not implement any regulatory requirements that are in conflict with those laws.

The original regulations were intended to provide guidance in the transition from federal to state administration and contained information that is obsolete and/or in conflict with the Community Services Block Grant Act as it stands today. The 1982 regulations included directions to the agencies on board structure, reporting timetables, contracts, by-laws, fiscal policies, and many other areas. Many of the requirements went beyond what was required under law, and were intrusive. State and federal law, along with the agencies' contracts with the Department of Social Services now cover most of the areas covered by the 1982 regulations.

The new regulation includes only that required by state statute and provides the local agencies the maximum flexibility allowed by state and federal law. The proposed regulation contains a requirement for local community action agencies to provide matching funds. This requirement was also in the regulations being repealed (22 VAC 40-900-110). The second requirement provides detail about the formula for the distribution of funds to the community action agencies. The regulations being repealed provided a timetable for the transition of the agencies to state administered funding, and stated that a formula would be developed and used for funds received after October 1, 1983 (22 VAC-40-900-20). That formula was developed and continues to be incorporated into the Appropriations Act, becoming a part of the state budget.

Issues: The promulgation of this regulation, in combination with the repeal of the existing regulation for the Community Services Block Grant Program, will remove from the Administrative Code outdated and excessive regulations that could prove confusing to individuals researching the Code for information on this program. No changes to the program will be apparent to the public because the program operates in compliance with current state and federal law and disregards any regulation that has been superceded by those laws. The requirements in this proposed regulation are only those mandated by state law.

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 25 (98). 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.

Proposed Regulations

Summary of the proposed regulation. The Department of Social Services (DSS) proposes to replace the existing regulation governing the Community Services Block Grant Program, which was promulgated in 1982 and has not been updated since. The existing regulation is being repealed in a separate regulatory action.

Estimated economic impact. The existing regulation for the Community Services Block Grant Program was intended to provide guidance for the transition from federal to state administration of the program. This transition was completed over 16 years ago. Many of the areas addressed in the regulation are now covered in detail in federal and state law and in the local agencies' contracts with the Department of Social Services.

Provisions in the existing regulation that have been superceded by federal or state law have not been enforced by the department. The proposed replacement regulation includes only those provisions mandated by state law: (i) the formula DSS uses to disburse funds to the agencies; and (ii) a requirement that community action agencies provide a local match for the funds they receive under their contract with DSS. Both of these provisions are also in the existing regulation. Since the proposed regulation will reflect current practice, the repeal and replacement of this regulation is not expected to have any economic impact.

Businesses and entities affected. The repeal and replacement of this regulation is not expected to affect either the Department of Social Services or local community action agencies since the replacement regulation will reflect current practice of the program.

Localities particularly affected. The repeal and replacement of this regulation is not expected to particularly affect any localities.

Projected impact on employment. The repeal and replacement of this regulation is not anticipated to have a significant effect on employment.

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

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The Department of Social Services concurs with the economic impact analysis conducted by the Department of Planning and Budget.

Summary:

The proposed regulation sets forth the formula used for the distribution of Community Services Block Grant funds to local community action agencies and requires that community action agencies provide matching funds equal to 20% of the grant award. This regulation replaces the program regulation that has been in effect since 1982.

CHAPTER 901.

COMMUNITY SERVICES BLOCK GRANT PROGRAM.

22 VAC 40-901-10. Definitions.

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

"Community action agency" means a local subdivision of the Commonwealth, a combination of political subdivisions, a separate public agency or a private, nonprofit agency that has the authority under its applicable charter or laws to receive funds to support community action activities and other appropriate measures designed to identify and deal with the causes of poverty in the Commonwealth, and that is designated as a community action agency by federal law, federal regulations or the Governor.

"Community action statewide organization" means community action programs, organized on a statewide basis, to enhance the capability of community action agencies.

"Local share" means cash or in-kind goods and services donated to community action agencies or community action statewide organizations to carry out their responsibilities.

22 VAC 40-901-20. Allocation formula.

All increased state or federal funds shall be distributed to local community action agencies based the following formula: 75% based on low-income population, 20% based on number of jurisdictions, and 5.0% based on square mileage served. This formula shall be adjusted to ensure that no agency receives less than 1.5% of any increase.

22 VAC 40-901-30. Matching contributions.

A community action agency or a community action statewide organization must provide a local share from nonfederal sources equal to a minimum of 20% of the grant award from the state.

VA.R. Doc. No. R00-13; Filed November 29, 2000, 11:03 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 change from the proposed text of the regulation.

TITLE 4. CONSERVATION AND NATURAL RESOURCES

MARINE RESOURCES COMMISSION

REGISTRAR'S NOTICE: The following regulations filed by the Marine Resources Commission are exempt from the Administrative Process Act in accordance with § 9-6.14:4.1 F of the Code of Virginia; however, the commission is required to publish the full text of final regulations.

Title of Regulation: 4 VAC 20-560-10 et seq. Pertaining to Shellfish Management Areas (amending 4 VAC 20-560-40 and 4 VAC 20-560-50).

Statutory Authority: §§ 28.2-201 and 28.2-503 of the Code of Virginia.

Effective Date: December 1, 2000.

Summary:

The amendments establish separate clamming seasons for the York River, Poquoson River, and Back River Shellfish Management Areas and extend the daily hours of clamming in the Newport News Shellfish Management Area from sunrise to 1 p.m. to sunrise to 2 p.m.

Agency Contact: Copies of the regulation may be obtained from Deborah R. Cawthon, Marine Resources Commission, P.O. Box 756, Newport News, VA 23607, telephone (757) 247-2248.

4 VAC 20-560-40. Patent tong season.

A. The lawful season for the harvest of clams by patent tong from the York River, ~~Poquoson River and Back River Shellfish Management Areas shall be January 1 through March 31~~ Shellfish Management Area shall be August 15 through November 30.

B. *The lawful season for the harvest of clams by patent tong from the Poquoson River Shellfish Management Area shall be March 15 through May 1.*

C. *The lawful season for the harvest of clams by patent tong from the Back River Shellfish Management Area shall be January 1 through March 31.*

~~B. D.~~ It shall be unlawful for any person to harvest clams by patent tong from either the York River, Poquoson River, or Back River Shellfish Management Area ~~from April 1 through December 31~~ except as provided in subsections A, B, and C of this section.

~~G. E.~~ Shell planting area 115 in Back River will be closed at the end of the 1994 season for evaluation by the VMRC Fisheries Management Division.

~~D. F.~~ The lawful season for the harvest of clams by patent tong from the Newport News Shellfish Management Area shall be December 1 through March 15.

~~E. G.~~ It shall be unlawful for any person to harvest clams by patent tong from the Newport News Shellfish Management Area from April 1 through November 30.

4 VAC 20-560-50. Time of day and harvest restrictions.

A. It shall be unlawful for any person to harvest clams by patent tong from either the York River or Poquoson River Shellfish Management Area before sunrise or after 2 p.m.

B. It shall be unlawful for any person to harvest clams by patent tong from the Back River Shellfish Management Area before sunrise or after 4 p.m.

C. It shall be unlawful for any person to harvest clams by patent tong from either the York River, Poquoson River, Newport News or Back River Shellfish Management Area on Saturday or Sunday.

D. It shall be unlawful for any person to harvest any shellfish from the James River, Back River Reef, Middle Ground Light, or York River Broodstock Management Area at any time.

E. It shall be unlawful for any person to harvest clams by patent tong from the Newport News Shellfish Management Area before sunrise or after 4 2 p.m.

F. It shall be unlawful for any person to possess any amount of hard clams from the Newport News Shellfish Management Area or the Hampton Roads Shellfish Relay Area which consists of more than 2.0% by number of clams, which can be passed through a 1-3/8 inch inside diameter culling ring. The 2.0% allowance shall be measured by the marine patrol officer from each container or pile of clams.

VA.R. Doc. No. R01-56; Filed November 21, 2000, 8:44 a.m.

Title of Regulation: 4 VAC 20-900-10 et seq. Pertaining to Horseshoe Crab (amending 4 VAC 20-900-25).

Statutory Authority: § 28.2-201 of the Code of Virginia.

Effective Date: November 17, 2000.

Summary:

The amendment reduces the horseshoe crab landings quota from 355,000 to 152,495 horseshoe crabs and allows for the transfer of additional horseshoe crab quota to Virginia from other jurisdictions.

Agency Contact: Copies of the regulation may be obtained from Deborah R. Cawthon, Marine Resources Commission,

Final Regulations

P.O. Box 756, Newport News, VA 23607, telephone (757) 247-2248.

4 VAC 20-900-25. Commercial fisheries management measures.

A. It shall be unlawful for any person to harvest horseshoe crabs from any shore or tidal waters of Virginia within 1,000 feet, in any direction, of the mean low water line from May 1 through June 7. The harvests of horseshoe crabs for biomedical use shall not be subject to this limitation.

B. Harvests for biomedical purposes shall require a special permit issued by the Commissioner of Marine Resources, and all crabs taken pursuant to such permit shall be returned to the same waters from which they were collected.

C. The commercial landings quota of horseshoe crab for each calendar year shall be ~~355,000~~ 152,495 horseshoe crabs. *Additional quantities of horseshoe crab may be transferred to Virginia by other jurisdictions in accordance with the provisions of Addendum I to the Atlantic States Marine Fisheries Commission Fishery Management Plan for Horseshoe Crab, April 2000, provided that the combined total of the landings quota and transfer from other jurisdictions shall not exceed 355,000 horseshoe crabs.*

D. It shall be unlawful for any person to harvest from Virginia waters or to land in Virginia any horseshoe crab for commercial purposes after the landing quota described in subsection C of this section has been attained and announced as such.

E. It shall be unlawful for any person to take, catch, harvest or attempt to take, catch or harvest horseshoe crabs with a dredge from the tidal waters of Virginia from May 1 through June 7.

F. It shall be unlawful for any person to possess horseshoe crabs taken by dredge from the tidal waters of Virginia from May 1 through June 7.

DOCUMENT INCORPORATED BY REFERENCE

Addendum I to the Fisheries Management Plan for Horseshoe Crab, Fishery Management Report No. 32, Atlantic States Marine Fisheries Commission, April 2000.

VA.R. Doc. No. R01-54; Filed November 17, 2000, 3:42 p.m.

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TITLE 13. HOUSING

BOARD OF HOUSING AND COMMUNITY DEVELOPMENT

REGISTRAR'S NOTICE: The following regulatory action is exempt from the Administrative Process Act in accordance with § 9-6.14:4.1 C 4 (a) of the Code of Virginia, which excludes regulations that are necessary to conform to changes in Virginia statutory law where no agency discretion is involved. The Board of Housing and Community Development will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: 13 VAC 5-51-10 et seq. Virginia Statewide Fire Prevention Code (amending 13 VAC 5-51-71, 13 VAC 5-51-81, 13 VAC 5-51-130, 13 VAC 5-51-150 and 13 VAC 5-51-170).

Statutory Authority: §§ 27-97 and 27-97.2 of the Code of Virginia.

Effective Date: January 17, 2001.

Summary:

The amendments require a national criminal history record check of all applicants for a permit to manufacture, store, handle, use or sell explosives and of any applicant for certification as a blaster.

Agency Contact: Copies of the regulation may be obtained from George W. Rickman, Jr., Department of Housing and Community Development, 501 North Second Street, Richmond, VA 23219-1321, telephone (804) 371-7150.

13 VAC 5-51-71. Section F-107.0. Fees.

A. F-107.1. Local: Fees may be levied by the local governing body in order to defray the cost of enforcement and appeals under the SFPC.

B. F-107.2. State: Fees for permits issued by the State Fire Marshal's office shall be as follows:

1. \$50 per year per site to possess, store and dispose of explosives and blasting agents.
2. \$75 per year per city or county to use explosives and blasting agents.
3. No fee for the manufacture and sale of fireworks, explosives and blasting agents.

C. F-107.2.1. *Additional fees: The applicant shall pay all additional fees charged by other agencies for fingerprinting and for obtaining a national criminal history record check through the Central Criminal Records Exchange to the Federal Bureau of Investigation.*

G. D. F-107.3. Fee schedule: The local governing body may establish a fee schedule. The schedule shall incorporate unit rates, which may be based on square footage, cubic footage, estimated cost of inspection or other appropriate criteria.

D. E. F-107.4. Payment of fees: A permit shall not be issued until the designated fees have been paid.

Exception: The fire code official may authorize delayed payment of fees.

13 VAC 5-51-81. Section F-108.0. Permits.

A. F-108.1. Prior notification: The fire code official may require notification prior to (i) activities involving the handling, storage or use of substances, materials or devices regulated by the SFPC; (ii) conducting processes which produce conditions hazardous to life or property; or (iii) establishing a place of assembly.

B. F-108.2. Permits required: Permits may be required by the code official as permitted under the SFPC in accordance with Table F-108.2, except that the fire code official shall require permits for the manufacturing, storage, handling, use, and sale of explosives. *An application for a permit to manufacture, store, handle, use, or sell explosives shall only be made by an individual certified as a blaster in accordance with Section F-3003.5, or by a person who has been issued a background clearance card in accordance with Section F-3001.2.3.1.*

Exception: Such permits shall not be required for the storage, handling, or use of explosives or blasting agents by the Virginia Department of State Police provided notification to the fire code official is made annually by the Chief Arson Investigator listing all storage locations.

C. Add Table F-108.2 as follows:

Table F-108.2
PERMIT REQUIREMENTS
 (to be filled in by local jurisdiction)

Section	Description	Permit required	Permit fee	Inspection fee
F-402.3	Candles - assembly/ educational occupancies			
F-403.4	Open burning			
F-404.2	Remove paint with torch			
F-601.4	Assembly/ educational occupancies			
F-801.2	Airports, heliports & helistops			
F-901.2	Flammable liquids, bowling lanes			
F-1001.2	Crop ripening & color processes			
F-1101.2	Dry cleaning			
F-1201.2	Dust explosion hazard			
F-1301.2	Flammable finishes			

F-1401.2	Fumigation - insecticidal			
F-1501.2	HPM facilities			
F-1601.2	Lumber yard - woodworking plants			
F-1701.2	Matches - bulk storage			
F-1801.2	Oil/gas wells			
F-1901.2	Organic coatings			
F-2001.2	Tents/air-supported structures			
F-2102.1	Wrecking yard, junk yard, waste material-handling			
F-2103.1	Waste handling			
F-2201.2	Welding or cutting			
F-2205.2	Storage of welding cylinders			
F-2207.1	Calcium carbide			
F-2208.1	Acetylene generators			
F-2208.7	Acetylene cylinder storage			
F-2301.2	Hazardous materials			
F-2401.2	Aerosol products			
F-2501.2	Cellulose nitrate plastics			
F-2601.2	Combustible fibers			
F-2701.2	Compressed gases			
F-2801.2	Corrosives			
F-2901.2	Cryogenic liquids			
F-3001.2	Blasting/explosives			
F-3101.2	Fireworks			
F-3201.2	Vehicle repair shop			
F-3201.2	Flammable and combustible liquids - storage, handling, use, processing			
F-3201.2	Flammable and combustible liquids - tanks and equipment			
F-3301.2	Flammable solids			
F-3401.2	Highly toxic and toxic solids and liquids			
F-3501.2	Irritants, sensitizers and other health hazards			

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F-3601.2	Liquefied petroleum gases			
F-3701.2	Organic peroxides			
F-3801.2	Liquid and solid oxidizers			
F-3901.2	Pesticides			
F-4001.2	Pyrophoric materials			
F-4101.2	Radioactive materials			
F-4201.2	Unstable (reactive) materials			
F-4301.2	Water-reactive materials			

D. F-108.3. Application for permit: Application for a permit shall be made on forms prescribed by the fire code official.

E. F-108.4. Issuance of permits: Before a permit is issued, the fire code official shall make such inspections or tests as are necessary to assure that the use and activities for which application is made comply with the provisions of this code.

F. F-108.5. Conditions of permit: A permit shall constitute permission to store or handle materials or to conduct processes in accordance with the SFPC, and shall not be construed as authority to omit or amend any of the provisions of this code. Permits shall remain in effect until revoked or for such period as specified on the permit. Permits are not transferable.

G. F-108.6. State Fire Marshal: Permits will not be required by the State Fire Marshal except for the manufacturing, storage, handling, use, and sale of explosives in localities not enforcing the SFPC.

Exception: Such permits shall not be required for the storage, handling, or use of explosives or blasting agents by the Virginia Department of State Police provided notification to the State Fire Marshal is made annually by the Chief Arson Investigator listing all storage locations.

H. F-108.7. Annual: The enforcing agency may issue annual permits for the manufacturing, storage, handling, use, or sales of explosives to any state regulated public utility.

Exception: Such permits shall not apply to the storage, handling, or use of explosives or blasting agents pursuant to the provisions of Title 45.1 of the Code of Virginia.

I. F-108.8. Approved plans: Plans approved by the fire code official are approved with the intent that they comply in all respects to this code. Any omissions or errors on the plans do not relieve the applicant of complying with all applicable requirements of this code.

J. F-108.9. Posting: Issued permits shall be kept on the premises designated therein at all times and shall be readily available for inspection by the fire code official.

K. F-108.10. Suspension of permit: A permit shall become invalid if the authorized activity is not commenced

within six months after issuance of the permit, or if the authorized activity is suspended or abandoned for a period of six months after the time of commencement.

L. F-108.11. Revocation of permit: The fire code official may revoke a permit or approval issued under the SFPC if conditions of the permit have been violated, or if the approved application, data or plans contain misrepresentation as to material fact.

13 VAC 5-51-130. BNFPC Section F-202.0. General Definitions.

A. Add the following definitions:

Background clearance card: See Section F-3002.0.

Blaster, restricted: See Section F-3002.0.

Blaster, unrestricted: See Section F-3002.0.

DHCD: The Virginia Department of Housing and Community Development.

Local government, local governing body or locality: The governing body of any county, city, or town, other political subdivision and state agency in this Commonwealth charged with the enforcement of the SFPC under state law.

State Fire Marshal: The State Fire Marshal as provided for by § 36-139.2 of the Code of Virginia.

State Regulated Care Facility (SRCF): A building or part thereof occupied by persons in the care of others where program regulatory oversight is provided by the Virginia Department of Social Services; Virginia Department Mental Health, Mental Retardation and Substance Abuse Services; Virginia Department of Education or Virginia Department of Juvenile Justice (Use Groups R-2, R-3 and R-4 only).

TRB: The Virginia State Building Code Technical Review Board.

USBC: The Virginia Uniform Statewide Building Code (13 VAC 5-61-10 et seq.)

B. Change the following definition to read:

Code official or fire code official: The officer or other designated authority charged with administration and enforcement of this code, or a duly authorized representative. For the purpose of this code, the term "code official" or "fire code official" shall have the same meaning as used in § 27-98.1 of the Code of Virginia.

13 VAC 5-51-150. BNFPC Chapter 30. Explosives, Ammunition and Blasting Agents, ~~Section F-3001.0.~~ General.

A. Change subsection F-3001.1 to read:

F-3001.1. Scope: The equipment, processes and operations involving the manufacture, possession, storage, sale, maintenance, and use of explosive materials shall comply with the requirements of this code, NFPA 495 and DOTn 49 CFR listed in Chapter 44 of this

code, except that the year edition of NFPA 495 referenced shall be 1996.

B. Change exceptions to subsection F-3001.1 to read:

Exception: This chapter shall not apply to the following:

1. The use of explosives by federal or state military agencies or federal, state or municipal agencies while engaged in normal or emergency performance of duties.
2. The manufacture and distribution of explosive materials to or storage of explosive materials by military agencies of the United States.
3. The use of explosive materials in medicines and medicinal agencies in the forms prescribed by the U.S. Pharmacopeia or the National Formulary.
4. Pyrotechnics such as flares, fuses and railway torpedoes.
5. Common fireworks in accordance with Chapter 31.
6. The possession and use of not more than 15 pounds (7 kg) of smokeless powder and 1,000 small arms primers for hand loading of small arms ammunition for personal use.
7. The storage, handling, or use of explosives or blasting agents pursuant to the provisions of Title 45.1 of the Code of Virginia.

C. Change subsection F-3001.2 to read:

F-3001.2. Approval required: Approval shall be required for the following conditions or operations:

1. The manufacture, possession, storage, sale or other disposition of explosive materials.
2. The use of explosive materials.
3. The operation of a terminal for handling explosive materials.
4. The delivery to or receipt of explosive materials from a carrier at a terminal between the hours of sunset and sunrise.

D. Add exception to subsection F-3001.3 to read:

Exception: A bond is not required for blasting on real estate parcels of five or more acres conforming to the definition of "real estate devoted to agricultural use" or "real estate devoted to horticultural use" in § 58.1-3230 of the Code of Virginia and conducted by the owner of such real estate.

E. Add Sections F-3001.2.3, F-3001.2.3.1, F-3001.2.3.2, and F-3001.2.3.3 to read:

Section F-3001.2.3. Background investigations: The fire official shall not issue a permit to manufacture, store, handle, use or sell explosives or blasting agents to any individual applicant who is not certified by the department as a blaster or who is not in the possession of a background clearance card, or to designated persons representing an applicant that is not an individual and who is not in possession of a background clearance card. The department shall process all

applicants for a blaster certification and designated persons for compliance with § 27-97.2 of the Code of Virginia and will be the sole provider of background clearance cards and blaster certifications.

Section F-3001.2.3.1. Background clearance card: A background clearance card may be issued upon completion of the following requirements:

1. Any firm or company manufacturing, storing, using or selling explosives in the Commonwealth shall provide the name of a designated person or persons who will be a representative of the company and be responsible for (i) ensuring compliance with state law and regulations relating to blasting agents and explosives and (ii) applying for permits from the fire official.
2. Using a form provided by the department, all individual applicants and all designated persons representing an applicant that is not an individual shall submit to a background investigation, to include a national criminal history record check, for a permit to manufacture, store, handle, use or sell explosives, and for any applicant for certification as a blaster.
3. Each such applicant shall submit fingerprints and provide personal descriptive information to the department to be forwarded through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining a national criminal history record check regarding such applicant.

Section F-3001.2.3.2. Issuance of a background clearance card: The issuance of a background clearance card shall be denied if the applicant or designated person representing an applicant has been convicted of any felony, whether such conviction occurred under the laws of the Commonwealth or any other state, the District of Columbia, the United States or any territory thereof, unless his civil rights have been restored by the Governor or other appropriate authority.

Section F-3001.2.3.3 Revocation of a background clearance card or blaster certification: After issuance of a background clearance card or blaster certification, subsequent conviction of a felony will be grounds for immediate revocation of a background clearance card or blaster certification, whether such conviction occurred under the laws of the Commonwealth or any other state, the District of Columbia, the United States or any territory thereof. The card or certification shall be returned to the department immediately. An individual may reapply for his background clearance card or blaster certification if his civil rights have been restored by the Governor or other appropriate authority.

F. Add to BNFFPC Section F-3002.0. Definitions, the following definition to read:

Background clearance card: An identification card issued to an individual who is not a certified blaster and is representing himself or acting as a representative of a company, corporation, firm or other entity, solely for the purpose of submitting an application to the fire code official for a permit to manufacture, use, handle, store, or sell explosive materials.

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13 VAC 5-51-170. BNFC Section F-3003.0. General Requirements, BNFC Section F-3005.0. Transportation of Explosives, and BNFC Section F-3009.0. Blasting.

A. Add subsection F-3003.5 to read:

F-3003.5. Certification of blasters: Persons engaging in the use of explosives or blasting agents shall be certified as a restricted or unrestricted blaster by the DHCD or shall be supervised on-site by a person properly certified by the DHCD as a restricted or unrestricted blaster. Certificates will be issued upon proof of successful completion of an examination approved by the DHCD and a background investigation for compliance with § 27-97.2 of the Code of Virginia. The applicant for certification shall be at least 21 years of age and shall submit proof to the DHCD of the following experience:

1. For certification as a restricted blaster, at least one year under direct supervision by a certified unrestricted blaster, certified restricted blaster or other person approved by the DHCD.

2. For certification as an unrestricted blaster, at least one year under direct supervision by a certified unrestricted blaster or other person approved by the DHCD. Exception: The owner of real estate parcels of five or more acres conforming to the definition of "real estate devoted to agricultural use" or "real estate devoted to horticultural use" in § 58.1-3230 of the Code of Virginia when blasting on such real estate.

B. Add subsection F-3003.5.1 to read:

F-3003.5.1. Fee for certification: The fee for obtaining a certificate or renewal of a certificate for unrestricted or restricted blaster from DHCD shall be \$30.

C. Add subsection F-3003.5.1 to read:

F-3003.5.1.1. Additional fees: The applicant shall pay all additional fees charged by other agencies for fingerprinting and for obtaining a national criminal history record check through the Central Criminal Records Exchange to the Federal Bureau of Investigation.

~~G~~. D. Add subsection F-3003.5.2 to read:

F-3003.5.2. Renewal of blaster certificate or background clearance card: A certificate for an unrestricted or restricted blaster shall be valid for three years from the date of issuance. A background clearance card shall be valid for three years from the date of issuance. Renewal of the unrestricted blaster certificate will be issued upon proof of at least 16 hours of continued training or education in the use of explosives within three consecutive years and a background investigation for compliance with § 27-97.2 of the Code of Virginia. Renewal of the restricted blaster certificate will be issued upon proof of at least eight hours of continued training or education in the use of explosives within three consecutive years and a background investigation for compliance with § 27-97.2 of the Code of Virginia. Renewal of a background clearance card will be issued upon the completion of a background investigation for compliance with § 27-97.2 of the Code of Virginia.

~~D~~. E. Add subsection F-3003.6 to read:

F-3003.6. Reports of stolen explosives: Any person holding a permit for the manufacture, storage, handling, use, or sale of explosives issued in accordance with this code shall report to the office of the chief arson investigator for the Commonwealth and the code official as well as the chief local law-enforcement official any theft or other unauthorized taking or disappearance of any explosives or blasting devices from their inventory. An initial verbal report shall be made within three days of the discovery of the taking or disappearance. A subsequent written report shall be filed within such time, and in such form, as is specified by the chief arson investigator.

~~E~~. F. Add subsection F-3003.7 to read:

F-3003.7. Report of injuries or property damage: Any person holding a permit for the use of explosives issued in accordance with this code shall report any injuries to any person or damage to property arising from the use of explosives under the permit to the code official where there is local enforcement of this code and to the State Fire Marshal.

~~F~~. G. Change Section F-3005.0. Transportation of Explosives to read:

F-3005.1. Regulations. Under § 10.1-1450 of the Code of Virginia, the Virginia Waste Management Board shall promulgate regulations designating the manner and method by which hazardous materials shall be loaded, unloaded, packed, identified, marked, placarded, stored and transported.

F-3005.2. Enforcement. Under § 10.1-1451 of the Code of Virginia and the Regulations Governing the Transportation of Hazardous Materials (9 VAC 20-110-10 et seq.), the Department of State Police and all other law-enforcement officers of the Commonwealth who have satisfactorily completed the course in Hazardous Materials Compliance and Enforcement as prescribed by the U.S. Department of Transportation in federal safety regulations and safety inspection procedures pertaining to the transportation of hazardous materials shall enforce the provisions of Article 7 (§10.1-1450 et seq.) of Chapter 14 of Title 10.1 of the Code of Virginia, and any rule or regulation promulgated herein. Those law-enforcement officers certified to enforce the provisions of this Article 7, and any regulation promulgated under such article, shall annually receive in-service training in current federal safety regulations and safety inspection procedures pertaining to the transportation of hazardous materials.

Exception: A fire code official may require an attended or unattended parked vehicle that contains explosives to be moved to an approved location.

~~G~~. H. Add subsection F-3009.12 to read:

F-3009.12. Blast records: A record of each blast shall be kept and retained for at least three years and shall be available for inspection by the code official. The record shall contain the following minimum data:

1. Name of contractor;
2. Location and time of blast;
3. Name of certified blaster in charge;
4. Type of material blasted;
5. Number of holes bored and spacing;
6. Diameter and depth of holes;
7. Type and amount of explosives;
8. Amount of explosive per delay of 8 milliseconds or greater;
9. Method of firing and type of circuit;
10. Direction and distance in feet to nearest dwelling, public building, school, church, commercial or institutional building;
11. Weather conditions;
12. Whether or not mats or other precautions were used;
13. Type of detonator and delay period;
14. Type and height of stemming; and
15. Seismograph record where indicated.

Exception: Subdivisions 8 and 13 of this section are not applicable to restricted blasters.

VA.R. Doc. No. R01-58; Filed November 29, 2000, 11:21 a.m.

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TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD FOR BRANCH PILOTS

Title of Regulation: 18 VAC 45-20-5 et seq. Board for Branch Pilots Rules and Regulations (amending 18 VAC 45-20-10, 18 VAC 45-20-20, [18 VAC 45-20-30] and 18 VAC 45-20-40; adding 18 VAC 45-20-5 and 18 VAC 45-20-50).

Statutory Authority: § 54.1-902 of the Code of Virginia.

Effective Date: February 1, 2001.

Summary:

The amendments (i) provide that chemical testing for impairment due to drugs or alcohol will be conducted on a random, unscheduled basis versus the current scheduled testing program and (ii) require licensed branch pilots to report their medical history and prescribed medications to the medical review officer.

Summary of Public Comments and Agency's Response: No public comment was received by the promulgating agency.

Agency Contact: Copies of the regulation may be obtained from Mark N. Courtney, Assistant Director, Department of

Professional and Occupational Regulation, 3600 West Broad Street, Richmond, VA 23230, telephone (804) 367-8514.

18 VAC 45-20-5. Definitions.

The words and terms used in this chapter have the following meanings, unless the context requires a different meaning:

"Attempting to perform" means any time when a licensee has accepted an assignment to perform any of the duties of his office or job.

"Chemical test" [, except when applied to testing for the presence of alcohol,] means any scientifically recognized test [~~that analyzes and analyses of~~] an individual's breath, blood, urine, saliva, bodily fluids, hair or tissues for evidence of [~~alcohol or~~] controlled substances listed in Schedules I – V of the Drug Control Act (§ 54.1-3400 et seq. of the Code of Virginia). [The words "chemical test" as used in this chapter in connection with the testing for the presence of alcohol refers to a scientifically recognized test involving saliva or breath.]

"Illegal drugs" includes any controlled substance as that term is defined in the Drug Control Act at § 54.1-3401 of the Code of Virginia listed in Schedule I; § 54.1-3446 of the Code of Virginia or those controlled substances illegally acquired listed from Schedules II – V; or §§ 54.1-3448, 54.1-3450, 54.1-3452 and 54.1-3454 of the Code of Virginia, respectively. It is the intent of these regulations that in the event the contents of Schedules I – V of the Drug Control Act are changed, that these regulations incorporate such changes at the time those controlled substances are made a part of the Drug Control Act in Virginia.

"Medical review officer" or "MRO" means a Virginia licensed physician with a current valid certification from the American College of Occupational and Environmental Medicine or the American Association of Medical Review Officers whose duties, authorities and responsibilities are delineated by these organizations.

"On duty" means the period of time the licensee is available to receive orders for an assignment.

18 VAC 45-20-10. Initial licensing.

A. Any person wishing to obtain a license as a limited branch pilot shall meet the following qualifications:

1. Satisfactorily complete a two year apprenticeship in a program approved by the board;
2. Satisfactorily complete a comprehensive examination which shall be approved by the board and administered by the examining committee of the board. The examination shall be in two parts:
 - a. Written; and
 - b. Practical oral examination;
3. Comply with the board's regulations and Chapter 9 (§ 54.1-900 et seq.) of Title 54.1 of the Code of Virginia;
4. Furnish to the board evidence of a satisfactory physical examination conducted within the immediately

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preceding 60 days. This examination [~~must shall~~] include [a] ~~scientifically recognized [chemical test] which analyzes an individual's breath, blood, urine, saliva, bodily fluids, or tissues for evidence of dangerous drugs or alcohol use [;] and [the chemical tests referred to in 18 VAC 45-20-5;]~~

5. ~~Notify the board of any chronic or acute physical or mental condition; and~~

5- 6. Pay a licensing fee of \$275. Each check or money order shall be made payable to the Treasurer of Virginia. All fees [~~are shall be~~] nonrefundable.

B. Any limited branch pilot wishing to obtain a full branch pilot license shall meet the following qualifications:

1. Satisfactorily complete a five-year apprenticeship in a program approved by the board;

2. Hold a limited branch pilot license in good standing;

3. Pass a practical examination approved by the board and administered by the board's examining committee;

4. Possess a valid unlimited Federal Inland Masters License with First Class Pilot endorsement issued by the United States Coast Guard for the same waters as his branch. Any such federal license acquired after January 1994 shall include an Automated Radar Plotting Aids (ARPA) radar certificate. A copy of this license shall be filed with the clerk of the board immediately;

5. Furnish to the board evidence of a satisfactory physical examination conducted within the immediately preceding 60 days. ~~This examination must include a scientifically recognized test which analyzes an individual's breath, blood, urine, saliva, bodily fluids, or tissues for evidence of dangerous drug or alcohol use;~~

6. Qualify in accordance with § 54.1-905 of the Code of Virginia; and

7. Pay a licensing fee of \$275. Each check or money order is to be made payable to the Treasurer of Virginia. All fees [~~are shall be~~] nonrefundable.

18 VAC 45-20-20. License renewal.

A. Each pilot seeking renewal of his license shall complete a renewal application, comply with the provisions of this section, and appear before the board or its License Renewal Committee which shall determine if he possesses the qualifications to be renewed.

B. Any limited branch pilot seeking to renew his license shall meet the following standards:

1. Furnish to the board evidence of a satisfactory physical examination conducted within the immediately preceding 60 days. ~~This examination must include a scientifically recognized test which analyzes an individual's breath, blood, urine, saliva, bodily fluids, or tissues for evidence of dangerous drug or alcohol use;~~

2. Furnish to the board evidence that he has transited the waters embraced by his license during the preceding 12 months;

3. After three years of licensure as a limited branch pilot, possess a valid First Class Pilot License issued by the United States Coast Guard for the same waters as his limited branch. Any such federal license acquired after January 1994 shall include an Automated Radar Plotting Aids (ARPA) radar certificate; and

4. Pay a license renewal fee of \$375. Each check or money order is to be made payable to the Treasurer of Virginia. All fees [~~are shall be~~] nonrefundable.

C. Any full branch pilot seeking to renew his license shall meet the following standards:

1. Possess a valid unlimited Federal Inland Masters License with First Class Pilot endorsement issued by the United States Coast Guard for the same waters as his branch; any such federal license renewed or acquired after January 1994 shall include an Automated Radar Plotting Aids (ARPA) radar certificate;

2. Furnish to the board evidence of a satisfactory physical examination conducted within the immediately preceding 60 days. ~~This examination must include a scientifically recognized test which analyzes an individual's breath, blood, urine, saliva, bodily fluids, or tissues for evidence of dangerous drug or alcohol use;~~

3. Furnish to the board evidence that he has transited the waters embraced by his license during the preceding 12 months, and that he has piloted 12 or more ships during that time, at least six trips as a pilot within the first six months of the calendar year and six trips as a pilot within the last six months of the calendar year;

4. Upon the showing of good cause, the board may waive the requirements of subdivision 3 of this subsection when in its judgment the pilot is otherwise qualified;

5. Qualify in accordance with § 54.1-906 of the Code of Virginia; and

6. Pay a license renewal fee of \$375. Each check or money order is to be made payable to the Treasurer of Virginia. All fees [~~are shall be~~] nonrefundable.

[18 VAC 45-20-30. Change of license.

In order to extend a license, an applicant ~~must shall~~ satisfactorily complete 12 or more round trips with a currently licensed pilot of the branch for which the applicant seeks licensure, receive a First Class Pilot License issued by the United States Coast Guard for that additional area and pass a practical examination approved by the board and administered by the board's Examination Committee.]

18 VAC 45-20-40. Grounds for denial of licensure, denial of renewal, or discipline.

The board shall have the authority to deny initial licensure, deny an extension of license, or deny renewal as well as to discipline existing licensees, whether limited or not, for the following reasons:

1. Having been convicted or found guilty regardless of adjudication in any jurisdiction of the United States of any

felony or a misdemeanor involving moral turpitude or any alcohol or drug-related offense 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 paragraph. 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 conviction;

2. Failing to inform the board in writing within 30 days of pleading guilty or nolo contendere or being convicted or found guilty of any felony or of a misdemeanor involving moral turpitude;

3. Failing to report to the board in writing any reports of the National Transportation Safety Board involving the licensee, or the results of any disciplinary action taken by the United States Coast Guard against the licensee within 30 days of that report or action;

4. Refusing or in any other way failing to carry out an order from the pilot officers for reasons other than the public's health, safety, and welfare;

5. Negligence or misconduct in the performance of duties;

6. Violating or cooperating with others in violating any provision of Chapter 9 (§ 54.1-900 et seq.) of the Title 54.1 of the Code of Virginia or any regulation of the board;

7. Failing to, as soon as possible under the circumstances, report to the pilot officers his finishing time and other required information relating to the particulars of the ship;

8. Failing to file immediately with the president or vice president of the board with a copy to the board administrator a complete written account of any violation of the statutes of Virginia or of the United States relating to pilotage or failing to report in writing to the president or vice president of the board with a copy to the board administrator an account of all collisions, groundings, or other maritime mishaps of any description that may occur during the discharge of the pilot's duties. This report shall be received no later than seven days after such an incident;

9. Failing to report to the board any physical, ~~emotional,~~ or ~~psychological impairment~~ *mental condition* which may affect his ability to perform the duties of a pilot. Such reports [~~must~~ *shall*] be provided within 30 days of the onset of the condition;

10. Refusal to comply with the board's requirement for a ~~scientifically recognized chemical test which analyzes an individual's breath, blood, urine, saliva, bodily fluids, or tissues for evidence of dangerous drug or alcohol use.~~ Such test is required immediately and no later than 12 hours after involvement in a collision, grounding, or other incident resulting in personal injury, death, environmental hazard, or property damage in excess of \$100,000. Refusal to comply with this requirement ~~shall~~ *may* result

in summary suspension of the pilot's license in accordance with § 54.1-902 of the Code of Virginia;

11. Refusal to comply with ~~the board's any board requirement for [a] scientifically recognized chemical [test tests] which analyzes an individual's breath, blood, urine, saliva, bodily fluids, or tissues for evidence of dangerous drug or alcohol use~~ in any instance in which the board has reasonable cause to believe a test is necessary to protect the public health, safety, [or ~~and~~] welfare. Refusal to comply with this requirement ~~shall~~ *may* result in summary suspension of the pilot's license in accordance with § 54.1-902 of the Code of Virginia;

12. Failure to send ~~the proof of any test required by subsection subdivision 10 or subsection 11 of this section~~ to the president or vice president of the board with a copy to the board administrator within 48 hours of the administration of the test;

13. [~~An indication of impairment on a in the results of any test furnished under subsection 10 or subsection 11 of this section administered pursuant to this chapter, and [A positive finding as a result of, or on, any substance abuse or chemical test as a result of which the board believes there is a threat to the public health, safety and welfare. Such a finding may result in summary suspension of the pilot's license in accordance with § 54.1-902 of the Code of Virginia;~~

14. *Evidence of impaired performance in any instance in which the board believes there is a threat to the public health, safety and welfare. Such a finding may result in summary suspension of the pilot's license in accordance with § 54.1-902 of the Code of Virginia.*

~~44.~~ 15.] *Performing or attempting to perform any of the duties of his office or job while under the influence of illegal drugs;*

~~44.~~ [~~45.~~ 16.] *Performing or attempting to perform any of the duties of his office or job while under the influence of alcohol, or any medication (controlled substance or otherwise) to the extent that he is was unfit for the performance of the duties of his office- or job; and*

[~~46.~~ 17.] *Failing to comply with any of the provisions of 18 VAC 45-20-50.*

18 VAC 45-20-50. Random chemical testing.

A. *All Virginia licensed branch pilots shall be subject to the random chemical testing as set forth in this chapter. Random chemical testing shall be conducted at an annual selection rate of not less than 30% and not more than 100% of total licensees. Licensees [~~are~~ shall be] responsible for all costs associated with random chemical testing. The chemical test shall be a comprehensive drug screen acceptable to the board that includes testing for controlled substances in Schedules I – V of Chapter 34 (§ 54.1-3400 et seq.) of Title 54.1 of the Code of Virginia.*

Only licensees on duty may be selected for random testing. A licensee selected for random chemical testing shall report for testing within two hours of notification. Failure to take a random chemical test is considered refusal to take the test.

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B. Duties of licensee.

1. All licensees of this board shall enroll and participate in a random chemical testing program that meets the criteria of this chapter.
2. An on-duty licensee selected for random chemical testing shall report for testing within two hours of notification that he has been selected.
3. Licensees who receive a prescription for any medication from any health care provider shall have the following duties:
 - a. Give the health care provider a copy of the licensee's job description as a Virginia pilot;
 - b. Give the health care provider a complete list of medications used within the 30 days preceding the current visit;
 - c. Obtain a written statement from the health care provider stating if the new prescription is for a controlled substance (Schedules II – V of the Drug Control Act) and obtain a written statement from the health care provider as to the licensee's fitness to safely perform the duties found in the job description; and
 - d. If prescribed any medication containing a Schedule II – V controlled substance that is to be used within 12 hours of being on duty, make certain the MRO received by hand delivery or telefax each prescription written by any health care provider at the time such prescription is written along with a complete list of medications used by the licensee within the preceding 30 days.

C. The medical review officer shall:

1. Be completely familiar with all duties of a Virginia pilot.
2. Receive, evaluate and maintain records of all medications given him by or on behalf of each Virginia pilot.
3. Receive, evaluate and maintain a record of each random chemical test taken by a Virginia pilot.
4. Any time the MRO finds the presence of a drug or alcohol that may impair the safe discharge of any duty of a Virginia pilot such that he is unfit to perform those duties, report his written findings to the licensee and president or vice-president of the board and to the board's administrator.
5. To the extent consistent with state and federal law, protect the confidentiality of all licensee records.
6. Judge fitness to safely perform duties in the context of the licensee's prescription medications and the licensee's available medical history. Any time the MRO finds evidence that the Virginia pilot may be impaired in the safe discharge of any of his duties such that he may be unfit to perform those duties, his written finding shall be reported to the licensee and president or vice-president of the board and to the board's administrator.

NOTICE: The forms used in administering 18 VAC 45-20-5 et seq., Board for Branch Pilots Rules and Regulations, are listed below. Any amended or added forms are reflected in the listing and are published following the listing.

FORMS

Branch Pilot License Renewal Application Form (eff. ~~8/98~~ rev. 5/00).

Limited Branch Pilot License Renewal Application Form (eff. ~~8/98~~ rev. 5/00).

BOARD FOR BRANCH PILOTS

BRANCH PILOT LICENSE RENEWAL APPLICATION FORM

This form must be completed by each Branch Pilot and provided to the Board before renewal of license may be considered. Bring the completed renewal application and other required documentation to your appointment with the Renewal Committee.

Name: _____
(Last) (First) (Middle Initial)

Home Address: _____

I hereby apply to the Board for Branch Pilots for renewal of my Branch Pilot License.

In support of this application I have attached the following:

____ A copy of my current **Unlimited Federal Inland Masters License with First Class Pilot endorsement** issued by the United States Coast Guard for the same waters as my branch.

____ A statement signed by a physician that I have satisfactorily completed a physical examination within the immediately preceding 60 days including the test for all controlled substances or alcohol as required by regulation 18 VAC 45-20-20.C.2.

I hereby certify that I **HAVE/HAVE NOT** transited the waters embraced by my Branch Pilot License during the preceding 12 month period.

DATE SIGNATURE OF APPLICANT

I hereby certify that all of the information provided by me as a part of this application is true and complete to the best of my knowledge and belief.

DATE SIGNATURE OF APPLICANT

AFFIDAVIT

STATE OF _____ City/County of _____

Subscribed and sworn to before me, the undersigned Notary Public in and for the State and City or County aforesaid this _____ day of _____, 20_____.

My commission expires _____

Affix Official Seal Here _____
NOTARY PUBLIC

I, the Chairman of the Board for Branch Pilots License Renewal Committee, state that the above named individual has personally appeared before my Committee which, being duly convened with a quorum present, and, after careful examination of the evidence of qualification for licensure presented, recommends to the Board for Branch Pilots that the above named individual be **APPROVED/DISAPPROVED** for renewal of his license for the upcoming 12 month period.

DATE SIGNATURE OF CHAIRMAN

unlimited renewal app.doc
5/25/00

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BOARD FOR BRANCH PILOTS

LIMITED BRANCH PILOT LICENSE RENEWAL APPLICATION FORM

This form must be completed by each Branch Pilot and provided to the Board before renewal of license may be considered. Bring the completed renewal application and other required documentation to your appointment with the Renewal Committee.

Name: _____
(Last) (First) (Middle Initial)

Home Address: _____

I hereby apply to the Board for Branch Pilots for renewal of my Branch Pilot License.

In support of this application I have attached the following:

____ A copy of my current **Unlimited Federal Inland Masters License with First Class Pilot endorsement** issued by the United States Coast Guard for the same waters as my branch. NOTE: This is only required after 3 years of licensure as a Limited Branch Pilot.

____ A statement signed by a physician that I have satisfactorily completed a physical examination within the immediately preceding 60 days including the test for all controlled substances or alcohol as required by regulation 18 VAC 45-20-20.B.1.

I hereby certify that I **HAVE/HAVE NOT** transited the waters embraced by my Branch Pilot License during the preceding 12 month period.

DATE SIGNATURE OF APPLICANT

I hereby certify that all of the information provided by me as a part of this application is true and complete to the best of my knowledge and belief.

DATE SIGNATURE OF APPLICANT

AFFIDAVIT

STATE OF _____ City/County of _____

Subscribed and sworn to before me, the undersigned Notary Public in and for the State and City or County aforesaid this _____ day of _____, 20____.

My commission expires _____

Affix Official Seal Here _____
NOTARY PUBLIC

I, the Chairman of the Board for Branch Pilots License Renewal Committee, state that the above named individual has personally appeared before my Committee which, being duly convened with a quorum present, and, after careful examination of the evidence of qualification for licensure presented, recommends to the Board for Branch Pilots that the above named individual be **APPROVED/DISAPPROVED** for renewal of his license for the upcoming 12 month period.

DATE SIGNATURE OF CHAIRMAN

limited renewal app.doc
5/25/00

V.A.R. Doc. No. R99-175; Filed November 29, 2000, 9:48 a.m.

BOARD OF NURSING

VA.R. Doc. No. R01-53; Filed November 17, 2000, 1:57 p.m.

REGISTRAR'S NOTICE: The Board of Nursing is claiming an exemption from the Administrative Process Act in accordance with § 9-6.14:4.1 C 3, which excludes regulations that consist only of changes in style or form or corrections of technical errors. The Board of Nursing will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: 18 VAC 90-30-10 et seq. Regulations Governing the Licensure of Nurse Practitioners (amending 18 VAC 90-30-120).

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

Effective Date: January 17, 2001.

Summary:

The amendment corrects the date in a reference to the standards for practice of the American Association of Nurse Anesthetists. The date referenced in the regulations is 1992, but the most recent edition of the guidelines was revised in 1998.

Agency Contact: Copies of the regulation may be obtained from Nancy Durrett, Board of Nursing, 6606 West Broad Street, 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9909.

18 VAC 90-30-120. Practice of licensed nurse practitioners.

A. A licensed nurse practitioner shall be authorized to engage in practices constituting the practice of medicine in collaboration with and under the medical direction and supervision of a licensed physician.

B. The practice of licensed nurse practitioners shall be based on specialty education preparation as a nurse practitioner in accordance with standards of the applicable certifying organization and written protocols as defined in 18 VAC 90-30-10.

C. A certified registered nurse anesthetist shall practice in accordance with the functions and standards defined by the American Association of Nurse Anesthetists (Guidelines and Standards for Nurse Anesthesia Practice, Revised ~~1992~~ 1998) and under the medical direction and supervision of a doctor of medicine or a doctor of osteopathy or the medical direction and supervision of a dentist in accordance with rules and regulations promulgated by the Board of Dentistry.

D. A certified nurse midwife shall practice in accordance with the Standards for the Practice of Nurse-Midwifery (Revised 1993) defined by the American College of Nurse-Midwives.

DOCUMENTS INCORPORATED BY REFERENCE

Guidelines and Standards for Nurse Anesthesia Practice, ~~1992~~ 1998, American Association of Nurse Anesthetists.

Standards for the Practice of Nurse-Midwifery, 1993, American College of Nurse-Midwives.

BOARD OF PHARMACY

Title of Regulation: 18 VAC 110-20-10 et seq. Regulations Governing the Practice of Pharmacy (amending 18 VAC 110-20-10 and 18 VAC 110-20-20; adding 18 VAC 110-20-425).

Statutory Authority: §§ 54.1-2400 and 54.1-3307 of the Code of Virginia.

Effective Date: January 17, 2001.

Summary:

The amendments allow for a waiver of the requirement for a final check by the pharmacist if a drug is being dispensed by a robotic pharmacy system. The regulations require approval of such a system by an informal conference committee of the board based on a quality assurance plan adopted by the pharmacy. The committee may require an inspection of the system. Application and inspection fees offset the costs of initial approval or review of a modified system.

Summary of Public Comment and Agency Response: No public comment was received by the agency.

Agency Contact: Copies of the regulation may be obtained from Elizabeth Scott Russell, Board of Pharmacy, 6606 West Broad Street, 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9911.

18 VAC 110-20-10. Definitions.

In addition to words and terms defined in §§ 54.1-3300 and 54.1-3401 of the Code of Virginia, the following words and terms when used in this chapter shall have the following meanings, unless the context clearly indicates otherwise:

"ACPE" means the American Council on Pharmaceutical Education.

"Acquisition" of an existing entity permitted, registered or licensed by the board means (i) the purchase or transfer of all or substantially all of the assets of the entity or of any corporation that owns or controls the entity; (ii) the creation of a partnership by a sole proprietor or change in partnership composition; (iii) the acquiring of 50% or more of the outstanding shares of voting stock of a corporation owning the entity or of the parent corporation of a wholly owned subsidiary owning the entity, except that this shall not apply to any corporation the voting stock of which is actively traded on any securities exchange or in any over-the-counter market; or (iv) the merger of a corporation owning the entity, or of the parent corporation of a wholly owned subsidiary owning the entity, with another business or corporation.

"Aseptic processing" means the technique involving procedures designed to preclude contamination of drugs, packaging, equipment, or supplies by microorganisms during processing.

"Beyond-use date" means the date beyond which the integrity of a compounded, repackaged, or dispensed drug can no longer be assured and as such is deemed to be

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adulterated or misbranded as defined in §§ 54.1-3461 and 54.1-3462 of the Code of Virginia.

"Board" means the Virginia Board of Pharmacy.

"CE" means continuing education as required for renewal of licensure by the Board of Pharmacy.

"CEU" means a continuing education unit awarded for credit as the equivalent of 10 contact hours.

"Class 100 environment" means an atmospheric environment which contains less than 100 particles, 0.5 microns in diameter, per cubic foot of air.

"Closed system transfer" means the movement of sterile products from one container to another in which the container-closure system and transfer devices remain intact throughout the entire transfer process, compromised only by the penetration of a sterile, pyrogen-free needle or cannula through a designated stopper or port to effect transfer, withdrawal, or delivery, to include the withdrawal of a sterile solution from an ampul in a class 100 environment.

"Compliance packaging" means packaging for dispensed drugs which is comprised of a series of containers for solid oral dosage forms and which is designed to assist the user in administering or self-administering the drugs in accordance with directions for use.

"Contact hour" means the amount of credit awarded for 60 minutes of participation in and successful completion of a continuing education program.

"Cytotoxic drug" means a drug which has the capability of killing living cells.

"Electronic transmission prescription" is any prescription, other than an oral or written prescription or a prescription transmitted by facsimile machine, that is electronically transmitted from a practitioner authorized to prescribe directly to a pharmacy without interception or intervention from a third party, or from one pharmacy to another pharmacy.

"Expiration date" means that date placed on a drug package by the manufacturer or repacker beyond which the product may not be dispensed or used.

"Facsimile (FAX) prescription" means a written prescription or order which is transmitted by an electronic device over telephone lines which sends the exact image to the receiver (pharmacy) in a hard copy form.

"Floor stock" means a supply of drugs which have been distributed for the purpose of general administration by a prescriber or other authorized person pursuant to a valid order of a prescriber.

"Foreign school of pharmacy" means a school outside the United States and its territories offering a course of study in basic sciences, pharmacology, and pharmacy of at least four years in duration resulting in a degree that qualifies a person to practice pharmacy in that country.

"Generic drug name" means the nonproprietary name listed in the United States Pharmacopeia-National Formulary (USP-NF) or in the USAN and the USP Dictionary of Drug Names.

"Hermetic container" means a container that is impervious to air or any other gas under the ordinary or customary conditions of handling, shipment, storage, and distribution.

"Home infusion pharmacy" means a pharmacy which compounds solutions for direct parenteral administration to a patient in a private residence, long-term care facility or hospice setting.

"Hospital" or "nursing home" means those facilities as defined in Title 32.1 of the Code of Virginia or as defined in regulations by the Virginia Department of Health.

"Inactive license" means a license which is registered with the Commonwealth but does not entitle the licensee to practice, the holder of which is not required to submit documentation of CE necessary to hold an active license.

"Light-resistant container" means a container that protects the contents from the effects of light by virtue of the specific properties of the material of which it is composed, including any coating applied to it. Alternatively, a clear and colorless or a translucent container may be made light resistant by means of an opaque covering, in which case the label of the container bears a statement that the opaque covering is needed until the contents have been used. Where a monograph directs protection from light, storage in a light-resistant container is intended.

"Long-term care facility" means a nursing home, retirement care, mental care or other facility or institution which provides extended health care to resident patients.

"Nuclear pharmacy" means a pharmacy providing radiopharmaceutical services.

"Open-system transfer" means the combining of products in a nonsealed reservoir before filling or when a solution passes through the atmosphere during a transfer operation.

"Permitted physician" means a physician who is licensed pursuant to § 54.1-3304 of the Code of Virginia to dispense drugs to persons to whom or for whom pharmacy services are not reasonably available.

"Personal supervision" means the pharmacist must be physically present and render direct, personal control over the entire service being rendered or act being performed. Neither prior nor future instructions shall be sufficient nor, shall supervision rendered by telephone, written instructions, or by any mechanical or electronic methods be sufficient.

"Pharmacy closing" means that the permitted pharmacy ceases pharmacy services or fails to provide for continuity of pharmacy services or lawful access to patient prescription records or other required patient records for the purpose of continued pharmacy services to patients.

"Practice location" means any location in which a prescriber evaluates or treats a patient.

"Prescription department" means any contiguous or noncontiguous areas used for the compounding, dispensing and storage of all Schedule II through VI drugs and devices and any Schedule I investigational drugs.

"PTCB" means the Pharmacy Technician Certification Board, co-founded by the American Pharmaceutical Association and the American Society of Health System Pharmacists, as the national organization for voluntary examination and certification of pharmacy technicians.

"Quality assurance plan" means a plan approved by the board for continuous monitoring, measuring, evaluating, and, if necessary, improving the performance of a pharmacy function or system.

"Radiopharmaceutical" means any drug that exhibits spontaneous disintegration of unstable nuclei with the emission of nuclear particles or photons and includes any nonradioactive reagent kit or radionuclide generator that is intended to be used in the preparation of any such substance, but does not include drugs such as carbon-containing compounds or potassium-containing salts that include trace quantities of naturally occurring radionuclides. The term also includes any biological product that is labeled with a radionuclide or intended solely to be labeled with a radionuclide.

"Repackaged drug" means any drug removed from the manufacturer's original package and placed in different packaging.

"Robotic pharmacy system" means a mechanical system controlled by a computer that performs operations or activities relative to the storage, packaging, labeling, dispensing, or distribution of medications, and collects, controls, and maintains all transaction information.

"Safety closure container" means a container which meets the requirements of the federal Poison Prevention Packaging Act of 1970 (15 USC §§ 1471-1476), i.e., in testing such containers, that 85% of a test group of 200 children of ages 41-52 months are unable to open the container in a five-minute period and that 80% fail in another five minutes after a demonstration of how to open it and that 90% of a test group of 100 adults must be able to open and close the container.

"Satellite pharmacy" means a pharmacy which is noncontiguous to the centrally permitted pharmacy of a hospital but at the location designated on the pharmacy permit.

"Special packaging" means packaging that is designed or constructed to be significantly difficult for children under five years of age to open to obtain a toxic or harmful amount of the drug contained therein within a reasonable time and not difficult for normal adults to use properly, but does not mean packaging which all such children cannot open or obtain a toxic or harmful amount within a reasonable time.

"Special use permit" means a permit issued to conduct a pharmacy of a special scope of service that varies in any way from the provisions of any board regulation.

"Sterile pharmaceutical product" means a dosage form free from living microorganisms.

"Storage temperature" means those specific directions stated in some monographs with respect to the temperatures at which pharmaceutical articles shall be stored, where it is considered that storage at a lower or higher temperature may

produce undesirable results. The conditions are defined by the following terms:

1. "Cold" means any temperature not exceeding 8°C (46°F). A refrigerator is a cold place in which temperature is maintained thermostatically between 2° and 8°C (36° and 46°F). A freezer is a cold place in which the temperature is maintained thermostatically between -20° and -10°C (-4° and 14°F).

2. "Room temperature" means the temperature prevailing in a working area.

3. "Controlled room temperature" is a temperature maintained thermostatically that encompasses the usual and customary working environment of 20° to 25°C (68° to 77°F); that results in a mean kinetic temperature calculated to be not more than 25°C; and that allows for excursions between 15° and 30°C (59° and 86°F) that are experienced in pharmacies, hospitals, and warehouses.

4. "Warm" means any temperature between 30° and 40°C (86° and 104°F).

5. "Excessive heat" means any temperature above 40°C (104°F).

6. "Protection from freezing" means where, in addition to the risk of breakage of the container, freezing subjects a product to loss of strength or potency, or to the destructive alteration of its characteristics, the container label bears an appropriate instruction to protect the product from freezing.

7. "Cool" means any temperature between 8° and 15°C (46° and 59°F).

"Terminally ill" means a patient with a terminal condition as defined in § 54.1-2982 of the Code of Virginia.

"Tight container" means a container that protects the contents from contamination by extraneous liquids, solids, or vapors, from loss of the drug, and from efflorescence, deliquescence, or evaporation under the ordinary or customary conditions of handling, shipment, storage, and distribution, and is capable of tight reclosure. Where a tight container is specified, it may be replaced by a hermetic container for a single dose of a drug and physical tests to determine whether standards are met shall be as currently specified in United States Pharmacopeia-National Formulary.

"Unit dose container" means a container that is a single-unit container, as defined in United States Pharmacopeia-National Formulary, for articles intended for administration by other than the parenteral route as a single dose, direct from the container.

"Unit dose package" means a container that contains a particular dose ordered for a patient.

"Unit dose system" means a system in which multiple drugs in unit dose packaging are dispensed in a single container, such as a medication drawer or bin, labeled only with patient name and location. Directions for administration are not provided by the pharmacy on the drug packaging or container

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but are obtained by the person administering directly from a prescriber's order or medication administration record.

"USP-NF" means the United States Pharmacopeia-National Formulary.

"*Well-closed container*" means a container that protects the contents from extraneous solids and from loss of the drug under the ordinary or customary conditions of handling, shipment, storage, and distribution.

18 VAC 110-20-20. Fees.

A. Unless otherwise provided, fees listed in this section shall not be refundable.

B. Fee for initial pharmacist licensure.

1. The application fee for a pharmacist license shall be \$50.
2. The fees for taking all required examinations shall be paid directly to the examination service as specified by the board.
3. The application fee for a person whose license has been revoked or suspended indefinitely shall be \$300.

C. Renewal of pharmacist license.

1. The annual fee for renewal of a pharmacist license shall be \$50.
2. The annual fee for renewal of an inactive pharmacist license shall be \$35.
3. If a pharmacist fails to renew his license within the Commonwealth by the renewal date, he must pay the back renewal fee and a \$25 late fee within 60 days of expiration.
4. Failure to renew a pharmacist license within 60 days following expiration shall cause the license to lapse and shall require the submission of a reinstatement application, payment of all unpaid renewal fees, and a delinquent fee of \$50.

D. Other licenses or permits.

1. The following fees shall be required upon submission of a new facility application, change of ownership of an existing facility, or annual renewal:

a. Pharmacy permit	\$200
b. Permitted physician to dispense drugs	\$200
c. Nonrestricted manufacturing permit	\$200
d. Restricted manufacturing permit	\$150
e. Wholesale distributor license	\$200
f. Warehouse permit	\$200
g. Medical equipment supplier permit	\$150
h. Licensed humane society permit	\$10
2. The following fees shall be required for facility changes:

a. Application for a change of the pharmacist-in-charge
\$25

b. Application for a change of location or a remodeling which requires an inspection
\$100

3. The following fees shall be required for late renewals or reinstatement.

a. If a licensee fails to renew a required license or permit prior to the expiration date, a \$25 late fee shall be assessed.

b. If a required license or permit is not renewed within 60 days after its expiration, the license or permit shall lapse, and continued practice or operation of business with a lapsed license or permit shall be illegal. Thereafter, reinstatement shall be at the discretion of the board upon submission of an application accompanied by all unpaid renewal fees and a delinquent fee of \$50.

E. Controlled substances registration.

1. The annual fee for a controlled substances registration as required by § 54.1-3422 of the Code of Virginia shall be \$20.

2. If a registration is not renewed within 60 days of the expiration date, the back renewal fee and a \$10 late fee shall be paid prior to renewal.

3. If a controlled substance registration has been allowed to lapse for more than 60 days, all back renewal fees and a \$25 delinquent fee must be paid before a current registration will be issued. Engaging in activities requiring a controlled substance registration without holding a current registration is illegal and may subject the registrant to disciplinary action by the board. Reinstatement of a lapsed registration is at the discretion of the board and may be granted by the executive director of the board upon completion of an application and payment of all fees.

F. Other fees.

1. A request for a duplicate wall certificate shall be accompanied by a fee of \$25.

2. The fee for a returned check shall be \$15.

3. The fee for board approval of an individual CE program is \$100.

4. *The fee for board approval of a robotic pharmacy system shall be \$150.*

5. *The fee for a board-required inspection of a robotic pharmacy system shall be \$150.*

18 VAC 110-20-425. Robotic Pharmacy Systems.

A. *A pharmacy providing services to a hospital or a long-term care facility using a unit dose dispensing system may apply for approval of a robotic pharmacy system and a waiver of 18 VAC 110-20-270 B, provided the accuracy of the final dispensed prescription product is determined by a quality assurance plan. An applicant shall apply using a form*

provided by the board and shall pay a fee as set forth in 18 VAC 110-20-20.

B. A copy of the quality assurance plan shall be submitted as a part of the application and shall include at a minimum the following:

1. Method of ensuring accurate packaging and loading of the robotic pharmacy system.
2. Procedures for conducting quality control checks of final dispensing for accuracy.
3. Manufacturer's schedules and recommendations for maintenance of the device.
4. Plan for maintenance of all related documentation for a minimum of two years.

C. The application shall be reviewed by an informal conference committee of the board, consisting of no less than two members of the board.

1. The informal conference committee may approve or deny the application, or may approve the application upon terms and conditions.
2. The committee may require an inspection of a new or modified robotic pharmacy system prior to approval.
3. The committee may require that periodic reports be submitted detailing frequency and types of errors determined by the continuous quality assurance checks.
4. The board may withdraw the approval of a waiver for failure to comply with the quality assurance plan or with other terms and conditions which have been established by the board.

D. The board shall be notified prior to implementing any modification to the approved application and no modification may be implemented until approved by the board.

E. If a robotic pharmacy system is used, a pharmacist shall review all data entry of prescription orders into the computer operating the system for accuracy and appropriateness of therapy and shall check all repackaged medication prior to use in loading the system.

NOTICE: The forms used in administering 18 VAC 110-20-10 et seq., Regulations Governing the Practice of Pharmacy, are listed below. Any amended or added forms are reflected in the listing and are published following the listing.

FORMS

Application for Registration as a Pharmacy Intern (rev. 12/98).

Affidavit of Practical Experience, Pharmacy Intern (rev. 12/98).

Application for Licensure as a Pharmacist by Examination (rev. 12/98).

Application to Reactivate Pharmacist License (rev. 12/98).

Application for Approval of a Continuing Education Program (rev. 3/99).

Application for Approval of ACPE Pharmacy School Course(s) for Continuing Education Credit ([~~eff. 3/99~~ rev. 10/00]).

Application for License to Dispense Drugs (permitted physician) (rev. 11/98).

Application for a Pharmacy Permit (rev. [~~3/99~~ 4/00]).

Application for a Non-Resident Pharmacy Registration (rev. 12/98).

Application for a Permit as a Medical Equipment Supplier (rev. 3/99).

Application for a Permit as a Restricted Manufacturer (rev. 3/99).

Application for a Permit as a Non-Restricted Manufacturer (rev. 3/99).

Application for a Permit as a Warehouse (rev. 3/99).

Application for a License as a Wholesale Distributor (rev. [~~3/99~~ 4/00]).

Application for a Non-Resident Wholesale Distributor Registration (rev. 3/99).

Application for a Controlled Substances Registration Certificate (rev. 1/99).

Application for Controlled Substances Registration Certificate for Optometrists (eff. 12/98).

Renewal Notice and Application, ~~C-47005~~ [for Pharmacists] (rev. [~~7/97~~ 11/00]).

[Renewal Notice and Application for Facilities] , ~~C-47533~~ (rev. ~~7/97~~ [11/00]).

~~Renewal Notice and Application, C-48130 (rev. 7/97).~~

Application to Reinstate a Pharmacist License (rev. 3/99).

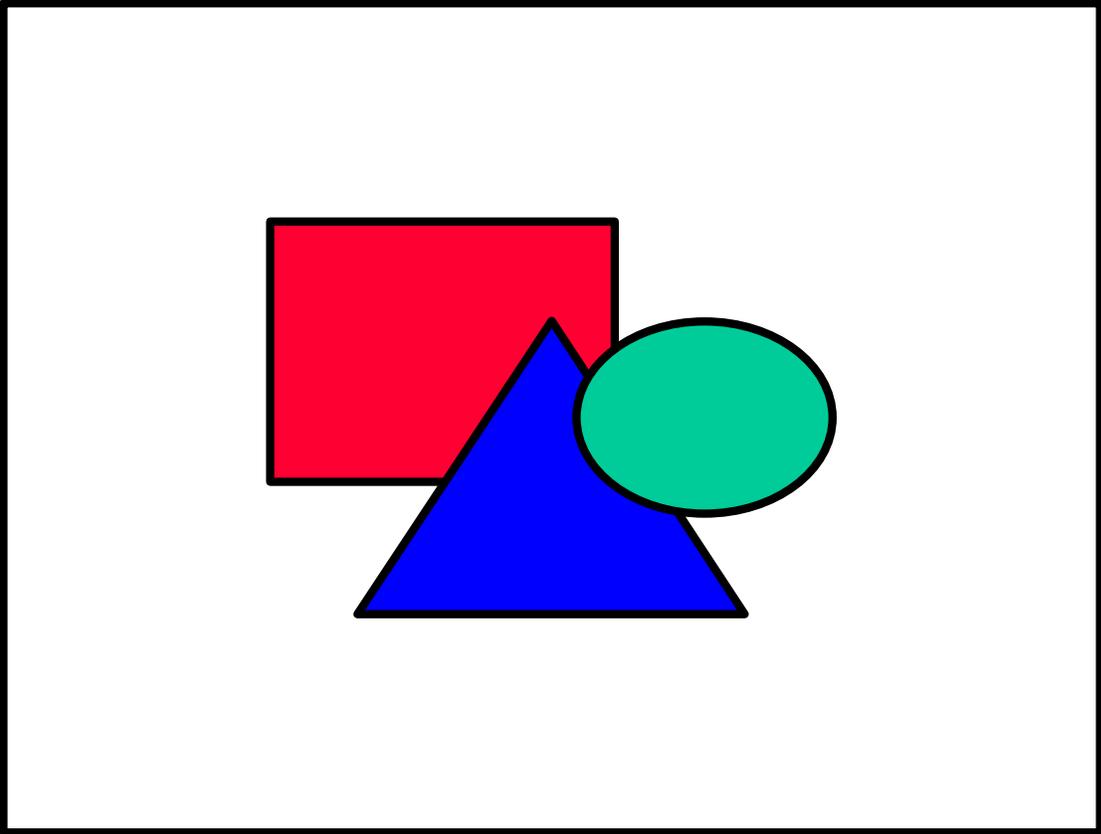
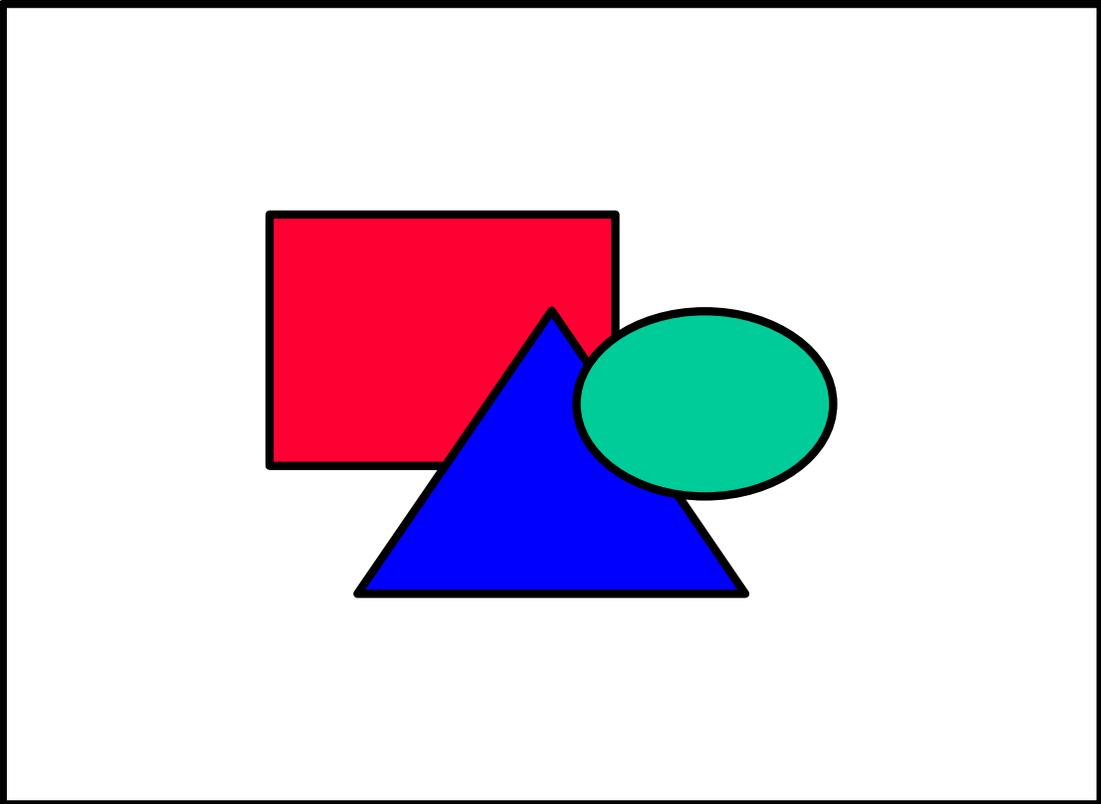
Application for a Permit as a Humane Society (rev. 3/99).

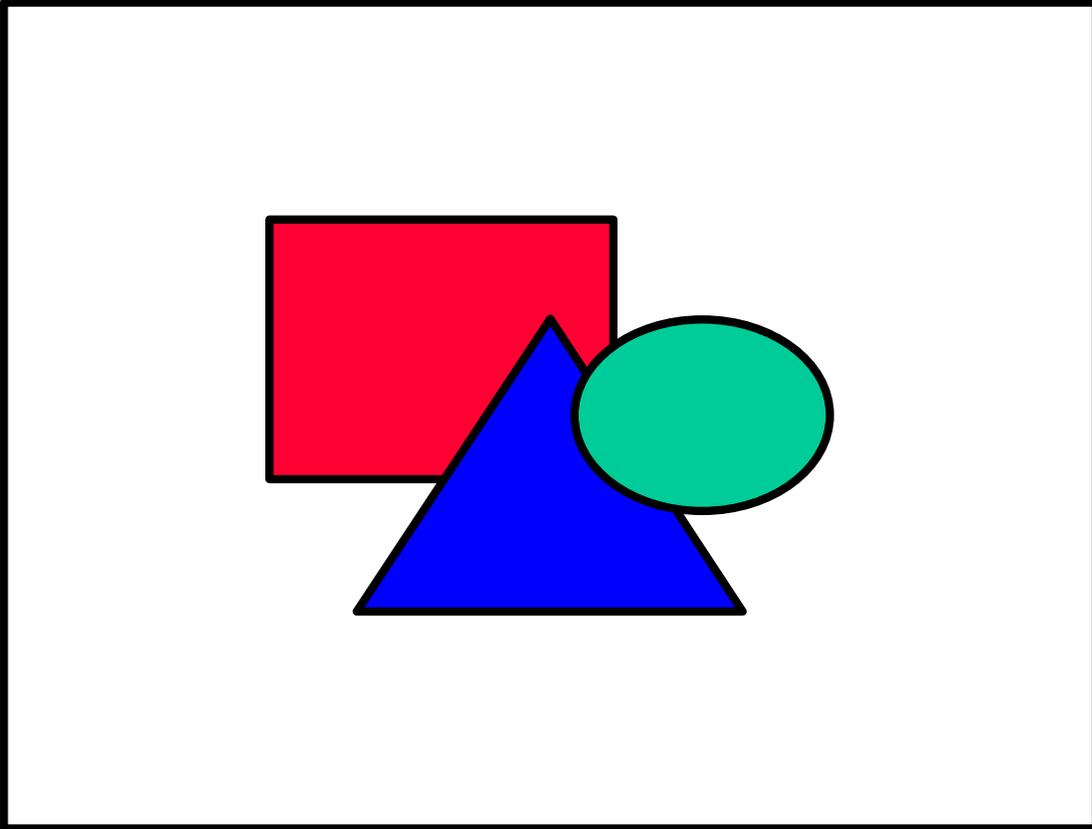
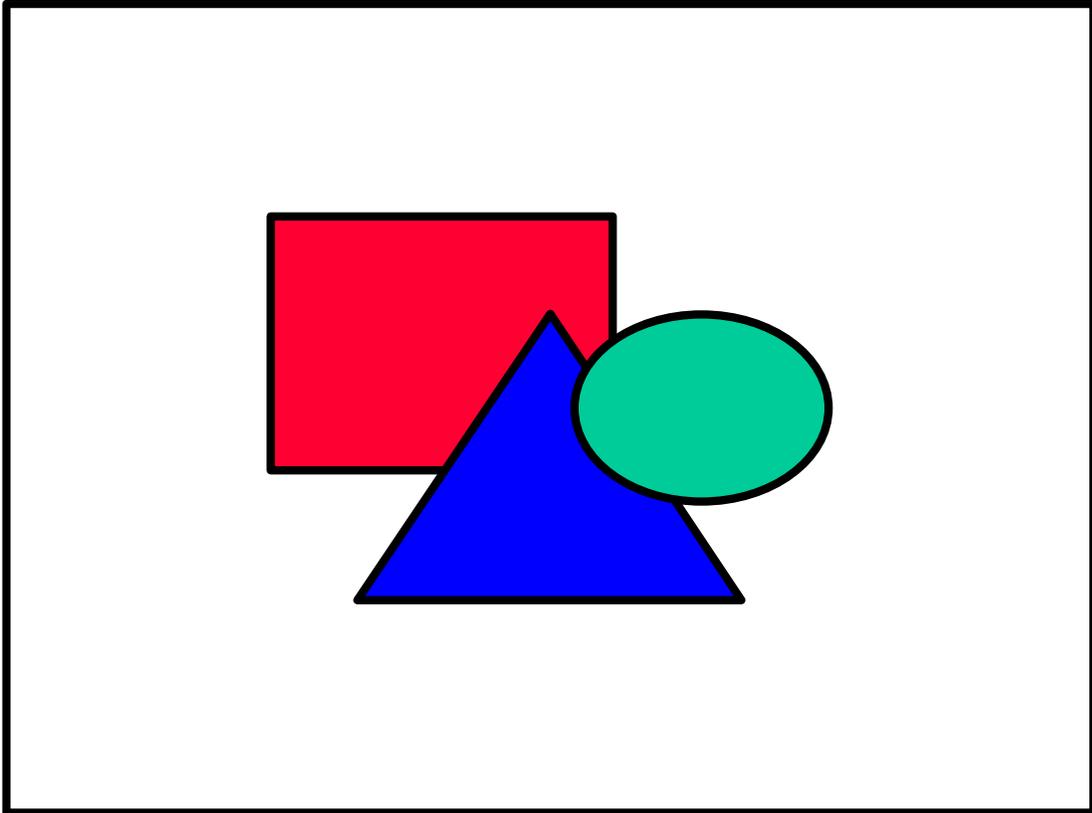
Application for Registration as a Pharmacy Intern for Graduates of a Foreign College of Pharmacy (rev. 12/98).

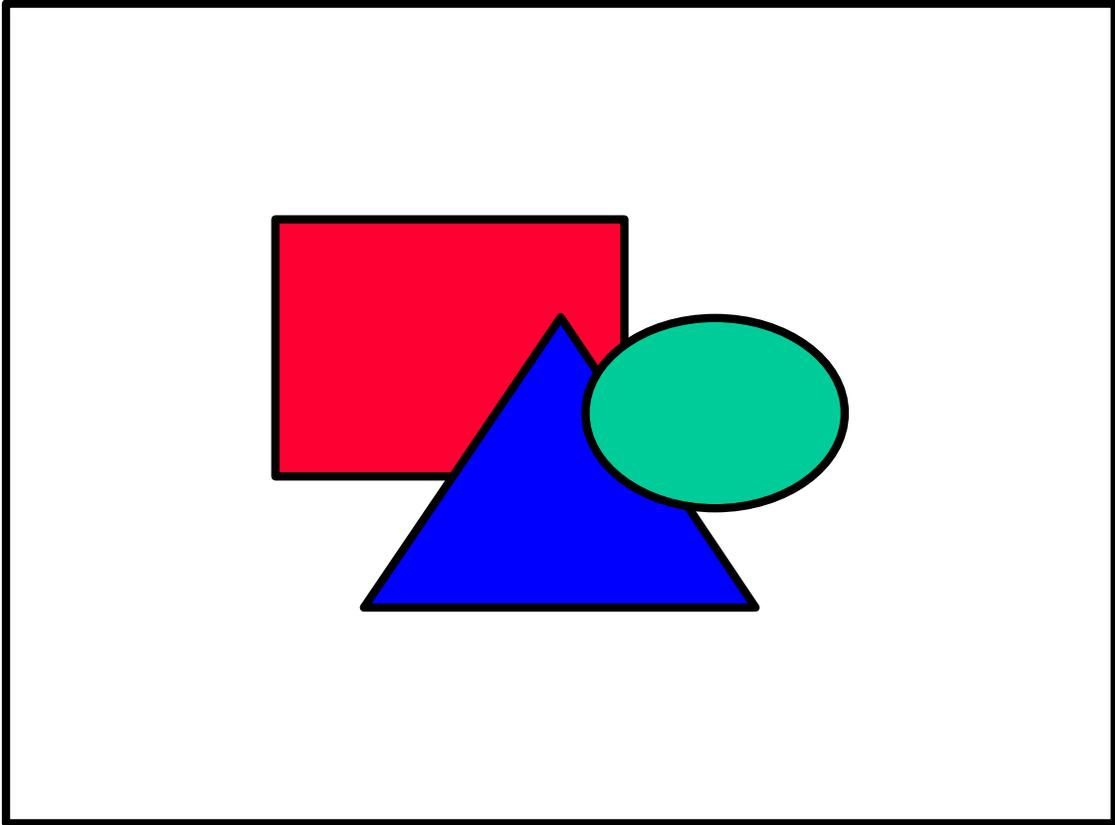
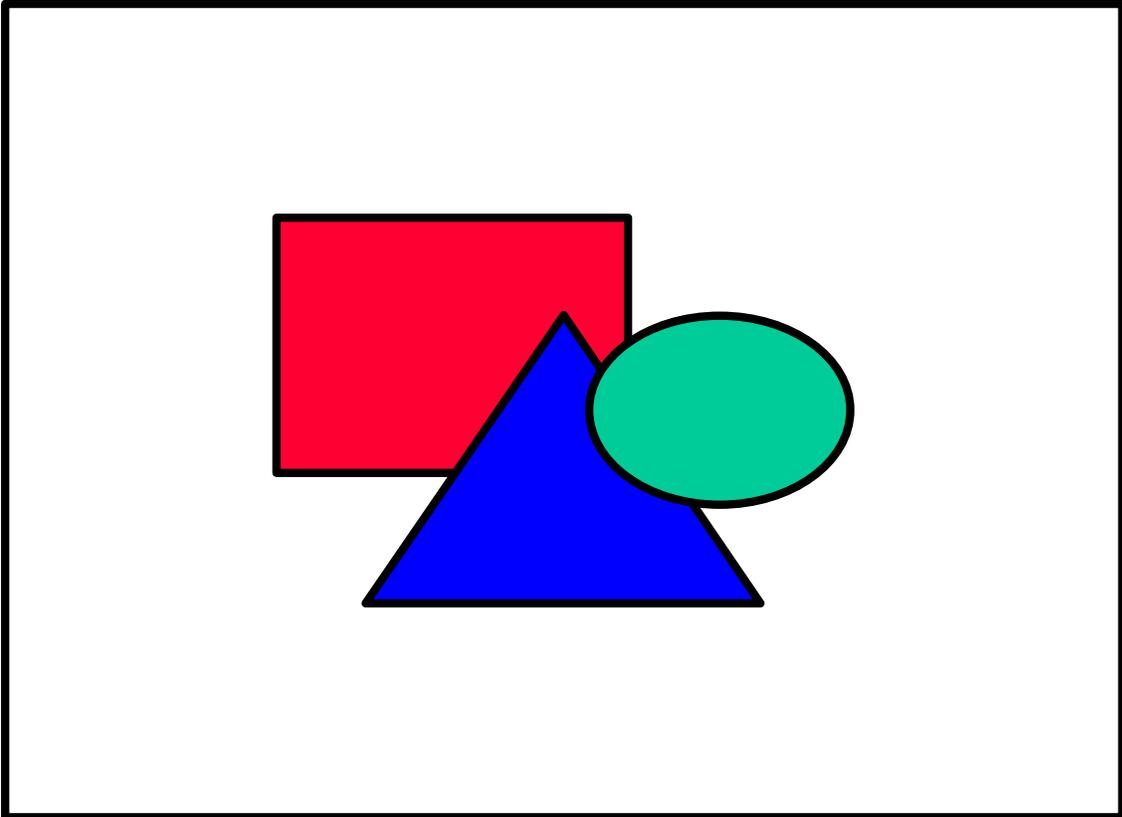
Closing of a Pharmacy (rev. 3/99).

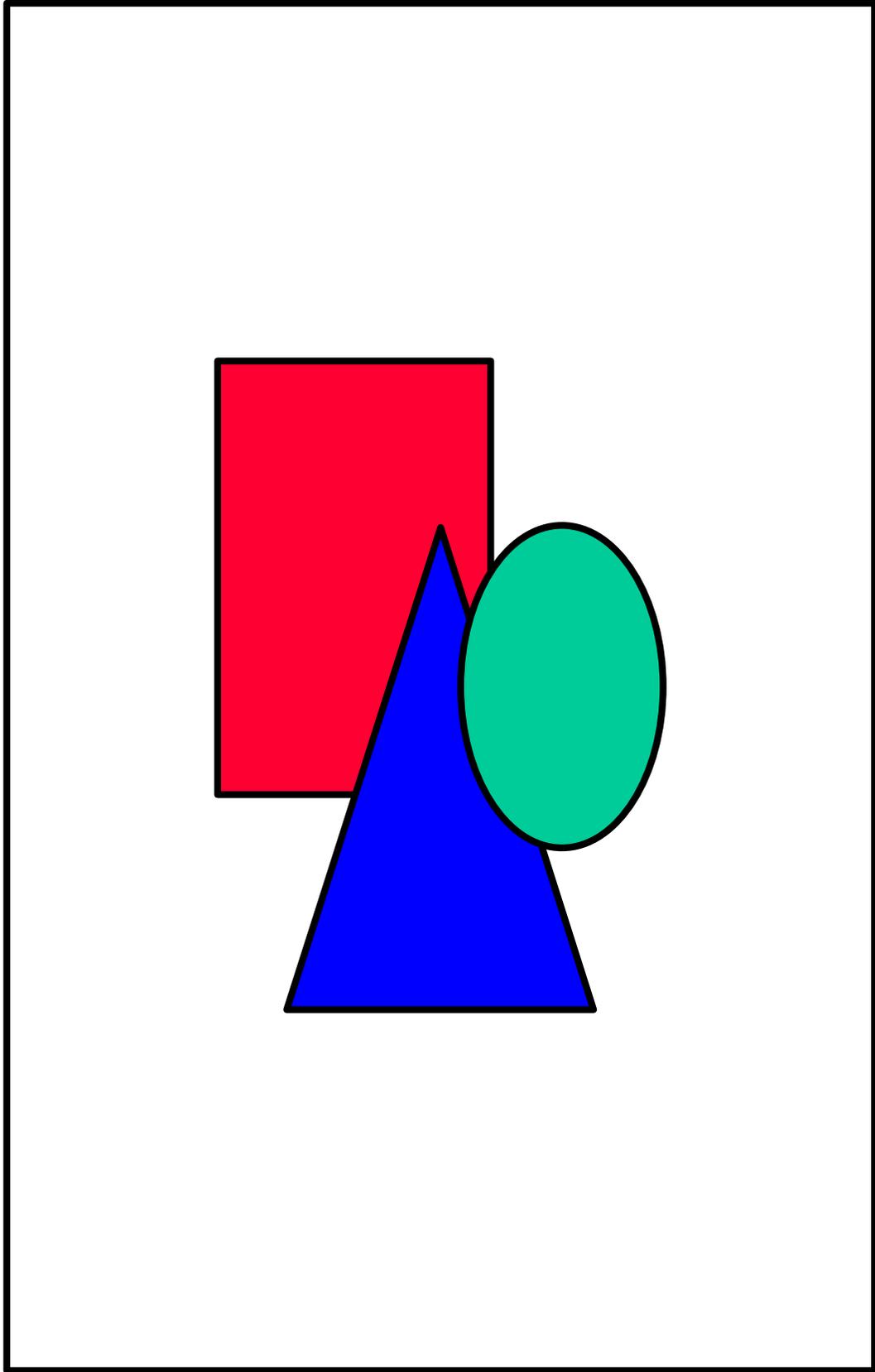
Application for Approval of a Robotic Pharmacy System (8/00).

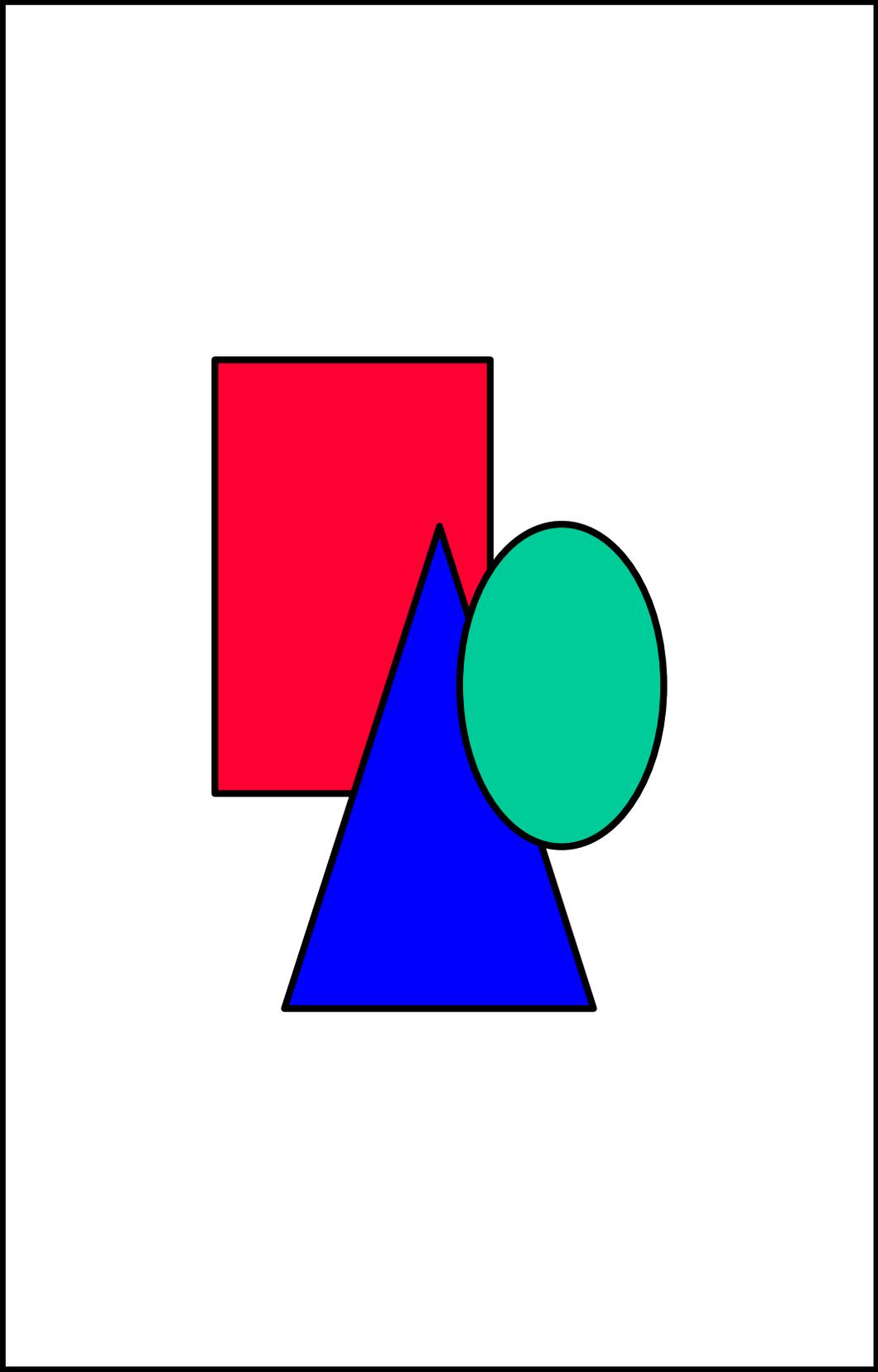
Notice of Inspection Fee Due for Approval of Robotic Pharmacy System (8/00).













COMMONWEALTH OF VIRGINIA
Board of Pharmacy

6606 W. Broad Street, 4th Floor
Richmond, Virginia 23236

(804) 662-9911 (Tel)
(804) 662-9313 (Fax)

APPLICATION FOR APPROVAL OF A ROBOTIC PHARMACY SYSTEM

Application Fee (non-refundable): \$150.00

The required fee must accompany the application. Make check payable to "Treasurer of Virginia".

Applicant—Please provide the information requested below. (Print or Type) Use full name not initials

Name of Pharmacy where robot is to be used		Pharmacy Permit Number
Street Address		0201-
Area Code and Telephone Number		
City	State	Zip Code
Name of Pharmacist-in-Charge (PIC)	Virginia Pharmacist License Number of PIC	
	0202-	

Please attach the following additional information and label as indicated. Please write this in lay terms which can be easily understood by non-pharmacists and persons not familiar with computers or other technology to be used in the practice of pharmacy:

	DESCRIPTION
Attachment 1:	Name and manufacturer of the robotic system, any supporting information such as technical or other descriptive literature describing the equipment, and any other pertinent manufacturer's or other relevant information concerning the operation and performance of the system.
Attachment 2:	A general overview of the operation of the robot to include the functions the robot performs, a brief description of the operation of the robotic system from the beginning of the process to the end.
Attachment 3:	A quality assurance plan which includes at least the following information: 1. method of ensuring accurate packaging and loading of the robotic pharmacy system 2. procedures for conducting quality control checks of final dispensing for accuracy 3. plan for maintenance of all related documentation for a minimum of two years 4. manufacturer's schedules and recommendations for maintenance of the device
Attachment 4:	An explanation as to the rationale for the use of the robot, i.e. benefit to the consumer or industry.

I attest that the information furnished on this application is true and correct to the best of my knowledge.

Signature of Pharmacist-in-Charge _____ Date _____

Date Received	Date of PIC	Inspection Required <input type="checkbox"/> Yes <input type="checkbox"/> No	Inspection Date Assigned	Date Approved
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COMMONWEALTH OF VIRGINIA
Board of Pharmacy

6606 W. Broad Street, 4th Floor
Richmond, Virginia 23236

(804) 662-9911 (Tel)
(804) 662-9313 (Fax)

INSPECTION REQUIRED FOR APPROVAL OF A ROBOTIC PHARMACY SYSTEM

Inspection Fee (non-refundable): \$150.00

The required fee must be submitted prior to scheduling an inspection. Make check payable to "Treasurer of Virginia".

The Board is in receipt of your application for approval of a robotic pharmacy system. Upon preliminary review of your application, it has been determined that an inspection will be necessary prior to consideration of your application for approval to use a robotic pharmacy system. Please return this form and remit the inspection fee of \$150.00, made payable to the Treasurer of Virginia. Upon receipt of this fee, an inspection will be scheduled. Please indicate your requested inspection date. We will make every effort to accommodate your requested date. When requesting a date, please remember that a 14-day notice is normally required for the inspector to schedule the inspection.

Name of Pharmacy	Pharmacy Permit Number
Inspection Date Assigned	Date Received

Final Regulations

* * * * *

Title of Regulation: 18 VAC 110-30-10 et seq. Regulations for Practitioners of the Healing Arts To Sell Controlled Substances (amending 18 VAC 110-30-10, 18 VAC 110-30-20, 18 VAC 110-30-30, 18 VAC 110-30-50, 18 VAC 110-30-80, 18 VAC 110-30-90, 18 VAC 110-30-100, 18 VAC 110-30-110, 18 VAC 110-30-160, 18 VAC 110-30-170, 18 VAC 110-30-190, 18 VAC 110-30-200, 18 VAC 110-30-210, 18 VAC 110-30-220, 18 VAC 110-30-240, 18 VAC 110-30-260, and 18 VAC 110-30-270; adding 18 VAC 110-30-15, 18 VAC 110-30-35, and 18 VAC 110-30-255; repealing 18 VAC 110-30-60).

Statutory Authority: §§ 54.1-2400 and 54.1-3304 of the Code of Virginia.

Effective Date: January 17, 2001.

Summary:

The regulations are amended to provide consistency with current practices in pharmacy and with the board's regulations for licensed pharmacies. The amendments modify requirements for inspections, storage of drugs, access to selling areas, disposal of unwanted drugs, and electronic maintenance of records to conform them to pharmacy regulations and reduce the regulatory burden. Other requirements, such as those for labeling and special packaging, have been amended for consistency with current law.

Summary of Public Comment and Agency Response: No public comment was received by the agency.

Agency Contact: Copies of the regulation may be obtained from Elizabeth Scott Russell, Board of Pharmacy, 6606 West Broad Street, 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9911.

18 VAC 110-30-10. Definitions.

The following words and terms when used in this chapter shall have the following meaning unless the context clearly indicates otherwise.

"Board" means the Virginia Board of Pharmacy.

"Controlled substance" means a drug, substance or immediate precursor in Schedules I through VI of the Drug Control Act.

"Licensee" as used in this chapter shall mean means a practitioner who is licensed by the Board of Pharmacy to sell controlled substances.

"Personal supervision" means the licensee must be physically present and render direct, personal control over the entire service being rendered or acts being performed. Neither prior nor future instructions shall be sufficient nor shall supervision be rendered by telephone, written instructions, or by any mechanical or electronic methods.

"Practitioner" as used in this chapter shall mean means a doctor of medicine, osteopathy or podiatry who possesses a current unrestricted active license issued by the Board of Medicine.

"Sale" means barter, exchange, or gift, or offer thereof, and each such transaction made by any person, whether as an individual, proprietor, agent, servant or employee. It does not include the gift of manufacturer's samples to a patient.

"Special packaging" means packaging that is designed or constructed to be significantly difficult for children under five years of age to open or obtain a toxic or harmful amount of the controlled substance contained therein within a reasonable time and not difficult for normal adults to use properly, but does not mean packaging which all such children cannot open or obtain a toxic or harmful amount within a reasonable time.

"U.S.P.-N.F." means the United States Pharmacopeia-National Formulary.

18 VAC 110-30-15. Fees.

A. Unless otherwise provided, fees listed in this section shall not be refundable.

B. Fee for initial license for a practitioner of the healing arts to sell controlled substances.

1. The application fee for initial licensure shall be \$200.
2. The application fee for reinstatement of a license that has been revoked or suspended indefinitely shall be \$300.

C. Renewal of license for a practitioner of the healing arts to sell controlled substances.

1. The annual fee for renewal of a license shall be \$50.
2. The annual fee for renewal of an inactive license shall be \$35.
3. The late fee for renewal of a license within 60 days after the expiration date is \$25 in addition to the annual renewal fee.
4. The delinquent fee for reinstatement of a lapsed license is \$50 in addition to all unpaid renewal fees.

18 VAC 110-30-20. Application for licensure.

~~A. In order to engage in the sale of controlled substances as defined in § 54.1-3401 of the Code of Virginia and as provided for in § 54.1-2914 B of the Code of Virginia, a practitioner who possesses a current unrestricted license issued by the Board of Medicine shall make application to the Board of Pharmacy on a form provided by the board. A fee of \$200 shall be remitted with the application for licensure. Prior to engaging in the sale of controlled substances a practitioner shall make application on a form provided by the board and be issued a license.~~

B. In order to be eligible for a license to sell controlled substances, a practitioner shall possess a current, active license to practice medicine issued by the Virginia Board of Medicine. Any disciplinary action taken by the Board of Medicine against the practitioner's license to practice medicine shall constitute grounds for the board to deny, restrict, or place terms on the license to sell.

B.—C. For good cause shown, the board may issue a limited-use license, when the scope, degree or type of services provided to the patient is of a limited nature. The license to be issued shall be based on conditions of use requested by the applicant or imposed by the board in cases where certain requirements of regulations may be waived. The following conditions shall apply:

1. A policy and procedure manual detailing the type and volume of controlled substances to be sold, and safeguards against diversion must accompany the application. The application shall list the regulatory requirements for which a waiver is requested and a brief explanation as to why each requirement should not apply to that practice;
2. The issuance and continuation of such license shall be subject to continuing compliance with the conditions set forth by the board; and
3. Application for a limited-use license is contingent on the practitioner selling only controlled substances which have been received prepackaged in ready-to-dispense quantities and containers needing only the addition of required labeling.

18 VAC 110-30-30. Renewal of license.

A. A license so issued shall be valid until December 31 of the year of issue. A Renewal of the license shall be made on or before December 31 of each year. ~~The annual renewal fee shall be \$50.~~

~~Between January 1, 1994, and January 1, 1995, the annual renewal fee shall be \$25.~~

B. If a practitioner fails to renew his license to sell within the Commonwealth by the renewal date, he must pay the back renewal fee and a \$25 plus the late fee within 60 days of expiration. He may renew his license by payment of these fees for 60 days from the date of expiration.

C. Failure to renew the license to sell within 60 days following expiration shall cause the license to lapse. The selling of controlled substances with a lapsed license shall be illegal and may subject the practitioner to disciplinary action by the board. Reinstatement is at the discretion of the board and may be granted by the executive director *on the board's behalf* upon submission of a reinstatement application, payment of all unpaid renewal fees, and a *the* delinquent fee of \$50.

~~D. The annual fee for renewal of an inactive license to sell shall be \$35.~~

18 VAC 110-30-35. Inactive status.

A. A licensee who intends to cease selling controlled substances may take inactive status. An inactive license may be reactivated by applying to the board for reactivation and paying any unpaid portion of the current renewal fee for an active license.

B. A licensee with inactive status shall not engage in the sale of controlled substances. Engaging in the sale of controlled substances with an inactive license shall constitute grounds for disciplinary action by the board.

18 VAC 110-30-50. Licensees ceasing to sell controlled substances; inventory required prior to disposal.

A. Any licensee who ~~desires~~ intends to cease selling controlled substances shall notify the board 10 days prior to cessation and his license will be placed on an inactive status or may be surrendered.

B. Any Schedule II through V controlled substances shall be inventoried and may be disposed of by transferring the controlled substance stock to another licensee or other ~~practitioner~~ person authorized by law to possess such drugs or by destruction as set forth in this chapter.

C. The licensee or other responsible person shall inform the board of the name and address of the licensee to whom the controlled substances are transferred.

18 VAC 110-30-60. Inactive status. (Repealed.)

~~Any licensee who elects to take an inactive status shall not engage in the sale of controlled substances. To reactivate his license, he shall apply to the board and shall pay the fee charged for license renewal. Engaging in the sale of controlled substances with an inactive license may subject the licensee to disciplinary action by the board.~~

18 VAC 110-30-80. Inspection and notice required.

A. The area designated for the storage and selling of controlled substances shall be inspected by an agent of the board prior to the issuance of a *the first* license to sell controlled substances from that site. Inspection prior to issuance of subsequent licenses at the same location shall be conducted at the discretion of the board.

B. Applications for licenses which indicate a requested inspection date, or requests which are received after the application is filed, shall be honored provided a 14-day notice to the board is allowed prior to the requested inspection date.

C. Requested inspection dates which do not allow a 14-day notice to the board may be adjusted by the board to provide 14 days for the scheduling of the inspection.

D. At the time of the inspection, the controlled substance selling and storage area shall comply with 18 VAC 110-30-90, 18 VAC 110-30-100, 18 VAC 110-30-110, 18 VAC 110-30-120 and 18 VAC 110-30-130 of this chapter.

E. No license shall be issued to sell controlled substances until adequate safeguards against diversion have been provided for the controlled substance storage and selling area and approved by the board or its authorized agent.

18 VAC 110-30-90. Physical standards.

Physical standards for the controlled substance selling and storage area:

1. The building in which the controlled substances selling and storage area is located shall be constructed of permanent and secure materials. Trailers and other movable facilities shall not be permitted;

2. There shall be an enclosed area of not less than 60 square feet that is designated as the controlled substances selling and storage area, which shall be used

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exclusively for the storage, preparation, dispensing, and record-keeping related to the sale of controlled substances. The work space used in preparation of the drugs shall be contained within the enclosed area. A controlled substance selling and storage area inspected and approved prior to ~~the effective date of this chapter~~ *November 3, 1993*, shall not be required to meet the size requirement of this chapter;

3. Controlled substances maintained for ultimate sale shall be maintained separately from any other controlled substances maintained for other purposes. *Controlled substances maintained for other purposes such as administration or samples may be stored within the selling and storage area provided they are clearly separated from the stock maintained for sale;*

4. The selling and storage area, work counter space and equipment in the area shall be maintained in a clean and orderly manner;

5. A sink with hot and cold running water shall be available within the immediate vicinity of the selling and storage area; and

6. The entire area described in this chapter shall be well lighted and ventilated; the proper storage temperature shall be maintained to meet official specifications for controlled substance storage.

18 VAC 110-30-100. Access to selling area.

Access to stock rooms, rest rooms, and other areas other than an office that is exclusively used by the licensee shall not be through the selling and storage area. *The selling and storage area may be in an office that is exclusively used by the licensee and to which only the licensee has access provided the portion of the office used exclusively for controlled substances storage and preparation is at least 60 square feet, provided the drugs are stored in a cabinet, closet or other lockable area which can be locked when the practitioner is using the office for purposes other than dispensing, and provided the office meets all other requirements of 18 VAC 110-30-90, 18 VAC 110-30-120, and 18 VAC 110-30-130.*

18 VAC 110-30-110. Minimum equipment.

The licensee shall be responsible for maintaining the following equipment in the designated area:

1. A current ~~copy of the United States Pharmacopeia Dispensing Information Reference Book~~ *dispensing information reference source, either hard copy or electronic;*

2. A refrigerator with a monitoring ~~thermometer~~ *thermometer*, located in the selling area, if any controlled substances requiring refrigeration are maintained;

3. A current copy of the Virginia Drug Control Act and board regulations;

4. A current copy of the Virginia Voluntary Formulary;

5. A laminar flow hood if sterile products are to be prepared; and

6. Prescription balances, *sensitive to 15 milligrams*, and weights *or an electronic scale*, if the licensee is engaged in extemporaneous compounding.

18 VAC 110-30-160. Disposal of Schedule II through ~~V~~ VI controlled substances.

A. If a licensee wishes to dispose of unwanted Schedule II through ~~V~~ VI controlled substances, he shall use one of the following procedures:

~~1. Return the drugs to the Drug Enforcement Administration (DEA) by delivery to the nearest DEA office;~~

~~2. 1. Transfer the drugs to another person or entity authorized to possess Schedule II through ~~V~~ VI drugs; or~~

~~3. 2. Destroy the drugs according to the following procedures by burning in an incinerator in compliance with all applicable local, state, and federal laws and regulations.~~

B. If Schedule II through V drugs are to be destroyed, the following additional procedures shall apply:

a. 1. At least 14 days prior to the destruction date, the licensee shall provide a written notice to the board office; the notice shall state the following:

(1) a. Date, time, manner, and place of destruction;

(2) b. The names of the licensees who will witness the destruction process.

b. 2. If the destruction date is to be changed or the destruction does not occur, a new notice *stating the information required in subdivision 1 of this subsection* shall be provided to the board office ~~as set forth above in this subsection;~~

~~c. The DEA Drug Destruction Form No. 41 shall be used to make a record of all controlled substances to be destroyed;~~

~~d. The controlled substances shall be destroyed in accordance with all applicable local, state, and federal laws and regulations by burning in an incinerator or by other methods approved in advance by the board;~~

e. 3. The actual destruction shall be witnessed by the licensee *conducting the destruction* and another licensee of the board *who is not employed by the practitioner licensee conducting the destruction;*

f. Each form shall show the following information:

(1) ~~Legible signatures of the licensee and the witnessing person.~~

(2) ~~The license number of the licensee and other licensed person destroying the controlled substances.~~

(3) ~~The date of destruction;~~

g. 4. At the conclusion of the destruction of the controlled substance stock, *the DEA drug destruction form shall be fully completed and used as the record of all drugs to be destroyed. A copy of the destruction form shall be*

retained at the practitioner's office with other inventory records.

~~(1) Three copies of the completed destruction form shall be sent to: Drug Enforcement Administration, Washington Field Division, Room 2558, 400 6th Street, SW, Washington, DC 20024, Attn: Diversion Control Group.~~

~~(2) A copy of the completed destruction form shall be sent to the office of the board.~~

~~(3) A copy of the completed destruction form shall be retained with the inventory records.~~

18 VAC 110-30-170. Sign and written prescription requirements.

A. The licensee shall provide the patient with a written prescription whether or not he intends to sell the controlled substance to the patient.

~~B. The licensee shall provide conspicuously display a sign in the public area of the office. The sign must be legible to the public with normal vision and must advise the public that the controlled substances may be obtained from him or from a pharmacy advising patients of their right to choose where they have their prescriptions filled.~~

C. The licensee after delivery of the written prescription to the patient shall, in each case, advise the patient of their right to obtain the controlled substance from him or from a pharmacy.

D. If the patient chooses to purchase the controlled substance from the licensee, the written prescription shall be returned to the licensee and signed by the patient. If the licensee chooses to use the hard copy prescription as his record of sale, he shall record all information and file as required by 18 VAC 110-30-190. If the licensee chooses to record the sale in book form or maintain it in an automated data system, he shall mark the prescription void, file chronologically, and maintain for a period of two years.

18 VAC 110-30-190. Manner of maintaining records for Schedule II through VI controlled substances sold.

A. The hard copy prescription or records of sale for Schedule II controlled substances shall be maintained as follows:

1. They shall be maintained separately from other records; and

2. They shall be maintained in chronological order and shall show the selling date, a number which identifies the sale, the name and address of the patient, the name and strength of the controlled substance, the initials of the licensee, and the quantity sold.

B. The hard copy prescription or records of sale for Schedule III through V controlled substances shall be maintained as follows:

1. They shall be maintained in the manner set forth in subsection A of this section; and

2. The hard copy prescription or records of sale for Schedule III through V controlled substances may be maintained separately from other selling records or may be maintained with selling records for Schedule VI controlled substances provided the Schedule III through V controlled substance records are readily retrievable from the selling records for Schedule VI controlled substances. The records shall be deemed readily retrievable if a red "C" is placed uniformly on the record entry line for each Schedule III through V controlled substance sold. *However, if the licensee employs an automated data processing system or other electronic recordkeeping system for prescriptions that permits identification by prescription number and retrieval of original documents by prescriber's name, patient's name, drug dispensed, and date filled, then the requirement to mark the hard copy record with a red "C" is waived.*

18 VAC 110-30-200. Automated data processing records of sale.

A. An automated data processing system may be used for the storage and retrieval of the sale of controlled substances instead of manual recordkeeping requirements, subject to the following conditions:

1. Any computerized system shall also provide retrieval via computer monitor display or printout of the sale of all controlled substances during the past two years, the listing to be in chronological order and shall include all information required by the manual method;

2. If the system provides a printout of each day's selling activity, the printout shall be verified, dated and signed by the licensee. The licensee shall verify that the data indicated is correct and then sign the document in the same manner as he would sign a check or legal document (e.g., J.H. Smith or John H. Smith). In place of such printout, the licensee shall maintain a bound log book, or separate file, in which the licensee shall sign a statement each day, in the manner previously described, attesting to the fact that the selling information entered into the computer that day *under his initials* has been reviewed by him and is correct as shown; and

3. A hard copy prescription shall be placed on file chronologically and maintained for a period of two years.

B. Any computerized system shall have the capability of producing a printout of any selling data which the practitioner is responsible for maintaining under the Drug Control Act.

18 VAC 110-30-210. Repackaging Repackaging of controlled substances; records required; labeling requirements.

A. A licensee repackaging controlled substances shall maintain adequate control records for a period of one year or until the expiration, whichever is greater. The records shall show the name of the controlled substances repackaged, strength, if any, quantity prepared, initials of the licensee supervising the process, the assigned control number, or the manufacturer's or distributor's name and control number, and an expiration date.

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B. The controlled substance name, strength, if any, the assigned control number, or the manufacturer's or distributor's name and control number, and an appropriate expiration date shall appear on any subsequently repackaged units as follows:

1. If U.S.P.-N.F. Class B or better packaging material is used for oral unit dose packages, an expiration date not to exceed six months or the expiration date shown on the original manufacturing bulk containers, whichever is less, shall appear on the repackaged units;
2. If it can be documented that the repackaged unit has a stability greater than six months, an appropriate expiration date may be assigned; and
3. If U.S.P.-N.F. Class C or less packaging material is used for oral, solid medication, an expiration date not to exceed 30 days shall appear on the repackaged units.

18 VAC 110-30-220. Labeling of prescription as to content and quantity.

A. Any controlled substances sold by a licensee shall bear on the label of the container, in addition to other requirements, the following information:

1. The name and address of the practitioner and the name of the patient;
2. The date of the dispensing; and
3. ~~The controlled substance name and strength, when applicable.~~

~~a. If a trade name controlled substance is sold, the trade name of the controlled substance or the generic name of the controlled substance.~~

~~b. If a generic controlled substance is sold in place of a trade name controlled substance, in addition to the requirements of § 32.1-87 A of the Code of Virginia, one of the following methods shall be used:~~

~~(1) The generic name; or~~

~~(2) A name for the product sold which appears on the generic manufacturer's label; or~~

~~(3) The generic name followed by the word "generic for" followed by the trade name of the controlled substance for which the generic controlled substance is substituted.~~

3. *The drug name and strength, when strength is applicable:*

a. For any drug product possessing a single active ingredient, the generic name of the drug shall be included on the label.

b. If a generic drug is dispensed when a prescription is written for a brand name drug the label shall contain the generic name followed by the words "generic for" followed by the brand name of the drug prescribed, and in accordance with § 32.1-87 A of the Code of Virginia, the label shall also contain the generic's brand

name or the manufacturer or distributor of the drug dispensed; and

4. The number of dosage units, or if liquid, the number of millimeters dispensed.

18 VAC 110-30-240. Special packaging.

A. Each controlled substance sold to a person in a household shall be sold in special packaging, except when otherwise requested by the purchaser, or when such controlled substance is exempted from such requirements promulgated pursuant to the Poison Prevention Packaging Act of 1970, 15 USC §§ 1471-1476.

B. Each licensee may have a sign posted near the compounding and selling area advising the patients that nonspecial packaging may be requested.

C. If nonspecial packaging is requested, ~~documentation a signed release~~ of such request shall be *obtained pursuant to § 54.1-3427 of the Code of Virginia and maintained for two years from the date of dispensing.*

18 VAC 110-30-255. Purchase of drugs.

Except for an emergency purchase from another licensee or pharmacy, a licensee may only purchase Schedule II through VI drugs from a wholesale distributor licensed or registered by the board.

18 VAC 110-30-260. Returning of controlled substances.

Controlled substances shall not be accepted for return or exchange by any licensee for resale after such controlled substances have been taken from the premises where sold, unless such controlled substances are in the manufacturer's original sealed container or in a unit-dose container which meets the U.S.P.-N.F. Class A or Class B container requirement and, have not been stored under conditions whereby ~~it~~ *they* may have become contaminated, and *provided such return or exchange is consistent with federal law and regulation.*

18 VAC 110-30-270. Grounds for ~~revocation or suspension~~ disciplinary action.

In addition to those grounds listed in § 54.1-3316 of the Code of Virginia, the board of Pharmacy may revoke, suspend, refuse to issue or renew a license to sell controlled substances or may deny any application if it finds that the licensee or applicant: ~~has had his license to practice medicine, osteopathy or podiatry suspended or revoked in Virginia or in any other state or no longer holds a current active license to practice medicine in the Commonwealth of Virginia.~~

~~1. Has been negligent in the sale of controlled substances;~~

~~2. Has become incompetent to sell controlled substances because of his mental or physical condition;~~

~~3. Uses drugs or alcohol to the extent that he is rendered unsafe to sell controlled substances;~~

~~4. Has engaged in or attempted any fraud or deceit upon the patient or the board in connection with the sale of controlled substances;~~

~~5. Has assisted or allowed unlicensed persons to engage in the sale of controlled substances;~~

~~6. Has violated or cooperated with others in violating any state or federal law or any regulation of the board relating to the sale, distribution, dispensing or administration of controlled substances;~~

~~7. Has had his federal registration to dispense controlled substances revoked or suspended; or~~

~~8. Has been convicted of violating any federal drug law or any drug law of Virginia or of another state or has had his license to practice medicine, osteopathy or podiatry suspended or revoked in Virginia or in any other state.~~

~~Application for Practitioner's License to Sell Controlled Substances (eff. 5/93).~~

~~Application for Reinstatement of a Practitioner's License to Sell Controlled Substances.~~

~~DEA Drug Destruction Form #41.~~

~~Application for Reinstatement of License.~~

NOTICE: The forms used in administering 18 VAC 110-30-10 et seq., Regulations for Practitioners of the Healing Arts To Sell Controlled Substances, are listed below. Any amended or added forms are reflected in the listing and are published following the listing.

FORMS

~~Application for Registration as an Externe/Interne (eff. 5/93).~~

~~Application for Licensure as a Pharmacist by Examination (eff. 5/93).~~

~~Application for Re-examination (eff. 5/93).~~

~~Application for Pharmacist License to be Reactivated.~~

~~Application for Approval of a Continuing Education Program.~~

~~Verification of Licensure/Registration (eff. 8/94).~~

~~Application for License to Dispense Drugs (Permitted Physician) (eff. 5/93).~~

~~Application for a Pharmacy Permit.~~

~~Application for a Non-Resident Pharmacy Registration.~~

~~Application for a Permit as a Medical Equipment Supplier.~~

~~Application for a Restricted Manufacturer's Permit.~~

~~Application for a Non-Restricted Manufacturer's Permit.~~

~~Application for a Permit as a Warehouser (eff. 5/93).~~

~~Application for a License as a Wholesale Distributor.~~

~~Application for a Non-Resident Wholesale Distributor Registration.~~

~~Application for a Controlled Substances Registration.~~

~~Application for Reinstatement of Controlled Substance Registration.~~

~~Application for a License to Sell Controlled Substances by a Practitioner of the Healing Arts (rev. 3/99).~~

~~Renewal Notice and Application (rev. 1999).~~

Practitioner Selling Drugs Application, Page 2
 Please respond to the following questions:

1. Has your federal registration with the Drug Enforcement Administration been revoked or suspended?
 Yes No If yes, attach a detailed explanation and have a certified copy of the order sent to the Board office.

2. Has your medical license ever been voluntarily surrendered to a licensing authority in any jurisdiction, placed on probation, suspended, revoked, or have your prescribing privileges been restricted?
 Yes No If yes, attach a detailed explanation and provide a copy of the order or other document of the licensing authority.

3. Is your medical license in all jurisdictions where licensed current and unrestricted?
 Yes No If no, attach explanation.

4. Have you ever been convicted, pled guilty to or pled *nolo contendere* to a violation of any federal, state, or other drug related law?
 Yes No If yes, attach a detailed explanation and have a certified copy of the court order sent to the Board office.

3 REINSTATEMENT ONLY:

1. Have you engaged in the selling of prescription drugs in Virginia during the time that your license was lapsed?
 Yes No If yes, attach explanation.

*A 14-day notice is required for scheduling a new or change of location inspection. Drugs may not be stocked prior to inspection and approval of the drug selling and storage area.

*18 VAC 100-30-70 requires that when two or more licensees maintain a common stock of controlled substances for dispensing, one licensee shall be designated as the primary responsible party for assuring security against diversion and compliance with all record-keeping requirements.

*In accordance with § 54.1-116 of the Code of Virginia, you are required to submit your Social Security Number or your control number issued by the Virginia Department of Motor Vehicles. If you fail to do so, the processing of your application will be suspended and fees will not be refunded. This number will be used by the Department of Health Professions for identification and will not be disclosed for other purposes except as provided for by law. Federal and state law requires that this number be shared with other agencies for child support enforcement activities. **NO LICENSE WILL BE ISSUED TO ANY INDIVIDUAL WHO HAS FAILED TO DISCLOSE ONE OF THESE NUMBERS.** In order to obtain a Virginia driver's license control number, it is necessary to appear in person at an office of the Department of Motor Vehicles in Virginia. A fee and disclosure to DMV of your Social Security Number will be required to obtain this number.



COMMONWEALTH OF VIRGINIA
Board of Pharmacy

6606 W. Broad Street, 4th Floor
 Richmond, Virginia 23230

(804) 662-9911 (Tel)
 (804) 662-9313 (Fax)

**APPLICATION FOR A LICENSE TO SELL CONTROLLED SUBSTANCES
 BY A PRACTITIONER OF THE HEALING ARTS**

Check Appropriate Box(es):
 New
 Reinstatement², ³ ⁴

Change of location of selling area?
 Change in designated practitioners?
 No fee No fee

*If reinstatement, due to: Lapse of License or Suspension or Revocation of a License

The required fees must accompany the application. Make check payable to "Treasurer of Virginia".

Applicant—Please provide the information requested below. (Print or Type) Use full name not initials

Name of Medical Practitioner Applicant		Medical License Number
Street Address Where Applicant Wishes to Sell Controlled Substances		
City	State	Area Code and Telephone Number
Name of Facility (if applicable)	Zip Code	Social Security Number (or Virginia DMV number) ⁵
(Print) Name of the Responsible Designated Practitioner if Common Stock of Drugs Used ⁶	Has this drug selling and storage area already passed inspection? <input type="checkbox"/> YES <input type="checkbox"/> NO	License Number of the Designated Practitioner
Signature of the Practitioner Applicant	Date	
Expected Hours of Operation	Effective Date of Change	
Expected Opening, Moving, or Completion Date	Requested Inspection Date	

Please read and complete page 2 of this application.

FOR BOARD USE ONLY: Acknowledgement of Inspection Request

An inspector will call prior to the requested date to confirm readiness for inspection. If the inspector does not call to confirm the date, the responsible party should call the Enforcement Division at (804) 662-9394 to verify the inspection date with the inspector.

Date Processed: _____ Assigned Inspection Date: _____

Application Number Assigned	Date Inspected	Approved	License Number	Date Issued
0213-			0213-	

Revised March 1999

Revised March 1999

Presorted
First-Class Mail
US Postage Paid
Richmond, VA
Permit No. 1962

«License_No»

«License_Name»
«L_Address_Line_1»
«L_Address_Line_2»
«L_Address_Line_3»



Place Postage
Stamp Here

Department of Health Professions
P.O. Box 26566
Richmond, VA 23261-6566



Current Expiration Date:
«L_Expiration_Date»

INSTRUCTIONS:

1. Detach "renewal form" portion, and return with your check in attached response envelope.
2. Make checks payable to "Treasurer of Virginia." Do not staple check to application for renewal.
3. Do not make any changes to printed information on this form. Contact Board for an application for any name, address or other changes.

Renewal Form for:	«License_Type»	Amount Due:
«License_No»	Renewal Period: «begin_period» to «end_period»	«renewal_fee»
«First_Name» «Middle_Name» «Last_Name»		
«L_Address_Line_1», «L_Address_Line_2», «L_Address_Line_3»		
If Received After «L_Expiration_Date», Amount Due «combined_late_fee»		
<input type="checkbox"/> I wish to renew and have enclosed the appropriate fee. <input type="checkbox"/> I wish to take inactive status and enclose the fee of «inactive_fee». <input type="checkbox"/> I do not wish to renew.		
Signature: _____		

«Scan_Line»

***** Please fold and seal on perforated line. *****
Receipt: Keep this portion for your records—Do not return

When making the return envelope, please cross out your name and address, leaving only the Department's name and address on one side of the envelope

«First_Name» «Last_Name»	Renewal Fee—Amount Paid:	«renewal_fee»
«License_Type»	«License_No»	Renewal Period: «begin_period» to «end_period»

VA.R. Doc. No. R00-4; Filed November 28, 2000, 11:39 a.m.

Final Regulations

BOARDS OF PHARMACY AND MEDICINE

Title of Regulation: 18 VAC 110-40-10 et seq. Regulations Governing Collaborative Practice Agreements.

Statutory Authority: §§ 54.1-2400, 54.1-3300, and 54.1-3300.1 of the Code of Virginia.

Effective Date: January 17, 2001.

Summary:

The regulations are promulgated pursuant to Chapter 1101 of the 1999 Acts of the Assembly and are intended to set forth provisions for signatories of an agreement, informed consent to the agreement, content of an agreement and treatment protocol, record retention, and an approval process for a protocol outside the accepted standard of care. The regulations will replace emergency regulations and are identical to those regulations which became effective on January 20, 2000.

Summary of Public Comment and Agency Response: No public comment was received by the agency.

Agency Contact: Copies of the regulation may be obtained from Elizabeth Scott Russell, Board of Pharmacy, 6606 West Broad Street, 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9911.

CHAPTER 40. REGULATIONS GOVERNING COLLABORATIVE PRACTICE AGREEMENTS.

18 VAC 110-40-10. Definitions.

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

“Agreement” means a collaborative practice agreement by which practitioners of medicine, osteopathy or podiatry and pharmacists enter into voluntary, written agreements to improve outcomes for their mutual patients using drug therapies, laboratory tests, and medical devices, pursuant to the provisions of § 54.1-3300.1 of the Code of Virginia.

“Committee” means an Informal Conference Committee, comprised of two members of the Board of Pharmacy and two members of the Board of Medicine.

“Pharmacist” means a pharmacist who holds an active license to practice pharmacy from the Virginia Board of Pharmacy and who is a signatory to a collaborative practice agreement.

“Practitioner” means, notwithstanding the definition in § 54.1-3401 of the Code of Virginia, a doctor of medicine, osteopathy, or podiatry who writes the order and is directly and ultimately responsible for the care of a patient being treated under an agreement and who holds an active license to practice from the Virginia Board of Medicine.

18 VAC 110-40-20. Signed authorization for an agreement.

A. The signatories to an agreement shall be a practitioner of medicine, osteopathy, or podiatry involved directly in

patient care and a pharmacist involved directly in patient care. The practitioner may designate alternate practitioners, and the pharmacist may designate alternate pharmacists, provided the alternates are also signatories to the agreement and are involved directly in patient care at a location where patients regularly receive services.

B. An agreement shall only be implemented for an individual patient pursuant to an order from the practitioner for that patient and only after written informed consent from the patient has been obtained by the practitioner who authorizes the patient to participate in the agreement. A copy of the informed written consent from the patient shall be provided to the pharmacist.

1. The patient may decline to participate or withdraw from participation at any time.
2. Prior to giving consent to participate, the patient shall be informed by the practitioner of the cooperative procedures that will be used pursuant to an agreement. The procedures to be followed pursuant to an agreement shall be clearly stated on the informed consent form.
3. As part of the informed consent, the practitioner and the pharmacist shall provide written disclosure to the patient of any contractual arrangement with any other party or any financial incentive that may impact one of the party's decisions to participate in the agreement.

18 VAC 110-40-30. Approval of protocols.

A. If a practitioner and a pharmacist intend to manage or treat a condition or disease state for which there is not a protocol that is clinically accepted as the standard of care, the practitioner and pharmacist shall submit a proposed protocol for approval. The committee shall, in accordance with § 9-6.14:11 of the Code of Virginia, receive and review the proposed treatment protocol and recommend approval or disapproval to the boards.

B. For a proposed treatment protocol in which practitioner oversight increases from that which is the accepted standard of care, approval by the committee is not required.

C. In order to request a protocol review by the committee, the practitioner and the pharmacist shall submit:

1. An application and required fee of \$750; and
2. Supporting documentation that the protocol follows an acceptable standard of care for the particular condition or disease state for which the practitioner and the pharmacist intend to manage or treat through an agreement.

18 VAC 110-40-40. Content of an agreement and treatment protocol.

A. An agreement shall contain treatment protocols that are clinically accepted as the standard of care within the medical and pharmaceutical professions.

B. The treatment protocol shall describe the disease state or condition, drugs or drug categories, drug therapies, laboratory tests, medical devices, and substitutions authorized by the practitioner.

C. The treatment protocol shall contain a statement by the practitioner that describes the activities the pharmacist is authorized to engage in, including:

1. The procedures, decision criteria, or plan the pharmacist shall follow when providing drug therapy management;
2. The procedures the pharmacist shall follow for documentation; and
3. The procedures the pharmacist shall follow for reporting activities and results to the practitioner.

D. An agreement shall be valid for a period not to exceed two years. The signatories shall implement a procedure for reviewing and, if necessary, revising the procedures and protocols of a collaborative agreement at least every two years.

18 VAC 110-40-50. Record retention.

A. Signatories to an agreement shall keep a copy of the agreement on file at their primary places of practice.

B. An order for a specific patient from the prescribing practitioner authorizing the implementation of drug therapy management pursuant to the agreement shall be noted in the patient's medical record and kept on file by the pharmacist.

C. A copy of the informed written consent from the patient shall be maintained in the patient's medical record and kept on file along with the practitioner's order by the pharmacist in a readily retrievable manner.

18 VAC 110-40-60. Rescindment or alteration of the agreement.

A. A signatory may rescind or a patient may withdraw from an agreement at any time.

B. A practitioner may override the collaborative agreement whenever he deems such action necessary or appropriate for a specific patient.

18 VAC 110-40-70. Compliance with statutes and regulations.

Any collaborative agreement or referral under an agreement governed by this chapter shall be in compliance with the requirements of the Practitioner Self-Referral Act (§ 54.1-2410 et seq. of the Code of Virginia) and with Chapters 29 (§ 54.1-2900 et seq.), 33 (§ 54.1-3300 et seq.) and 34 (§ 54.1-3400 et seq.) of Title 54.1 of the Code of Virginia and regulations promulgated pursuant thereto.

VA.R. Doc. No. R00-97; Filed November 28, 2000, 11:39 a.m.



TITLE 22. SOCIAL SERVICES

DEPARTMENT OF REHABILITATIVE SERVICES

REGISTRAR'S NOTICE: The following regulatory action is exempt from the Administrative Process Act in accordance § 9-6.14:4.1 C 4 (c) of the Code of Virginia, which excludes regulations that are necessary to meet the requirements of federal law or regulations, provided such regulations do not differ materially from those required by federal law or regulation. The Department of Rehabilitative Services will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: 22 VAC 30-20-10 et seq. Provisions of Vocational Rehabilitation Services (amending 22 VAC 30-20-10 through 22 VAC 30-20-60, 22 VAC 30-20-80 through 22 VAC 30-20-130, 22 VAC 30-20-150, 22 VAC 30-20-160, 22 VAC 30-20-170, 22 VAC 30-20-181, and 22 VAC 30-20-200.

Statutory Authority: § 51.5-14 of the Code of Virginia.

Effective Date: January 17, 2001.

Summary:

The amendments conform these regulations to the federal vocational rehabilitation regulations contained in 34 CFR Part 361. The department's vocational rehabilitation program provides services to individuals with disabilities to enable them to maintain, retain, or advance in employment. The provision of services for the program is controlled by the Rehabilitation Act of 1973, as amended. In February 1997 the federal government amended the federal regulations to implement changes made in 1992 and 1993 to the Rehabilitation Act of 1973. The amendments ensure that the state regulation is in conformity with the 1997 amendments to the federal regulation.

The amendments to the regulation include changing definitions; adding time provisions for providing eligibility decisions; providing the presumption of eligibility for benefiting from services, and the presumption for social security beneficiaries; adding informed choice provisions; adding requirements for individualized written rehabilitation program (IWRP) development and amendment; providing a more indepth description of individual services; and adding an annual review of individuals placed in extended employment.

Agency Contact: Copies of the regulation may be obtained from Vanessa Rakestraw, Department of Rehabilitative Services, 8004 Franklin Farms Drive, Richmond, VA 23288, telephone (804) 662-7612. There is a copy charge of 15¢ per page.

22 VAC 30-20-10. Definitions.

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

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"Act" means the Rehabilitation Act of 1973 (29 USC § 701 et seq.), as amended.

"Applicant" means an individual who submits an application for vocational rehabilitation services.

"Appropriate modes of communication" means specialized aids and supports that enable an individual with a disability to comprehend and respond to information that is being communicated. Appropriate modes of communication include, but are not limited to, the use of interpreters, open and closed captioned videos, specialized telecommunications services and audio recordings, Brailled and large-print materials, materials in electronic formats, augmentative communication devices, graphic presentations, and simple language materials.

"Assistive technology" means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve the functional capabilities of an individual with a disability.

"Assistive technology service" means any service that directly assists an individual with a disability in the selection, acquisition, or use of an assistive technology device, including:

1. The evaluation of the needs of an individual with a disability, including a functional evaluation of the individual in his customary environment;
2. Purchasing, leasing, or otherwise providing for the acquisition by an individual with a disability of an assistive technology device;
3. Selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing assistive technology devices;
4. Coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;
5. Training or technical assistance for an individual with a disability or, if appropriate, the family members, guardians, advocates, or authorized representatives of the individual; and
6. Training or technical assistance for professionals (including individuals providing education and rehabilitation services), employers, or others who provide services to employ, or are otherwise substantially involved in the major life functions of individuals with disabilities, to the extent that training or technical assistance is necessary to the achievement of an employment outcome by an individual with a disability.

"Audiological examination" means the testing of the sense of hearing.

"Board" means the Board of Rehabilitative Services.

"Client" means any person receiving a service provided by the Department of Rehabilitative Services, whether referred to as a client, participant, patient, resident, or other term.

"Commissioner" means the Commissioner of the Department of Rehabilitative Services.

"Community rehabilitation program" means a program that directly provides or facilitates the provision of one or more of the following vocational rehabilitation services to individuals with disabilities to enable those individuals to maximize their opportunities for employment, including career advancement:

1. Medical, psychiatric, psychological, social, and vocational services that are provided under one management;
2. Testing, fitting, or training in the use of prosthetic and orthotic devices;
3. Recreational therapy;
4. Physical and occupational therapy;
5. Speech, language, and hearing therapy;
6. Psychiatric, psychological, and social services, including positive behavior management;
7. Assessment for determining eligibility and vocational rehabilitation needs;
8. Rehabilitation technology;
9. Job development, placement, and retention services;
10. Evaluation or control of specific disabilities;
11. Orientation and mobility services for individuals who are blind;
12. Extended employment;
13. Psychosocial rehabilitation services;
14. Supported employment services and extended services;
15. Services to family members, if necessary, to enable the applicant or eligible individual to achieve an employment outcome;
16. Personal assistance services; or
17. Services similar to the services described in subdivisions 1 through 16 of this definition.

For the purposes of this definition, the word "program" means an agency, organization, or institution, or unit of an agency, organization, or institution, that directly provides or facilitates the provision of vocational rehabilitation services as one of its major functions.

"Comparable services and benefits" means services and benefits that are provided or paid for, in whole or in part, by other federal, state, or local public agencies, by health insurance or by employee benefits; available to the individual at the time needed to achieve the intermediate rehabilitation objectives in the individual's Individualized Written Rehabilitation Program (IWRP); and commensurate to the services that the individual would otherwise receive from the vocational rehabilitation agency.

"Competitive employment" means work in the competitive labor market that is performed on a full-time or part-time basis

in an integrated setting, and for which an individual is compensated at or above the minimum wage, but not less than the customary wage and level of benefits paid by the employer for the same or similar work performed by individuals who are not disabled.

"Department" means the Department of Rehabilitative Services.

"Designated state agency" or "state agency" means the sole state agency designated in accordance with 34 CFR 361.13(a) to administer or supervise local administration of the state plan for vocational rehabilitation services.

"Designated state unit" or "state unit" means either the state agency vocational rehabilitation bureau, division, or other organizational unit that is primarily concerned with vocational rehabilitation or vocational and other rehabilitation of individuals with disabilities and that is responsible for the administration of the vocational rehabilitation program of the state agency as required under 34 CFR 361.13(b), or the independent state commission, board, or other agency that has vocational rehabilitation, or vocational and other rehabilitation, as its primary function.

~~"Economic needs test" means a test used to consider the financial need of handicapped individuals for the purpose of determining the extent of their participation in the costs of vocational rehabilitation services.~~

~~"Eligible" or "eligibility" when used in relation to an individual's qualification for vocational rehabilitation services, refers to a certification that (i) an individual has a physical or mental disability which for that individual constitutes or results in a substantial handicap to employment, and (ii) vocational rehabilitation services may reasonably be expected to benefit the individual in terms of employability.~~

~~"Employability" refers to a determination that the provision of vocational rehabilitation services is likely to enable an individual to enter or retain employment consistent with his capacities and abilities in the competitive labor markets; the practice of a profession; self-employment; homemaking; farm or family work (including work for which payment is in kind rather than in cash); sheltered employment; homebound employment; or other gainful work.~~

~~"Establishment of a rehabilitation facility" means (i) the acquisition, expansion, remodeling, or alteration of existing buildings, necessary to adapt them or increase their effectiveness for rehabilitation facility purposes; (ii) the acquisition of initial or additional equipment for these buildings essential for providing vocational rehabilitation services; or (iii) the initial or additional staffing of a rehabilitation facility for a period, in the case of any individual staff person not longer than four years and three months.~~

~~"Eligible individual" means an applicant for vocational rehabilitation services who meets the eligibility requirements of 22 VAC 30-20-30 and 22 VAC 30-20-40.~~

~~"Employment outcome" means, with respect to an individual, entering or retaining full-time or, if appropriate, part-time competitive employment in the integrated labor market to the greatest extent practicable; supported employment; or any other type of employment that is~~

~~consistent with an individual's strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.~~

~~"Evaluation of vocational rehabilitation potential" means, as appropriate, in each case (i) a preliminary diagnostic study to determine that an individual is eligible for vocational rehabilitation services; (ii) a thorough diagnostic study consisting of a comprehensive evaluation of pertinent factors bearing on the individual's handicap impediment to employment and vocational rehabilitation potential, in order to determine which vocational rehabilitation services may be of benefit to the individual in terms of employability; (iii) any other goods or services necessary to determine the nature of the handicap disability and whether it may reasonably be expected that the individual can benefit from vocational rehabilitation services in terms of employability—an employment outcome; (iv) referral to other agencies or organizations, when appropriate; and (v) the provision of vocational rehabilitation services to an individual during an extended evaluation of rehabilitation potential for the purpose of determining whether the individual is a handicapped individual for whom a vocational goal is feasible with a disability is capable of achieving an employment outcome.~~

~~"Extended employment" means work in a nonintegrated or sheltered setting for a public or private nonprofit agency or organization that provides compensation in accordance with the Fair Labor Standards Act (29 USC § 201 et seq.) and any needed support services to an individual with a disability to enable the individual to continue to train or otherwise prepare for competitive employment, unless the individual through informed choice chooses to remain in extended employment.~~

~~"Extended evaluation" means the provision of vocational rehabilitation services necessary for determination of rehabilitation potential.~~

~~"Extended services" as used in the definition of "supported employment" means ongoing support services and other appropriate services that are needed to support and maintain an individual with a most severe disability in supported employment and that are provided by a state agency, a private nonprofit organization, employer, or any other appropriate resource, from funds other than funds received under this section, 34 CFR Part 363, 34 CFR Part 376, or 34 CFR Part 380 after an individual with a most severe disability has made the transition from support provided by the designated state unit.~~

~~"Extreme medical risk" means a probability of substantially increasing functional impairment or death if medical services, including mental health services, are not provided expeditiously.~~

~~"Family member" or "member of the family" means any relative by blood or marriage of a handicapped individual (and other individual) living in the same household with whom the handicapped individual has a close interpersonal relationship an individual who is either a relative or guardian of an applicant or eligible individual, or lives in the same household as an applicant or eligible individual who has a substantial interest in the well-being of that individual and whose receipt of vocational rehabilitation services is necessary to enable the~~

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applicant or eligible individual to achieve an employment outcome.

"Higher education/institutions of higher education" means training or training services provided by universities, colleges, community or junior colleges, vocational schools, technical institutes, or hospital schools of nursing.

"Impartial hearing officer" means an individual who is not an employee of a public agency (other than an administrative law judge, hearing examiner, or employee of an institution of higher education); is not a member of the State Rehabilitation Advisory Council for the designated state unit; has not been involved in previous decisions regarding the vocational rehabilitation of the applicant or eligible individual; has knowledge of the delivery of vocational rehabilitation services, the state plan, and the federal and state regulations governing the provision of services; has received training with respect to the performance of official duties; and has no personal, professional, or financial interest that would be in conflict with the objectivity of the individual. An individual may not be considered to be an employee of a public agency for the purposes of this definition solely because the individual is paid by the agency to serve as a hearing officer.

"Individual who is blind" means a person who is blind within the meaning of the applicable state law.

"Individual with a disability," except in 34 CFR 361.17(a), (b), (c), and (j), 34 CFR 361.19, 34 CFR 361.20, and 34 CFR 361.51(b)(2), means an individual (i) who has a physical or mental impairment; (ii) whose impairment constitutes or results in a substantial impediment to employment; and (iii) who can benefit in terms of an employment outcome from the provision of vocational rehabilitation services.

"Individual with a disability," for purposes of 34 CFR 361.17(a), (b), (c), and (j), 34 CFR 361.19, 34 CFR 361.20, and 34 CFR 361.51(b)(2), means an individual (i) who has a physical or mental impairment that substantially limits one or more major life activities; (ii) who has a record of such an impairment; or (iii) who is regarded as having such an impairment.

"Individual with a most severe disability" means an individual who meets the designated state unit's criteria for an individual with a most severe disability.

"Individual with a severe disability" means an individual with a disability (i) who has a severe physical or mental impairment that seriously limits one or more functional capacities (such as mobility, communication, self-care, self-direction, interpersonal skills, work tolerance, or work skills) in terms of an employment outcome; (ii) whose vocational rehabilitation can be expected to require multiple vocational rehabilitation services over an extended period of time; and (iii) who has one or more physical or mental disabilities resulting from amputation, arthritis, autism, blindness, burn injury, cancer, cerebral palsy, cystic fibrosis, deafness, head injury, heart disease, hemiplegia, hemophilia, respiratory or pulmonary dysfunction, mental retardation, mental illness, multiple sclerosis, muscular dystrophy, musculoskeletal disorders, neurological disorders (including stroke and epilepsy), spinal cord conditions (including paraplegia and quadriplegia), sickle cell anemia, specific

learning disability, end-stage renal disease, or another disability or combination of disabilities determined on the basis of an assessment for determining eligibility and vocational rehabilitation needs to cause comparable substantial functional limitation.

"Individual's representative" means any representative chosen by an applicant or eligible individual, including a parent, guardian, other family member, or advocate, unless a representative has been appointed by a court to represent the individual, in which case the court-appointed representative is the individual's representative.

"Integrated setting," with respect to the provision of services, means a setting typically found in the community in which applicants or eligible individuals interact with nondisabled individuals other than nondisabled individuals who are providing services to those applicants or eligible individuals. "Integrated setting," with respect to an employment outcome, means a setting typically found in the community in which applicants or eligible individuals interact with nondisabled individuals, other than nondisabled individuals who are providing services to those applicants or eligible individuals, to the same extent that nondisabled individuals in comparable positions interact with other persons.

"IWRP" means an individualized written rehabilitation program for each individual being provided services under an extended evaluation to determine rehabilitation potential or for a vocational rehabilitation program that describes all services to be provided and places primary emphasis on the determination and achievement of a vocational goal.

~~*"Local agency" means an agency of a unit of general local government or of an Indian tribal organization (or combination of such units or organizations) which has the sole responsibility under an agreement with the state agency to conduct a vocational rehabilitation program in the locality under the supervision of the state agency in accordance with the state plan.*~~

~~*"Long-range goals and intermediate objectives" means the establishment of a vocational goal attainable with the provision of vocational rehabilitation services such as physical restoration, personal adjustment and the achievement of vocational skills as possible objectives needed to attain the goal.*~~

"Maintenance" means monetary support provided to an eligible individual or an individual receiving extended evaluation services for those expenses, such as food, shelter, and clothing, that are in excess of the normal expenses of the individual and that are necessitated by the individual's participation in a program of vocational rehabilitation services.

"Mental disability" means (i) having a disability attributable to mental retardation, autism, or any other neurologically handicapping disabling condition closely related to mental retardation and requiring treatment similar to that required by mentally retarded individuals; or (ii) an organic or mental impairment that has substantial adverse effects on an individual's cognitive or volitional functions, including central nervous system disorders or significant discrepancies among mental functions of an individual.

"Nonprofit community rehabilitation program" means a community rehabilitation program carried out by a corporation or association, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual and the income of which is exempt from taxation under § 501(c)(3) of the Internal Revenue Code of 1954.

"Ongoing support services" as used in the definition of "supported employment" means services that are needed to support and maintain an individual with a most severe disability in supported employment; identified based on a determination by the designated state unit of the individual's needs as specified in an individualized written rehabilitation program; and furnished by the designated state unit from the time of job placement until transition to extended services, unless post-employment services are provided following transition, and thereafter by one or more extended services providers throughout the individual's term of employment in a particular job placement or multiple placements if those placements are being provided under a program of transitional employment. These services must include an assessment of employment stability and provision of specific services or the coordination of services at or away from the worksite that are needed to maintain stability based on, at a minimum, twice-monthly monitoring at the worksite of each individual in supported employment; or if under special circumstances, especially at the request of the individual, the individualized written rehabilitation program provides for off-site monitoring, twice-monthly meetings with the individual. These services must consist of any particularized assessment supplementary to the comprehensive assessment of rehabilitation needs described in this section; the provision of skilled job trainers who accompany the individual for intensive job skill training at the work site; job development and placement; social skills training; regular observation or supervision of the individual; follow-up services including regular contact with the employers, the individuals, the parents, family members, guardians, advocates or authorized representatives of the individuals, and other suitable professional and informed advisors in order to reinforce and stabilize the job placement; facilitation of natural supports at the worksite; any other service identified in the scope of vocational rehabilitation services for individuals described in 22 VAC 30-20-120; or any service similar to the foregoing services.

"Otological examination" means any examination conducted by a physician skilled in otology.

"Personal assistance services" means a range of services provided by one or more persons designed to assist an individual with a disability to perform daily living activities on or off the job that the individual would typically perform without assistance if the individual did not have a disability. The services must be designed to increase the individual's control in life and ability to perform everyday activities on or off the job. The services must be necessary to the achievement of an employment outcome and may be provided only while the individual is receiving other vocational rehabilitation services. The services may include training in managing, supervising, and directing personal assistance services.

"Physical and mental restoration services" means corrective surgery or therapeutic treatment that is likely, within a reasonable period of time, to correct or modify substantially a stable or slowly progressive physical or mental impairment that constitutes a substantial impediment to employment; diagnosis of and treatment for mental or emotional disorders by qualified personnel in accordance with state licensure laws; dentistry; nursing services; necessary hospitalization (either inpatient or outpatient care) in connection with surgery or treatment and clinic services; drugs and supplies; prosthetic, orthotic, or other assistive devices, including hearing aids; eyeglasses and visual services, including visual training, and the examination and services necessary for the prescription and provision of eyeglasses, contact lenses, microscopic lenses, telescopic lenses, and other special visual aids prescribed by personnel that are qualified in accordance with state licensure laws; podiatry; physical therapy; occupational therapy; speech or hearing therapy; mental health services; treatment of either acute or chronic medical complications and emergencies that are associated with or arise out of the provision of physical and mental restoration services or that are inherent in the condition under treatment; special services for the treatment of individuals with end-stage renal disease, including transplantation, dialysis, artificial kidneys, and supplies; and other medical or medically related rehabilitation services.

~~"Physical disability" means any physical condition, anatomic loss, or cosmetic disfigurement which is caused by bodily injury, birth defect, or illness.~~

"Physical or mental impairment" means an injury, disease, or other condition that materially limits, or if not treated is expected to materially limit, mental or physical functioning.

~~"Post-employment services" means one or more of the services which are required to maintain the individual in employment after closure identified in 22 VAC 30-20-120 that are provided subsequent to the achievement of an employment outcome and that are necessary for an individual to maintain, regain, or advance in employment consistent with the individual's strengths, resources, priorities, concerns, abilities, capabilities, and interests.~~

"Prevocational training" means individual and group instruction or counseling, the controlled use of varied activities, and the application of special behavior modification techniques; ~~clients~~ individuals or patients are helped to: (i) develop physical and emotional tolerance for work demands and pressures, (ii) acquire personal-social behaviors which would make them acceptable employees and coworkers on the job, and (iii) develop the basic manual, academic, and communication skills needed to acquire basic job skills.

"Prosthetic and orthotic appliances" means any mechanical equipment that improves or substitutes for one or more of man's senses or for impaired mobility or motor coordination.

"Public safety officer" means an individual who performs duties directly related to the enforcement, execution, and administration of law or fire prevention, firefighting, or related public safety activities, and whose ~~handicapping~~ substantially limiting condition arose from a disability sustained in the line of duty while performing as a public safety officer and the

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immediate cause of such disability was a criminal act, apparent criminal act, or a hazardous condition.

"Rehabilitation facility" means a facility which is operated for the primary purpose of providing vocational rehabilitation services to ~~handicapped individuals with disabilities~~, and which provides singly or in combination one or more of the following services for ~~handicapped individuals with disabilities~~: (i) vocational rehabilitation services, including under one management, medical, psychiatric, psychological, social, and vocational services; (ii) testing, fitting, or training in the use of prosthetic and orthotic devices; (iii) prevocational conditioning or recreational therapy; (iv) physical and occupational therapy; (v) speech and hearing therapy; (vi) psychological and social services; (vii) evaluation of rehabilitation potential; (viii) personal and work adjustment; (ix) vocational training with a view toward career advancement (in combination with other rehabilitation services); (x) evaluation or control of specific disabilities; (xi) orientation and mobility services and other adjustment services to *individuals who are blind*; and (xii) transitional or extended employment for those ~~handicapped~~ individuals with disabilities who cannot be readily absorbed in the competitive labor market.

"Rehabilitation technology" means the systematic application of technologies, engineering methodologies, or scientific principles to meet the needs of, and address the barriers confronted by, individuals with disabilities in areas that include education, rehabilitation, employment, transportation, independent living, and recreation. The term includes rehabilitation engineering, assistive technology devices, and assistive technology services.

"Reservation" means a federal or state Indian reservation, public domain Indian allotment, former Indian reservation in Oklahoma, and land held by incorporated native groups, regional corporations and village corporations under the provision of the Alaska Native Claims Settlement Act.

"Services to groups" means the provision of facilities and services which may be expected to contribute substantially to the vocational rehabilitation of a group of individuals, but which are not related directly to the individualized rehabilitation program of any one ~~handicapped~~ individual with a disability.

"Severely ~~handicapped~~ individual" means a ~~handicapped~~ individual (i) who has a severe physical or mental disability which seriously limits one or more functional capacities (mobility, communication, self care, self direction, work tolerance, or work skills) in terms of employability; and (ii) whose vocational rehabilitation can be expected to require multiple vocational rehabilitation services over an extended period of time; and (iii) who has one or more physical or mental disabilities resulting from amputation, arthritis, blindness, cancer, cerebral palsy, cystic fibrosis, deafness, heart disease, hemiplegia, hemophilia, respiratory or pulmonary dysfunction, mental retardation, mental illness, multiple sclerosis, muscular dystrophy, musculoskeletal disorders, neurological disorders (including stroke and epilepsy), paraplegia, quadriplegia, and other spinal cord conditions, sickle cell anemia, specific learning disability, end-stage renal disease, or another disability or combination of disabilities determined on the basis of an evaluation of

~~rehabilitation potential to cause comparable substantial functional limitations.~~

~~"Sheltered employment" means a service which provides supervised, guided remunerative employment for an individual whose current assessment indicates employment in a sheltered setting representing the individual's maximum level of vocational functioning. This service may involve the development of social, personal and work related skills based on an individualized client rehabilitation or habilitation plan.~~

~~"Similar benefits" means any appropriate service or financial assistance available from a program other than vocational rehabilitation to meet, in whole or in part, the cost of vocational rehabilitation services to be provided under an individualized written rehabilitation program for a handicapped individual.~~

"State" means the Commonwealth of Virginia.

"State plan" means the state plan for vocational rehabilitation services or the vocational rehabilitation services part of a consolidated rehabilitation plan under 34 CFR 361.10(c).

~~"Substantial handicap to employment" means that a physical or mental disability (in light of attendant medical, psychological, vocational, educational, and other related factors) impedes an individual's occupational performance, by preventing his obtaining, retaining, or preparing for employment consistent with his capacities and abilities.~~

~~"Substantial impediment to employment" means that a physical or mental impairment (in light of attendant medical, psychological, vocational, educational, and other related factors) hinders an individual from preparing for, entering into, engaging in, or retaining employment consistent with the individual's abilities and capabilities.~~

"Supported employment" means (i) competitive work employment in an integrated work setting with ongoing support services for individuals with the most severe disabilities for whom competitive employment (a) has not traditionally occurred, or (b) for whom competitive employment has been interrupted or intermittent as a result of a severe disabilities disability; and who, because of the nature and severity of their disabilities, need intensive supported employment services from the designated state unit and extended services after transition in order to perform this work; or (ii) transitional employment for individuals with ~~chronic~~ the most severe disabilities due to mental illness.

"Supported employment services" means ongoing support services and other appropriate services needed to support and maintain an individual with a most severe disability in supported employment that are provided by the designated state unit for a period of time not to exceed 18 months, unless under special circumstances the eligible individual and the rehabilitation counselor or coordinator jointly agree to extend the time in order to achieve the rehabilitation objectives identified in the individualized written rehabilitation program; and following transition, as post-employment services that are unavailable from an extended services provider and that are necessary to maintain or regain the job placement or advance in employment.

~~"Third party funding" means the use of money from a public or private source to match available allocations.~~

~~"Transition services" means a coordinated set of activities for a student designed within an outcome-oriented process that promotes movement from school to post-school activities, including post-secondary education, vocational training, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation. The coordinated set of activities must be based upon the individual student's needs, taking into account the student's preferences and interests, and must include instruction, community experiences, the development of employment and other post-school adult living objectives, and, if appropriate, acquisition of daily living skills and functional vocational evaluation. Transition services must promote or facilitate the accomplishment of long-term rehabilitation goals and intermediate rehabilitation objectives identified in the student's IWRP.~~

~~"Transitional employment," as used in the definition of "supported employment," means a series of temporary job placements in competitive work in integrated settings with ongoing support services for individuals with the most severe disabilities due to mental illness. In transitional employment, the provision of ongoing support services must include continuing sequential job placements until job permanency is achieved.~~

~~"Transportation" means travel and related expenses that are necessary to enable an applicant or eligible individual to participate in a vocational rehabilitation service.~~

~~"Vocational evaluation" means a systematic, formalized assessment and subsequent recommendations. The assessment is for the purpose of determining an individual's vocational objectives based on his assets and limitations. The assessment methods are client centered and include evaluation techniques appropriate to the individual. The assessment results in specific recommendations to be used in the development of the individual rehabilitation or habilitation plan.~~

~~"Vocational rehabilitation services when provided to an individual" means those services listed in this section.~~

~~"Vocational rehabilitation services when provided for the benefit of groups of individuals" means (i) the establishment of a rehabilitation facility; (ii) the construction of a rehabilitation facility; (iii) the provision of other facilities and services, including services provided at rehabilitation facilities, which promise to contribute substantially to the rehabilitation of a group of individuals but which are not related directly to the individualized written rehabilitation program of any one handicapped individual; (iv) the use of existing telecommunications systems; and (v) captioned films or video cassettes for deaf person.~~

~~"Vocational rehabilitation services" means those services listed in 22 VAC 30-20-120.~~

~~"Vocational skill training" means a program of organized and systematic instruction conducted by qualified instructors and designed to enable clients to acquire marketable skills in a specific occupation or trade.~~

~~"Work activity services" means therapeutic work activities and educational, social, personal and vocational adjustment training to assist severely disabled individuals to attain their optimal level of vocational development and to enhance their ability to function independently within the community.~~

~~"Work adjustment training" means a treatment and training process utilizing individual and group work, or work related activities, to assist individuals in understanding the meaning, value and demands of work; to modify or develop attitudes, personal characteristics, work behavior, and to develop functional capacities, as required in order to assist individuals toward their optimum level of vocational development.~~

~~"Workshop" means a rehabilitation facility, or that part of a rehabilitation facility, engaged in production or service operation for the primary purpose of providing gainful employment as an interim step in the rehabilitation process for those who cannot be readily absorbed in the competitive labor market or during such time as employment opportunities for them in the competitive labor market do not exist.~~

22 VAC 30-20-20. Processing referrals and applicants applications.

~~The department shall expeditiously and equitably process referrals and applications for vocational rehabilitation services.~~

~~A. Referrals. An individual is a referral when the following items of information are secured:~~

- ~~1. Name;~~
- ~~2. Address;~~
- ~~3. Disability;~~
- ~~4. Age;~~
- ~~5. Sex;~~
- ~~6. Date of referral;~~
- ~~7. Source of referral; and~~

~~8. Social security number or temporary case number. The state plan must assure that the designated state unit has established and implemented standards for the prompt and equitable handling of referrals of individuals for vocational rehabilitation services. The standards must include timelines for making good faith efforts to inform these individuals of application requirements and to gather information necessary to initiate an assessment for determining eligibility and priority for services.~~

~~B. Applicant. An individual is an applicant when the department has secured the items of information as listed in subsection A of 22 VAC 30-20-10 and has a document signed by the individual, or the individual's guardian requesting vocational rehabilitation services. A thorough explanation of rights and responsibilities shall be given to the applicant in the manner best suited to ensure its comprehension. This explanation shall include the right for an administrative review and fair hearing and the availability of the Client Assistance Project within the Department for Rights of Virginians with Disabilities. A rights and responsibilities form shall be signed by the applicant.~~

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B. Applications.

1. The state plan must assure that once an individual has submitted an application for vocational rehabilitation services, an eligibility determination shall be made within 60 days, unless (i) exceptional and unforeseen circumstances beyond the control of the agency preclude a determination within 60 days and the agency and the individual agree to a specific extension of time or (ii) an extended evaluation is necessary.

2. An individual is considered to have submitted an application when the individual or the individual's representative, as appropriate (i) has completed and signed an agency application form or has otherwise requested services; (ii) has provided information necessary to initiate an assessment to determine eligibility and priority for services; and (iii) is available to complete the assessment process.

3. The designated state unit shall ensure that its application forms are widely available throughout the state.

4. A face-to-face interview with the applicant is required.

22 VAC 30-20-30. Assessment for determining eligibility and priority for vocational rehabilitation services.

The state plan must assure that, in order to determine whether an individual is eligible for vocational rehabilitation services and the individual's priority under an order of selection for services (if the state is operating under an order of selection), the designated state unit will conduct an assessment for determining eligibility and priority for services. The assessment must be conducted in the most integrated setting possible, consistent with the individual's needs and informed choice, and in accordance with the following provisions:

A. 1. Eligibility requirements shall be applied without regard to sex, race, age, gender, creed, color, or national origin;

2. No applicant or group of individuals shall be applicants is excluded or found ineligible solely on the basis of the type of disability. No upper or lower age limit shall be applied which shall in and of itself result in a determination of ineligibility for any person with a disability who otherwise meets the basic eligibility requirements;

3. The eligibility requirements are applied without regard to the particular service needs or anticipated cost of services required by an applicant or the income level of an applicant or applicant's family; and

4. No duration of residence requirement, durational or other, shall be imposed which that excludes from services any individual who is present in the Commonwealth state.

B. Preliminary diagnostic study eligibility determination. A preliminary diagnostic study is required on each individual who makes application for services. Diagnostic and evaluative services needed are provided to determine the applicant's

eligibility for vocational rehabilitation services; ineligibility for vocational rehabilitation services; or the need for an extended evaluation. In all cases, the evaluation places primary emphasis upon determining the applicant's potential for achieving a vocational goal as determined by the applicant and the department. Eligibility determination is accomplished when an individual completes applicant status, or extended evaluation. When sufficient information is not available without cost, the department shall purchase the information needed.

22 VAC 30-20-40. Basic Eligibility criteria requirements.

A. Basic requirements. The state plan must assure that the state unit's determination of an applicant's eligibility for vocational rehabilitation services is based only on the following requirements: (i) a determination that the individual shall have applicant has a physical or mental disability which for the individual impairment; (ii) a determination that the applicant's physical or mental impairment constitutes or results in a substantial handicap impediment to employment for the applicant; (iii) a presumption, in accordance with subsection B of this section, that the applicant can benefit in terms of an employment outcome from the provision of vocational rehabilitation services; and (iv) a determination that the applicant requires vocational rehabilitation services to prepare for, enter into, engage in, or retain gainful employment consistent with the applicant's strengths, resources, priorities, concerns, abilities, capabilities, and informed choice.

B. There shall be a reasonable expectation that Presumption of benefit. The state plan must assure that the designated state unit will presume that an applicant who meets the basic eligibility requirements in clauses (i) and (ii) of subsection A of this section can benefit in terms of an employment outcome unless it demonstrates, based on clear and convincing evidence, that the applicant is incapable of benefiting in terms of an employment from vocational rehabilitation services may benefit the individual in terms of employability.

1. The existence of a physical or mental disability shall be substantiated by adequate medical, psychiatric or psychological reports.

2. A substantial handicap to employment is a physical or mental disability (in light of attendant medical, psychological, vocational, educational, and other related factors) that impedes an individual's occupational performance, by preventing his obtaining, retaining, or preparing for employment consistent with his capacities and abilities.

3. Data accumulated in the case study not directly related to a disability may be used to substantiate a substantial handicap to employment.

4. Employability refers to a determination by the applicant and the department that the provision of vocational rehabilitation services is likely to enable an individual to enter or retain employment consistent with his capacities and abilities in the competitive labor market; the practice of a profession; self-employment; homemaking; farm or family work (including work for which payment is in kind rather than

in cash); sheltered employment; homebound employment; or other gainful work.

C. *Limited presumption for Social Security beneficiaries.* The state plan must assure that, if an applicant has appropriate evidence, such as an award letter, that establishes the applicant's eligibility for Social Security benefits under Title II or Title XVI of the Social Security Act, the designated state unit will presume that the applicant (i) meets the eligibility requirements in clauses (i) and (ii) of subsection A of this section and (ii) has a severe physical or mental impairment that seriously limits one or more functional capabilities in terms of an employment outcome.

D. *Review and assessment of data for eligibility determination.* Except as provided in 22 VAC 30-20-60, the designated state unit shall base its determination of each of the basic eligibility requirements in subsection A of this section on:

1. A review and assessment of existing data, including counselor observations, education records, information provided by the individual or the individual's family, information used by the Social Security Administration, and determinations made by officials of other agencies; and

2. To the extent existing data do not describe the current functioning of the individual or are unavailable, insufficient, or inappropriate to make an eligibility determination, an assessment of additional data resulting from the provision of vocational rehabilitation services, including assistive technology devices and services and worksite assessments, that are necessary to determine whether an individual is eligible.

22 VAC 30-20-50. Evaluation of vocational rehabilitation potential.

An evaluation shall be required in order to determine eligibility for services, the need for an extended evaluation, or ineligibility for services.

A. *The preliminary diagnostic study.* The preliminary diagnostic study shall both determine and document the basic eligibility criteria.

B. *Extent of study.* The preliminary diagnostic study shall include examinations and studies needed to make the determination of eligibility. In all cases, the evaluation shall place primary emphasis upon determining the individual's potential for achieving a vocational goal.

C. A. *Required evaluations.* The current general health of the individual shall be assessed, based, to the maximum extent possible, on available medical information. In all cases of mental or emotional disorders an examination shall be provided by a physician licensed to diagnose and treat such disorders or a psychologist licensed or certified in accordance with state laws and regulations. If eligibility cannot be determined from medical evidence of record, medical specialist examinations needed to determine eligibility shall be provided.

D. *Thorough diagnostic study.* As appropriate in each case, after an individual's eligibility for vocational rehabilitation

services has been determined, there shall be a thorough diagnostic study to determine the nature and scope of services needed. This study shall consist of a comprehensive evaluation of pertinent medical, psychological, vocational, educational and other factors relating to the individual's handicap to employment and rehabilitation needs.

This study shall include in all cases, to the degree needed, an appraisal of the individual's personality; intelligence level; educational achievement; work experience; personal, vocational and social adjustment; employment opportunities; and other pertinent data helpful in determining the types and quantity of services needed. The study shall also include, as appropriate for each individual, an appraisal of patterns of work behavior, ability to acquire occupational skills and capacity for successful job performance.

E. B. *Hospitalization for diagnosis* may be provided when all of the following conditions are met:

1. This service is required in order to determine eligibility for services or type of services needed; and

2. This service is recommended by a licensed medical doctor.

The maximum period of diagnostic hospitalization shall be three days.

22 VAC 30-20-60. Extended evaluation to determine vocational rehabilitation potential for individuals with severe disabilities.

A. *Criteria.* The provision of vocational rehabilitation services under an extended evaluation to determine vocational rehabilitation potential is based only upon:

1. The presence of a physical or mental disability which for the individual constitutes or results in a substantial handicap to employment; and

2. The department's inability to make a determination that vocational rehabilitation services might benefit the individual in terms of employability unless there is an extended evaluation to determine vocational rehabilitation potential.

A. *Prior to any determination that an individual with a severe disability is incapable of benefiting from vocational rehabilitation services in terms of an employment outcome because of the severity of the individual's disability, the state unit shall conduct an extended evaluation to determine whether there is clear and convincing evidence to support such a determination.*

B. *Duration and scope of services.* During the extended evaluation period, which may not exceed 18 months, vocational rehabilitation services necessary for determination of rehabilitation potential, including those must be provided during a thorough diagnostic study, may be provided to a handicapped individual for a period not to exceed 18 months in the most integrated setting possible, consistent with the informed choice of the individual.

C. *Other requirements of the extended evaluation:*

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~~1. The extended evaluation period shall begin on the date of certification for such evaluation. Only one 18-month maximum period shall be provided during the time that the client is receiving services. If a case has been closed and an individual's needs have later changed, the case may be reopened and a subsequent evaluation of vocational rehabilitation potential may be conducted.~~

~~2. Vocational rehabilitation services authorized after the expiration of the extended evaluation period shall be provided only if a certification of eligibility has been executed.~~

~~3. The jointly developed Individualized Written Rehabilitation Program (IWRP) for extended evaluation shall be written prior to the applicant receiving services and shall be signed by the applicant, or as appropriate, the applicant's designee. A copy of the IWRP shall be given to the applicant.~~

~~4. Goods and services necessary to determine rehabilitation potential may be provided during an extended evaluation. They do not require the establishment of economic need when the services are of a diagnostic nature. \~~

C. During the extended evaluation period, the state unit shall develop a written plan for determining eligibility and for determining the nature and scope of services required to achieve an employment outcome. The state unit may provide during this period only those services that are necessary to make these two determinations.

D. Review. A thorough assessment of The state unit shall assess the individual's progress shall be made as frequently as necessary, but at least once every 90 days, during the extended evaluation period. This assessment shall include periodic reports from the facility or person providing the services in order to determine the results of such services and to determine whether the individual may be eligible or ineligible for services.

E. Termination. At any time before the end of the 18-month extended evaluation period, the extended evaluation shall terminate when: The state unit shall terminate extended evaluation services at any point during the 18-month extended evaluation period if the state unit determines that (i) there is sufficient evidence to conclude that the individual can benefit from vocational rehabilitation services in terms of an employment outcome or (ii) there is clear and convincing evidence that the individual is capable of benefiting from vocational rehabilitation services in terms of an employment outcome.

~~1. The individual is found eligible for vocational rehabilitation services since there is a reasonable assurance that the individual can be expected to benefit in terms of employability resulting from vocational rehabilitation services; or~~

~~2. The individual is found ineligible for any additional vocational rehabilitation services since it has been determined on the basis of clear evidence that the individual cannot be expected to benefit in terms of employability resulting from vocational rehabilitation services.~~

Clear and convincing evidence means that the designated state unit shall have a high degree of certainty before it can conclude that an individual is incapable of benefiting from

services in terms of an employment outcome. The clear and convincing standard constitutes the highest standard used in our civil system of law and is to be individually applied on a case-by-case basis. The term clear means unequivocal. Given these requirements, a review of existing information generally would not provide clear and convincing evidence. For example, the use of an intelligence test result alone would not constitute clear and convincing evidence.

Clear and convincing evidence might include a description of assessments, including situational assessments and supported employment assessments, from service providers who have concluded that they would be unable to meet the individual's needs due to the severity of the individual's disability. The demonstration of clear and convincing evidence must include, if appropriate, a functional assessment of skill development activities, with any necessary supports (including assistive technology), in real life settings. (S. Rep. No. 357, 102d Cong., 2d. Sess. 37-38 (1992))

22 VAC 30-20-80. Procedures for ineligibility determination.

A. Certification of ineligibility. When it is determined on the basis of factors as diagnosis, prognosis, or interest The state plan must assure that if the state unit determines that an applicant for or recipient of is ineligible for vocational rehabilitation services is ineligible for services, a certification shall be signed and dated, or determines that an individual receiving services under an individualized written rehabilitation program is no longer eligible for services, that state unit shall:

Such 1. Make the determination shall be made only after providing an opportunity for full consultation with the individual or, as appropriate, the parent, guardian, or other representative, or after giving a clear opportunity for this consultation with the individual's representative. The department shall provide notification

2. Inform the individual in writing, supplemented as necessary by other appropriate modes of communication consistent with the informed choice of the individual, of the action taken and inform the individual of his rights ineligibility determination, including the reasons for that determination, the requirements under this section and the means by which he may express and seek remedy for any dissatisfaction, including the procedures for administrative review and fair hearing of a determination by the rehabilitation counselor or coordinator in accordance with 22 VAC 30-20-181.

3. Provide the individual shall be provided with a detailed documented explanation of the availability of the resources within with a description of services available under the Client Assistance Program, Department for Rights of Virginians with Disabilities, and when appropriate, referral shall be made to other agencies and facilities, including, when appropriate, an independent living rehabilitation program information on how to contact that program.

B. Review of ineligibility determination. When the department has certified the ineligibility of an applicant for

~~or a recipient of vocational rehabilitation services because of~~ 4. *Review within 12 months and annually thereafter if requested by the individual or, if appropriate, by the individual's representative any ineligibility determination that is based on a finding that the individual cannot be expected to achieve a vocational goal, the ineligibility determination shall be reviewed within 12 months is incapable of achieving an employment outcome.* This review need not be conducted in situations ~~where~~ *in which* the individual has refused it, the individual is no longer in the Commonwealth, the individual's whereabouts are unknown, or a *the individual's* medical condition is rapidly progressive or terminal.

~~G. B. Case closure without eligibility determination. A case may be closed without any determination of eligibility when an applicant is unavailable during an extended period of time (30 days) to complete an evaluation of vocational rehabilitation potential and the department has made three documented efforts to contact the applicant and to encourage the applicant's participation. The state plan must assure that the state unit may not close an applicant's record of services prior to making an eligibility determination unless the applicant declines to participate in, or is unavailable to complete an assessment for determining eligibility and priority for services, and the state unit has made a reasonable number of attempts to contact the applicant or, if appropriate, the applicant's representative to encourage the applicant's participation.~~

22 VAC 30-20-90. Order of selection for services.

In the event vocational rehabilitation services cannot be provided because of unavailable resources, to all persons determined to be eligible, upon recommendation by the commissioner, an order of selection system may be approved by the board which shall determine those persons for whom services may be purchased. It shall be the policy of the department to encourage referrals and applications of all persons with disabilities and, to the extent resources permit, provide services to all eligible persons.

The following order of selection is implemented when services cannot be provided to all eligible persons:

1. Priority I. Person eligible and presently receiving services under an ~~IWRP~~ *individualized written rehabilitation program.*
2. Priority II. Those persons referred and needing diagnostic services to determine eligibility.
3. Priority III. Persons determined to be severely disabled.
4. Priority IV. Other persons determined to be disabled, in order of eligibility determination.

In all priorities preference shall be given to providing services to disabled public safety officers disabled in the line of duty.

22 VAC 30-20-100. The individualized written rehabilitation program (IWRP) procedures.

A. General requirements.

1. The IWRP shall be initiated after certification of eligibility for vocational rehabilitation services.

2. The IWRP shall be initiated and periodically updated when information has been received that may necessitate a change, or at least annually. This shall be done for each client and for each applicant being provided services under an extended evaluation to determine rehabilitation potential.

3. Vocational rehabilitation services shall be provided in accordance with the IWRP ~~which.~~ *The IWRP shall be developed and updated jointly by the department, agreed to, and signed by the vocational rehabilitation counselor or coordinator and the client individual or, as appropriate, the client's designee individual's representative within the framework of a counseling and guidance relationship (34 CFR 361.45(b)(1)). The state unit shall establish and implement standards for the prompt development of IWRPs for the individuals identified in subdivision 1 of this subsection, including timelines that take into consideration the needs of the individual (34 CFR 361.45 (b)(2)).*

4. ~~A copy of the IWRP and any amendments shall be provided to the client or, as appropriate, the client's designee and shall advise each client, or designee of all procedures and requirements affecting the development and review of the IWRP. The state unit shall promptly provide each individual or, as appropriate, the individual's representative a copy of the IWRP and its amendments in the native language or appropriate mode of communication of the individual or, as appropriate, of the individual's representative (34 CFR 361.45(b)(7)).~~

5. ~~The state unit shall advise each individual or, as appropriate, the individual's representative of all state unit procedures and requirements affecting the development and review of an IWRP, including the availability of appropriate modes of communication (34 CFR 361.45 (b)(3)).~~

6. ~~In developing an IWRP for a student with a disability who is receiving special education services, the state unit must consider the student's individualized education program (34 CFR 361.45(b)(4)).~~

~~B. Individualized written rehabilitation program review. The IWRP shall be reviewed as often as necessary but at least on an annual basis. The IWRP for extended evaluations must be reviewed at least every 90 days. Each client or, client's designee shall be given an opportunity to review the IWRP and, if necessary, jointly redevelop the IWRP and show agreement with its terms by signing it. The state unit shall review the IWRP with the individual or, as appropriate, the individual's representative as often as necessary, but at least once each year to assess the individual's progress in meeting the objectives identified in the IWRP (34 CFR 361.45(b)(5)). The state unit shall assess the individual's progress as frequently as necessary, but at least once every 90 days, during an extended evaluation period (34 CFR 361.42(d)(4)). The state unit shall incorporate into the IWRP any revisions that are necessary to reflect changes in the individual's vocational goal, intermediate objectives, or vocational~~

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rehabilitation services, and shall obtain the agreement and signature of the individual or, as appropriate, of the individual's representative to the revisions (34 CFR 361.45(b)(6)).

~~C. Review of ineligibility determination. If services are to be terminated under an IWRP because of a determination that the client is not capable of achieving a vocational goal and is therefore no longer eligible, or if in the case of an applicant who has been provided services under an extended evaluation of vocational potential and services are to be terminated because of a determination that the applicant is not eligible, the following conditions and procedures shall be met or carried out:~~

~~1. The decision shall be made only with the full participation of the individual or, as appropriate, parent, guardian or other representative, unless the individual has refused to participate and this is documented, the individual is no longer present in the Commonwealth, the whereabouts are unknown, or medical conditions are rapidly progressive or terminal. When the full participation of the individual or a representative of the individual has been secured in making the decision, the views of the individual shall be recorded in the IWRP;~~

~~2. The rationale for such ineligibility decision shall be recorded as an amendment to the IWRP certifying that the provision of vocational rehabilitation services had demonstrated that the individual is not capable of achieving a vocational goal, and a certification of ineligibility is then executed; and~~

~~3. There shall be a periodic review, at least annually, of the ineligibility decision in which the individual is given opportunity for full consideration in the reconsideration of the decision, except in situations where a periodic review would be precluded because the individual has refused services or has refused a periodic review, the individual is no longer in the Commonwealth, the whereabouts are unknown or a medical condition is rapidly progressive or terminal. The first review of the ineligibility decision shall be initiated by the department and be documented. Any subsequent reviews shall be undertaken at the request of the individual.~~

C. Review of ineligibility determination. If the state unit determines that an applicant is ineligible for vocational rehabilitation services or determines that an individual receiving services under an individualized written rehabilitation program is no longer eligible for services, the state unit shall:

1. Make the determination only after providing an opportunity for full consultation with the individual or, as appropriate, with the individual's representative;

2. Inform the individual in writing, supplemented as necessary by other appropriate modes of communication consistent with the informed choice of the individual, of the ineligibility determination, including the reasons for that determination, the requirements under this section, and the means by which the individual may express and seek remedy for any dissatisfaction, including the procedures for review of a determination by the

rehabilitation counselor or coordinator. The state unit shall provide the individual with a description of services available from the Client Assistance Program, Department for Rights of Virginians with Disabilities, established under 34 CFR Part 370, and information on how to contact that program; and

3. Review within 12 months and annually thereafter if requested by the individual or, if appropriate, by the individual's representative any ineligibility determination that is based on a finding that the individual is incapable of achieving an employment outcome. This review need not be conducted in situations in which the individual has refused it, the individual is no longer present in the state, the individual's whereabouts are unknown, or the individual's medical condition is rapidly progressive or terminal (34 CFR 361.43).

22 VAC 30-20-110. Individualized Written Rehabilitation Program (IWRP) content.

~~The IWRP places primary emphasis on the determination and achievement of a vocational goal and shall include, but is not necessarily limited to, Each IWRP must include, as appropriate, statements concerning:~~

~~1. The basis on which the determination of eligibility has been made, or the basis on which a determination has been made that an extended evaluation of vocational rehabilitation potential is necessary to make a determination of eligibility. The specific long-term vocational goal, which must be based on the assessment for determining vocational rehabilitation needs, including the individual's career interest, and must be, to the extent appropriate and consistent with the informed choice of the individual, in an integrated setting;~~

~~2. The long-range and specific intermediate rehabilitation objectives established with the client, or client's designee related to the attainment of the long-term vocational goal, based on the assessment for determining vocational rehabilitation needs and consistent with the informed choice of the individual;~~

~~3. The determination of The specific vocational rehabilitation services to be provided in order to achieve the established intermediate rehabilitation objectives, including, if appropriate, rehabilitation technology services and on-the-job and related personal assistance services;~~

~~4. The projected dates for the initiation of each vocational rehabilitation service, and the anticipated duration of each service, and the projected timeframe for the achievement of the individual's vocational goal;~~

~~5. A procedure and schedule for periodic review and evaluation of progress toward achieving intermediate rehabilitation objectives based upon objective criteria; and a record of these reviews and evaluations;~~

~~6. The views of the client or, as appropriate, the client's designee, concerning his goals and objectives and the vocational rehabilitation services being provided. How, in the words of the individual or, as appropriate, in the words of the individual's representative, the individual~~

was informed about and involved in choosing among alternative goals, objectives, services, providers, and methods used to procure or provide services;

7. The terms and conditions for the provision of vocational rehabilitation services, including responsibilities of the client individual in implementing the IWRP, the extent of client the individual's participation in the cost of services if any, the extent to which goods and services will be provided in the most integrated settings possible consistent with the informed choice of the individual, the extent to which the client is eligible for similar-comparable services and benefits are available to the individual under any other programs program, and the extent to which these similar benefits have been used the entity or entities that will provide the services and the process used to provide or procure the services;

8. A documented assurance that the client has been informed of his The rights of the individual under this part and the means by which he the individual may express and seek remedy for any dissatisfaction, including the opportunity for an administrative a review of state unit action, fair hearing or review by the secretary rehabilitation counselor or coordinator determinations;

9. An assurance that the client has been provided a detailed explanation of The availability of the resources within the client assistance program Client Assistance Program, Department for Rights of Virginians with Disabilities-, established under 34 CFR Part 370; and

10. The basis on which the client individual has been determined to be rehabilitated; and have achieved an employment outcome.

11. Any plans for the provision of post-employment services after a suitable employment goal has been achieved and the basis on which such plans are developed.

22 VAC 30-20-120. Scope of vocational rehabilitation services for individuals.

The following vocational rehabilitation services shall be provided only when deemed necessary are available as appropriate to the vocational rehabilitation needs of the client. each individual and consistent with each individual's informed choice:

1. Evaluation of rehabilitation potential, including diagnostic and related services incidental to the determination of eligibility for, and the nature and scope of services to be provided. Assessment for determining eligibility and priority for services, and assessment for determining vocational rehabilitation needs; and

2. Vocational rehabilitation counseling and guidance, including personal adjustment counseling, to maintain a counseling relationship, and referral and other services necessary to help clients applicants and eligible individuals secure needed services from other agencies, which may include independent living rehabilitation programs and to advise those individuals about the Client Assistance Program, Department for Rights of Virginians with Disabilities.

~~The department shall not purchase vocational counseling and guidance service as a primary service.~~

3. Physical and mental restoration services necessary to correct or substantially modify a remove or substantially reduce the disabling effects of a physical or mental condition which is stable or slowly progressive and when recommended by a licensed practitioner.

a. ~~Services. Physical and mental restoration services are those medical and medically related services which may be expected to remove, or substantially reduce the handicapping effects of a physical or mental condition. These services include but are not limited to:~~

(1) Convalescent care, nursing or rest home care; when the services are directly related to the vocational rehabilitation objective for an individual who needs continued medical supervision after department-sponsored treatment for his condition. This service must be recommended by the proper medical practitioner before the service is authorized and is contingent upon the individual being able to reengage in the vocational rehabilitation program. This service may be provided for 30 days, and the commissioner or his designee may approve an additional 30 days of service.

(2) ~~Dental treatment:~~ Dentistry.

(3) Drugs and supplies; . When medication is to be continuous (e.g., treatment of diabetes or epilepsy), and while the individual is receiving vocational training, the department may purchase medication during the training period and for a period not to exceed 90 days after achieving employment. When counseling, medication and placement are the only services provided, the department may pay for medication for a period not to exceed 90 days. Generic drugs shall be utilized when possible.

(4) Necessary hospitalization (both either inpatient and or outpatient care, and in connection with surgery or treatment and clinic services); . The department may pay for hospitalization for medical diagnosis, surgical or medical treatment when deemed necessary for the vocational rehabilitation of the individual and recommended by a licensed practitioner. Hospitalization shall be provided in hospitals, medically oriented treatment facilities, or continuing care facilities in Virginia or out of state, with which the department has a contract. Payment to hospitals, medically oriented treatment facilities, or continuing care facilities shall be made in accordance with the department fee schedules. The maximum period of hospitalization, excluding diagnostic, to be authorized based upon financial resources available to the department shall be 10 days. Extension of the maximum period of hospitalization shall be allowed when due to acute medical complications and emergencies associated with or arising out of the provision of physical or mental restoration services. Treatment of acute medical complications or emergencies which impact

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negatively on the individual's progress toward the individual's vocational goal shall be provided.

(5) ~~Medical treatment;~~ *Eyeglasses and visual services, including visual training, and the examination and services necessary for the prescription and provision of eyeglasses, contact lenses, microscopic lenses, telescopic lenses, and other special visual aids prescribed by personnel that are qualified in accordance with state licensure laws. These services may be provided to an individual when their visual disability, as established by an ophthalmological or an optometric examination, is of such severity that their employment opportunities are considerably limited. Visual services shall be provided by the department in accordance with the cooperative agreement established with the Department for the Blind and Vision Impaired. Visual aids may also be provided to individuals who are unable to satisfactorily pursue their vocational rehabilitation program due to impaired vision.*

(6) Nursing services; .

(7) Physical restoration in a rehabilitation facility; .

(8) Physical and occupational therapy; *when prescribed by a doctor of medicine.*

(9) Prosthetic, ~~and~~ orthotic appliances; , or other assistive devices, including hearing aids. *The department may purchase an original appliance only upon the recommendation of the medical specialist. When an individual has a history of satisfactory appliance use and the general medical examination report indicates no pathological change, this report may be sufficient medical basis for the replacement or repair of the appliance. The department shall purchase prosthetic or orthotic appliances from vendors approved in accordance with the department's vendor approval process.*

(10) ~~Psychiatric treatment;~~ *Mental health services or diagnosis of and treatment for mental or emotional disorders by qualified personnel in accordance with state licensure laws shall be provided by a psychiatrist or psychologist. If the department purchases the services from either, they must be qualified in the area of psychotherapy and be licensed in accordance with the laws of the Commonwealth. The maximum number of sessions to be sponsored shall be 27. If the individual needs additional psychotherapy, the department will make an effort to assist the individual in securing it.*

(11) Speech or hearing therapy; . *Speech therapy may be provided to individuals when treatment is recommended by a speech pathologist who is licensed in accordance with the laws of the Commonwealth. Hearing aid orientation and lip reading may be provided when recommended by a specialist in hearing disabilities.*

(12) ~~Surgical treatment;~~ *Corrective surgery or therapeutic treatment that is likely, within a reasonable period of time, to correct or substantially modify a stable or slowly progressive physical or mental impairment that constitutes a substantial impediment to employment.*

(13) ~~Telecommunications, sensory and other technological aids and devices; and Podiatry.~~

(14) Treatment of *either acute or chronic* medical complications and emergencies, ~~either acute or chronic, which~~ that are associated with, or arise out of the provision of physical *and mental* restoration services ~~or that~~ are inherent in the condition under treatment.

(15) *Special services for the treatment of individuals with end stage renal disease, including transplantation, dialysis, artificial kidneys, and supplies.*

(16) *Chiropractic services, after consultation with a doctor of medicine.*

(17) *Cardiac exercise therapy for individuals who have had a myocardial infarction or a coronary bypass not more than six months prior to the recommended exercise therapy. A maximum of 24 sessions may be authorized.*

(18) *Other medical or medically related rehabilitation services.*

b. Eligibility requirements.

(1) Stable or slowly progressive. The physical or mental condition must be stable or slowly progressive. The condition must not be acute or transitory, or of such recent origin that the resulting functional limitations and the extent to which the limitations affect occupational performance cannot be identified.

(2) Refusal of service. When ~~a client~~ *an individual* has a physical or mental disability with resulting limitations that constitute a handicap to employment, and when in the opinion of licensed medical personnel these limitations can be removed by physical or mental restoration services without injury to the individual, they shall not be eligible for any rehabilitation services, except counseling, guidance and placement if they refuse to accept the appropriate physical or mental restoration services. A second opinion may be provided at the ~~client's~~ *individual's* request. In the event of conflicting medical opinions, the department shall secure a third opinion and the decision shall be made on the two concurring opinions.

c. Provision of physical and mental restoration services. These services are provided only when:

(1) Recommended by a licensed practitioner;

(2) Services are not available from another source; and

(3) They are provided in conjunction with counseling and guidance, and other services, as deemed appropriate.

The department shall not make case expenditures for acute or intermediate medical care except for medical complications and emergencies which are associated with or arise out of the provision of Vocational Rehabilitation (VR) services under an IWRP and which are inherent in the condition under treatment.

~~d. Convalescent and nursing home care. The department may, when the services are directly related to the vocational rehabilitation objective, pay for convalescent and nursing home care for a client who needs continued medical supervision after department sponsored treatment for their condition. This service must be recommended by the proper medical practitioner before the service is authorized, and be contingent upon the client being able to reengage in the Vocational Rehabilitation Program.~~

~~(1) This service may be provided for 30 days.~~

~~(2) The commissioner or his designee may approve an additional 30 days of service.~~

e. ~~d.~~ Services not sponsored by the department. The board, in consultation with appropriate medical resources, shall determine those physical restoration services which shall not be provided by the department. The following circumstances or conditions shall be considered:

- (1) Experimental procedures shall not be sponsored;
- (2) High risk procedures;
- (3) Procedures with limited vocational outcomes; *and*
- ~~(4) Excessively high cost procedures; and~~
- ~~(5) (4) Procedures with uncertain outcomes.~~

~~f. Hospitalization. The department may pay for hospitalization for medical diagnosis, surgical or medical treatment when deemed necessary for the vocational rehabilitation of the client and recommended by a licensed practitioner. Hospitalization shall be provided in hospitals, medically oriented treatment facilities, or continuing care facilities in Virginia or out of state, with which the department has a contract. Payment to hospitals, medically oriented treatment facilities, or continuing care facilities shall be made in accordance with the department fee schedules.~~

~~(1) The maximum period of hospitalization, excluding diagnostic, to be authorized based upon financial resources available to the department shall be 10 days.~~

~~(2) Extension of the maximum period of hospitalization shall be allowed when due to acute medical complications and emergencies associated with or arising out of the provision of physical or mental restoration services.~~

~~(3) Treatment of acute medical complications or emergencies which impact negatively on the client's progress toward the client's vocational goal, shall be provided.~~

~~g. Medication. When medication is to be continuous, e.g., treatment of diabetes or epilepsy, and while the client is receiving vocational training, the department may purchase medication during the training period, and for a period not to exceed 90 days after achieving employment.~~

~~When counseling, medication and placement are the only services provided, the department may pay for medication for a period not to exceed 90 days. Generic drugs shall be utilized when possible.~~

~~h. Physical and occupational therapy. The department may pay for physical and occupational therapy when it is prescribed by a doctor of medicine.~~

~~i. Chiropractic service. The department may pay for chiropractic services after consultation with a doctor of medicine.~~

~~j. Cardiac exercise therapy. This service shall be sponsored by the department for clients who have had a myocardial infarction or a coronary bypass not more than six months prior to the recommended exercise therapy. A maximum of 24 sessions may be authorized.~~

~~k. Prosthetic and orthotic appliances purchase and repair. The department may purchase an original appliance only upon the recommendation of the medical specialist. When a client has a history of satisfactory appliance use and the general medical examination report indicates no pathological change, this report may be sufficient medical basis for the replacement or repair of the appliance. The department shall purchase prosthetic or orthotic appliances from vendors approved in accordance with the department's vendor approval process.~~

~~l. Psychotherapy. Psychotherapy shall be provided by a psychiatrist or psychologist. If the department purchases the psychotherapy from either, they must be qualified in the area of psychotherapy and be licensed in accordance with the laws of the Commonwealth. The maximum number of sessions to be sponsored shall be 27. If the client needs additional psychotherapy, the department will make an effort to assist the client in securing it.~~

~~m. Speech and hearing therapies.~~

~~(1) Speech. Speech therapy may be provided to clients when treatment is recommended by a speech pathologist who is licensed in accordance with the laws of the Commonwealth.~~

~~(2) Hearing. Hearing aid orientation and lip reading may be provided when recommended by a specialist in hearing disabilities.~~

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~~n. Visual services. Services may be provided to a client when their visual disability, as established by an ophthalmological or an optometric examination, is of such severity that their employment opportunities are considerably limited.~~

~~Visual services shall be provided by the department in accordance with the cooperative agreement established with the department for the visually handicapped. Visual aids may also be provided to clients who are unable to satisfactorily pursue their vocational rehabilitation program due to impaired vision.~~

4. Vocational and other training services, including personal and vocational adjustment *training*, books, tools, and other training materials, except that no training or training services in institutions of higher education (universities, colleges, community/junior colleges, vocational schools, technical institutes, or hospital schools of nursing) may be paid for with funds under this section unless maximum efforts have been made *by the state unit and the individual* to secure grant assistance in whole or in part from other sources *to pay for that training*.

All training services provided shall be related to attainment of the vocational objective or provide for the determination of eligibility for vocational rehabilitation services. Vocational training includes any organized form of instruction which provides the knowledge and skills essential for performing the tasks involved in an occupation. Vocational training may be obtained in institutions such as colleges, universities, business schools, nursing schools and trade and technical schools. It may also be obtained by on-the-job training, apprenticeship programs, tutorial training, or correspondence study.

a. Business schools and business colleges, trade and technical schools, and two-year college terminal courses. The training institution selected shall be approved in accordance with the department's vendor approval process.

b. College and university academic training.

(1) Academic requirements. The ~~client~~ *individual* shall take sufficient academic credit hours based on the requirement of the college attended for classification as a full-time student, unless this is, in the opinion of the department, contraindicated by the ~~client's~~ *individual's* disability. Courses shall meet the institution's requirement towards the obtainment of the degree or certificate. Continuation of financial assistance by the department shall be dependent upon the ~~client~~ *individual* maintaining a "C" average calculated on an academic year. When the ~~client~~ *individual* fails to maintain a "C" average, assistance may be discontinued. The department's assistance may be reinstated when the ~~client~~ *individual* completes one semester or quarter with a minimum of a "C" average.

Each ~~client~~ *individual* shall be advised that failure to provide grades to the department shall be grounds for termination of departmental financial assistance.

(2) Graduate degree program. The department shall assist only ~~clients~~ *individuals* with severe disabilities in securing a graduate degree and only when it is judged essential to achieving employment.

(3) Virginia colleges and universities. Vocational training, including college or university training, shall be provided by the department in any department approved institution located within the boundaries of the Commonwealth, unless such training is not available within the Commonwealth. Institutions in the areas of Washington, D.C.; Bristol-Johnson City-Kingsport, Tennessee; the city of Bluefield, West Virginia; and other cities where the services may be provided more effectively and economically and shall be treated as if located in Virginia.

(4) Tuition and mandatory fees. The department may pay tuition for college and university training in an amount not in excess of the highest amount charged for tuition by a state-supported institution or the rate published in the catalog, whichever is less, except where out-of-state college is necessary, published tuition costs may be paid.

Any ~~client~~ *individual* enrolling into any college/university course or courses for the primary purpose of course or program certification and not for the purpose of obtaining a degree shall be exempt from the application of the annual maximum tuition rate.

(5) Scholarships and grants. Training services in institutions of higher education shall be paid for with departmental funds only after maximum efforts have been made by the ~~client~~ *individual* to secure assistance in whole or in part from other sources; however, any ~~client~~ *individual* eligible for vocational rehabilitation training services but not meeting the financial need test of the department may be provided an assistance grant annually in an amount not to exceed the equivalent of one quarter's tuition of a full time community college student.

c. Correspondence study. The correspondence study training may be authorized only when:

(1) The ~~client~~ *individual* requires specific preliminary training in order to enter a training program; or (2) training cannot be arranged by any other method; and

(3) (2) Satisfactory progress is maintained.

d. On-the-job training. The department may enter into agreements with employers in the private or public sector to provide on-the-job training services. The terms and conditions of each individual agreement shall be established by the department.

e. Part-time training. Part-time training may be utilized only when the severity of the ~~client's~~ *individual's*

disability shall not allow the ~~client~~ *individual* to pursue training on a full-time basis.

Part-time training shall be authorized only at department-approved facilities and schools.

f. Work adjustment training. Work adjustment training may be provided if needed for the ~~client~~ *individual* to engage in subsequent vocational rehabilitation services as indicated by the thorough diagnostic study assessment of medical, vocational, psychological, and other factors. This service may be provided only by the department or approved vendors.

g. Prevocational training. Prevocational training may be provided if needed for the ~~client~~ *individual* to engage in subsequent vocational rehabilitation services as indicated by the thorough diagnostic study assessment of medical, vocational, psychological, and other factors. This service may be provided only by the department or approved vendors.

h. Tutorial training. Tutorial training may be provided if needed for the ~~client~~ *individual* to achieve a vocational goal as indicated by the thorough diagnostic study assessment of medical, vocational, psychological and other factors. This service may be provided only by the department or approved vendors.

i. Other higher education training concerns.

(1) Required textbooks and supplies. The maximum amount of department financial assistance for required textbooks and supplies (pencils, paper, etc.) shall be \$400 annually for a normal school year or \$500 if summer school is attended.

(2) Required training materials. Training materials may be provided when required by the instructor.

~~5. Maintenance, including payments, not exceeding the estimated cost of subsistence and provided at any time after vocational rehabilitation services have begun through the time when post-employment services are being provided. Maintenance covers a client's basic living expenses, such as food, shelter, clothing, and other subsistence expenses which are necessary to support and derive the full benefit of the other vocational rehabilitation services being provided. in accordance with the definition of that term in 22 VAC 30-20-10.~~

a. Clothes. Clothes are provided when specifically required for participation in a training program or for placement in a specialized job area as determined by the department.

b. Room, board and utilities. The maximum rate paid for room, board and utilities shall be established annually by the board.

c. Training cases. The maximum amount of department financial assistance for room and board at a training institution (college, vocational school, rehabilitation center facility), when the institution is able to provide room and board, shall not exceed the

published room and board rates charged by the institution, or the actual cost, whichever is less.

d. While living at home. Maintenance shall be provided for ~~a client~~ *an individual* living at home only when the ~~client's~~ *individual's* income supports the family unit of the ~~client~~ *individual*, when it is more cost effective for the department, or when it is in the best interest of the ~~client's~~ *individual's* vocational rehabilitation program based on mutual agreement of the rehabilitation counselor and the ~~client~~ *individual*.

~~6. Transportation, including necessary travel and related expenses including subsistence during travel (or per diem payments in lieu of subsistence) in connection with transporting clients and their attendants or escorts for the purpose of supporting and deriving the full benefit of the other vocational rehabilitation services being provided. Transportation may include relocation and moving expenses necessary for achieving a vocational rehabilitation objective in connection with the rendering of any vocational rehabilitation service and in accordance with the definition of that term in 22 VAC 30-20-10. Transportation may include relocation and moving expenses necessary for achieving a vocational rehabilitation objective.~~

a. Transportation costs. The department shall pay the most economical rate for accessible public transportation.

When public transportation is not available, or the ~~client~~ *individual*, because of disability, cannot travel by public transportation, transportation may be provided at a rate not to exceed \$.12 a mile.

b. For and during training services. When the ~~client~~ *individual* must live at the training location, the department may only pay for a one-way trip from the residence to the training location at the beginning of the training, and a one-way trip from the training location to the residence or job site at the conclusion of the training program. Transportation may be paid to and from the residence in case of emergency (severe illness, or death in family; acute business emergency or prolonged school closing such as Christmas holidays). Local bus fare may be furnished also. When the ~~client's~~ *individual's* physical condition is such that travel by public conveyance is impossible, taxi fare may be allowed from place of residence to training site and return. When the ~~client~~ *individual* lives at home and the training site requires daily transportation, the cost of such transportation may be paid.

~~7. Vocational rehabilitation services to members of client's family when members of an applicant or eligible individual if necessary to the vocational rehabilitation of the client enable the applicant or eligible individual to achieve an employment outcome. Services to family members of the client individual may be provided when such services may be expected to contribute substantially to the determination of rehabilitation potential or to the rehabilitation of the client individual. In~~

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order for the department to furnish these services, they shall not be available from any other source.

- a. Family member is defined as any relative by blood or marriage living in the same household.
- b. Day care services for dependent children. The department may pay up to the amount paid per child, per day, by the local social services department in the locality in which the child is located. When more than one child is involved, rates for the additional children should be lower. When satisfactory accommodations can be secured at a rate lower than that paid by the local social services department, the lower rate shall be paid by the department.

8. Interpreter services and note taking services for ~~individuals who are the deaf; and communication impaired, including~~ tactile interpreting services for ~~individuals who are deaf-blind clients; and reader services, rehabilitation teaching services, and orientation and mobility services for individuals who are blind.~~

- a. Upon request of the ~~client~~ individual or as needed, these services may be provided at any stage during the rehabilitation process. Interpreting may be primarily in the form of sign language (manual method) or oral interpretation (oral method).
- b. The department shall pay for interpreting services when these services contribute to the ~~client's~~ individual's vocational rehabilitation program for those ~~clients~~ individuals who meet the department's financial need criteria.
- c. The interpreter must be, whenever possible, certified by the National Registry of the Deaf, Virginia Registry of the Deaf, or approved by the Virginia Department for the Deaf and Hard-of-Hearing.
- d. When ~~clients~~ individuals with deafness are in a training program, the department shall arrange for note taking or reader services, unless the ~~client~~ individual indicates such service is not needed or desired.

9. ~~Telecommunications, sensory and other technological aids and devices when they may be expected to contribute substantially to the vocational rehabilitation of the client~~ Rehabilitation technology in accordance with the definition of that term in 22 VAC 30-20-10, including vehicular modification, telecommunications, sensory, and other technological aids and devices.

- a. Telecommunications system. Services related to use of a telecommunications system shall meet established federal or state health and safety standards and be consistent with written state policies.
- b. Sensory and other technological aids and devices. The department may provide electronic or mechanical pieces of equipment or hardware intended to improve or substitute for one or more of the human senses, or for impaired mobility, or motor coordination.

Services related to use of sensory and other technological aids and devices shall meet established

federal or state health and safety standards and be consistent with state law and regulations.

- (1) An otological evaluation may be, and an audiological examination is required before the department may purchase a hearing aid.
- (2) The department shall purchase hearing aids only for those ~~clients~~ individuals identified as benefiting in terms of employability as a direct result of such aid.
- (3) Cross and bicross aids may be purchased only when it is justifiable on the basis of the vocational objective.
- (4) Eyeglasses and hearing aids may be purchased only when they are equal in performance in terms of volume and speech discrimination and if the cost is not higher than that of a comparable body aid or a behind the ear aid.

10. Recruitment and training services to provide new employment opportunities in the fields of rehabilitation, health, welfare, public safety, law enforcement and other appropriate public service employment. These services shall be provided in accordance with the training criteria set forth in subdivision 12 b(4) of this section.

11. ~~Job search and placement in suitable employment assistance and job retention services.~~ Placement shall be in accordance with the mutually agreed upon vocational objective and is the responsibility of the ~~client~~ individual and the department, particularly the rehabilitation counselor.

12. ~~Supported employment services in accordance with the definition of that term in 22 VAC 30-20-10; personal assistance services in accordance with the definition of that term in 22 VAC 30-20-10; and post-employment services necessary to maintain suitable employment. Post-employment services are vocational rehabilitation services provided to clients who need such services to maintain employment after the case of the client has been closed as successfully rehabilitated, in accordance with the definition of that term in 22 VAC 30-20-10.~~

- a. Selection criteria. Any rehabilitated ~~clients~~ individuals may be considered for post-employment services. The department may evaluate with each ~~client~~ individual the need for such services.
- b. All of the following criteria shall be met for the selection of ~~clients~~ individuals to receive post-employment services:
 - (1) The ~~client~~ individual has been determined to be rehabilitated;
 - (2) The disabling medical condition shall be stable or slowly progressive;
 - (3) Post-employment services are necessary to assist the ~~client~~ individual in maintaining employment; and
 - (4) Solution of the problem does not require a complex or comprehensive rehabilitation effort, i.e., a

new and distinct handicapping condition has not occurred which should be handled as a new case.

If needed services exceed any of the aforementioned conditions, the department may take a new application.

13. ~~The agency may provide~~ Supported employment services, *in accordance with the definition of that term in 22 VAC 30-20-10*, to any individual with the most severe disabilities who:

- a. Has not worked, or has worked only intermittently, in competitive employment.
- b. Has been determined on the basis of any evaluation of rehabilitation and career needs, including a consideration of whether supported employment is a possible vocational outcome, to meet the eligibility criteria for the State Vocational Rehabilitation Services Program as established in federal regulations.
- c. Has a need for ongoing support services in order to perform competitive work.

The following activities are authorized under this program:

- a. Evaluation of rehabilitation and career needs of individuals with the most severe disabilities in terms of a supported employment outcome.
- b. Development of and placement in jobs for individuals with the most severe disabilities.
- c. Provision of time-limited services needed to support individuals with the most severe disabilities in employment including:
 - (1) Intensive on-the-job skills training provided by skilled job trainers, coworkers, and other qualified individuals.
 - (2) Ongoing support services needed to support and maintain an individual's supported employment placement. These must include, at a minimum, twice monthly monitoring to assess the individual's employment stability. Monitoring activities generally take place at the work site unless the individualized written rehabilitation plan provides for off-site monitoring. If off-site monitoring is determined to be appropriate, it must, at a minimum, consist of two meetings with the individual and one contact with the employer each month.
 - (3) Follow-up services designed to reinforce and stabilize the job placement.
 - (4) Discrete post-employment services unavailable from the extended services provider that are necessary to maintain the job placement, including but not limited to job station redesign, repair and maintenance of assistive technology, and replacement of prosthetic and orthotic devices.

Transitional employment services for individuals with chronic mental illness may be provided under the State Supported Employment Program. Transitional

employment means a series of temporary job placements in competitive work in an integrated work setting with ongoing support services. Ongoing support services must include continuing sequential job placements until job permanency is achieved.

The agency shall provide for the transition of an individual with the most severe disabilities to extended services no later than 18 months after placement in supported employment, unless a longer period to achieve job stabilization has been established in the individualized written rehabilitation program, before an individual with the most severe disabilities makes the transition to extended services.

Supported employment services must be provided in an integrated work setting which means that (i) most employees at that work setting are not disabled; (ii) the supported employee interacts on a regular basis, in the performance of job duties, with employees who do not have disabilities; and (iii) if the supported employee is part of a distinct work group comprised only of individuals with disabilities, the work group consists of no more than eight individuals.

If there are no other employees or the only other employees are individuals who are part of a work group as described in ~~subdivision clause~~ (iii) above, the supported employee must interact on a regular basis, in the performance of job duties, with individuals without disabilities, including members of the general public. The required interaction cannot be satisfied by contact between an individual with the most severe disabilities and individuals who provide ongoing support services at the job site.

14. Occupational licenses, ~~including any license, permit, or other written authority required by a state, city, or other governmental unit to be obtained in order to enter an occupation or enter a small business, tools, equipment, initial stocks (including livestock), and supplies.~~

a. Licenses. Licenses required for entrance into selected vocations may be provided. These may be occupational or business licenses as required by the local governing body, state board examinations required by the Department of Professional and Occupational Regulation, and motor vehicle operator's license.

b. Tools and equipment. Tools and equipment shall be provided for ~~a client~~ *an individual* when:

- (1) They are required for a job or occupation that is best suited to the utilization of their abilities and skills;
- (2) The employer does not ordinarily furnish these articles; and
- (3) They are for the exclusive use of the ~~client~~ *individual*.

Such articles shall be for the ~~client's~~ *individual's* own use in the performance of his work and must remain in his possession and under his control as long as he

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engages in the job or occupation for which they are provided.

If the ~~client~~ *individual* alleges that tools and equipment are stolen, the ~~client~~ *individual* shall file a stolen property report with the local police.

Computer equipment and software shall be provided either if required as indicated in ~~subparagraph subdivision 14 b (1) (2) and (3) above of this subsection~~ or if it is necessary for vocational training. The department's financial participation in the cost of such equipment and software shall not exceed \$3,500.

c. Title retention and release. The department shall comply with state law on the retention of title and release of title of equipment to ~~clients~~ *individuals*.

d. Repossession of tools and equipment. The department shall repossess all occupational tools and equipment to which the department retains title when they are no longer being used for the purposes intended by the ~~client~~ *individual* for whom they were purchased.

15. *Transition services in accordance with the definition of that term in 22 VAC 30-20-10.*

~~45.~~ 16. Other goods and services ~~deemed determined~~ necessary to the vocational rehabilitation objective of the ~~client~~ for the individual with a disability to achieve an employment outcome. These include, but are not limited to, such services as: peer counseling, independent living skills training, attendant care and attendant training if they can reasonably be expected to benefit a ~~client~~ an individual in terms of employability.

The department's financial participation in the cost of certain goods and services shall be limited as follows: home modifications, \$7,500; and vehicle modifications, \$7,500. The department shall not purchase or participate in the purchase of automotive vehicles.

~~46.~~ 17. Services to groups. The department may provide services to groups of ~~persons~~ *individuals* with disabilities when the services may contribute substantially to the needs of the group, although they are not related directly to the IWRP of any one person with a disability.

22 VAC 30-20-130. ~~Clients determined to be rehabilitated~~ Individuals determined to have achieved an employment outcome.

~~In order to make a determination that a client has been rehabilitated, the minimum requirements to be met shall be that the client was:~~

- ~~1. Determined to be eligible under 22 VAC 30-20-40;~~
- ~~2. Provided an evaluation of vocational rehabilitation potential and counseling and guidance as essential vocational rehabilitation services;~~
- ~~3. Provided appropriate and substantial vocational rehabilitation services in accordance with the individual written rehabilitation program; and~~

~~4. Determined to have achieved and maintained a suitable employment goal for at least 60 days.~~

An individual is determined to have achieved an employment outcome only if the following requirements have been met:

- 1. The provisions of services under the individual's IWRP has contributed to the achievement of an employment outcome;*
- 2. The employment outcome is consistent with the individual's strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice;*
- 3. The employment outcome is in the most integrated setting possible, consistent with the individual's informed choice;*
- 4. The individual has maintained the employment outcome for a period of at least 90 days; and*
- 5. At the end of the appropriate period under this section, the individual and the rehabilitation counselor or coordinator consider the employment outcome to be satisfactory and agree that the individual is performing well on the job.*

(See 22 VAC 30-20-200).

22 VAC 30-20-150. ~~Written standards for facilities and providers of services.~~

~~Regulations for this section are under development. Until the regulations are in final draft form for public comment, the Department of Rehabilitative Services will continue to operate under existing policies. The designated state unit shall establish, maintain, make available to the public, and implement written minimum standards for the various types of facilities and providers of services used by the state unit in providing vocational rehabilitation services, in accordance with the following requirements:~~

- 1. Accessibility of facilities. Any facility in which vocational rehabilitation services are provided must be accessible to individuals receiving services and must comply with the requirements of the Architectural Barriers Act of 1968, the Uniform Accessibility Standards and their implementing regulations in 41 CFR Part 101, subpart 101-19.6, the Americans with Disabilities Act of 1990, and § 504 of the Rehabilitation Act of 1973, as amended.*
- 2. Personnel standards.*
 - a. Qualified personnel. Providers of vocational rehabilitation services shall use qualified personnel, in accordance with any applicable national or state approved or recognized certification, licensing, or registration requirements or, in the absence of these requirements, other comparable requirements (including state personnel requirements) that apply to the profession or discipline in which that category of personnel is providing vocational rehabilitation services.*

b. *Affirmative action.* Providers of vocational rehabilitation services shall take affirmative action to employ and advance in employment qualified individuals with disabilities.

c. *Special communication needs personnel.* Providers of vocational rehabilitation services shall include among their personnel, or obtain the services of, individuals able to communicate in the native languages of applicants and eligible individuals who have limited English speaking ability; and ensure that appropriate modes of communication for all applicants and eligible individuals are used.

3. *Fraud, waste, and abuse.* Providers of vocational rehabilitation services shall have adequate and appropriate policies and procedures to prevent fraud, waste, and abuse.

22 VAC 30-20-160. Participation by the handicapped of individuals in the cost of vocational rehabilitation services based on financial need.

A. ~~An economic~~ A financial need test is established because of the limited resources of the department.

B. ~~An economic~~ A financial need test shall be utilized to determine the extent of ~~client~~ participation by eligible individuals or individuals receiving services during an extended evaluation in the cost of vocational rehabilitation services.

1. *The state unit shall maintain written policies covering the determination of financial need;*

~~Services exempt from consideration for financial participation shall be diagnostic and evaluation;~~ 2. *The state plan must specify the types of vocational rehabilitation services for which the unit has established a financial needs test. No financial needs test shall be applied and no financial participation shall be required as a condition for furnishing the following vocational rehabilitation services assessment for determining eligibility and priority for services, except those nonassessment services that are provided during an extended evaluation for an individual with a severe disability; assessment for determining vocational rehabilitation needs; counseling, guidance and referral services, job-placement services, on-the-job training, and unpaid work experience. Also excluded from financial participation shall be services necessary to assist in the diagnostic and evaluation process, such as transportation, maintenance, and interpreter service for the deaf. Services which require an economic need test are: physical and mental restoration; training other than on-the-job training (OJT); maintenance; transportation; services to family members; interpreter and reader services; telecommunications; recruitment and training services; post-employment; occupational licenses and other goods and services.*

3. *The policies must be applied uniformly to all individuals in similar circumstances; the policies may require different levels of need for different geographic regions in the state, but must be applied uniformly to all individuals*

within each geographic region; and the policies must ensure that the level of an individual's participation in the cost of vocational rehabilitation services is reasonable based on the individual's financial need, including consideration of any disability-related expenses paid by the individual, and not so high as to effectively deny the individual a necessary service.

C. Groups exempt are:

1. Recipients of General Relief.

2. Recipients of ~~Aid to Families with Dependent Children~~ Temporary Assistance for Needy Families (TANF) by the ~~client~~ individual or family in on which the ~~client~~ individual is dependent.

~~D. The department shall make an assessment of similar benefits available to pay for vocational rehabilitation services. The department shall not pay program costs which could otherwise be provided by similar benefits unless it is documented that securing such benefits would significantly delay the provision of services to the client.~~

E. D. Income and resources of the family are to be used when the client is a part of the family unit. The client is a part of the parent or legal guardian family unit upon occurrence of either:

1. Dependency of support evidenced on the last federal income tax return of the parent or legal guardian regardless of residency; or

2. When temporarily absent from the home due to illness, school, vacation, or military leave.

F. E. The financial need test shall consider the following income:

1. Annual taxable income (gross income).

2. Annual nontaxable income such as social security, retirement benefits, ~~workmen's~~ workers' compensation, and ~~veteran's~~ veterans' benefits.

3. Total cash assets, including checking and savings accounts, certificates, stocks, and bonds.

F. The financial need test shall provide for the following allowances and exclusions:

1. The gross income shall be adjusted by the percentage indicated in the table below:

Gross Income	Allowance
Under \$10,000	15%
\$10,000 to \$14,999	20%
\$15,000 to \$24,999	25%
\$25,000 to \$34,999	30%
Over \$34,999	35%

2. Income shall be excluded from consideration based upon family size using the table below:

The table above is based upon the federal low income for a family of four. It shall be updated annually by the department.

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Size of Family	Income Exclusion
1	\$10,608
2	\$13,143
3	\$15,678
4	\$18,213
5	\$20,748
6	\$23,283
7	\$25,818
8	\$28,353

For each additional dependent, add \$2,535.

The table above is based upon the federal law income for a family of four. It shall be updated annually by the department.

3. Excluded from income shall be estimated client cost specifically related to the client's disability and not covered by ~~similar comparable services and~~ benefits.

4. Excluded from cash assets is \$5,000.

5. Individual retirement accounts shall be excluded from income considerations.

G. Determination of the annual client financial contribution results from an examination of: (i) the number of persons in the family unit; (ii) annual taxable income minus allowances; (iii) annual nontaxable income; (iv) cash assets minus exclusions; and (v) exceptional exclusions based on client cost specifically related to client's disability.

The financial resources to be considered shall be tabulated using the method noted herein. The positive balance (resources exceeding exclusions) shall be determined to be available for participation in the rehabilitation program.

22 VAC 30-20-170. Consideration of similar Availability of comparable services and benefits.

~~A. Consideration shall be given, in all cases, to any similar benefits available to a client, or to members of a client's family, under any program to meet, in whole or in part, the cost of any vocational rehabilitation services except the following:~~

~~1. Evaluation of vocational rehabilitation potential except as provided under subdivision C 4 of 22 VAC 30-20-60;~~

~~2. Counseling, guidance, and referral;~~

~~3. Vocational and other training services, including personal and vocational adjustment training, books, tools, and other training materials, which are not provided in institutions of higher education;~~

~~4. Placement;~~

~~5. Post-employment services consisting of the services listed in 22 VAC 30-20-120.~~

~~6. Physical and mental restoration services and maintenance, when the similar benefit would significantly delay the provision of services to the client; and~~

~~7. When they are not adequate and would interfere with achieving the rehabilitation objective of the client.~~

A. Prior to providing any vocational rehabilitation services to an eligible individual or to members of the individual's family, except those services listed in subsection D of this section, the state unit shall determine whether comparable services and benefits exist under any other program and whether those services and benefits are available to the individual.

B. The department shall consider the availability of third party resources to cover part or all of the cost; the availability of the client's resources or the client's family resources to cover part or all of the cost; and the availability of department resources to cover part or all of the cost when other resources are insufficient. If comparable services or benefits exist under any other program and are available to the eligible individual at the time needed to achieve the rehabilitation objectives in the individual's IWRP, the state unit shall use those comparable services or benefits to meet, in whole or in part, the cost of vocational rehabilitation services.

C. If comparable services or benefits exist under any other program but are not available to the individual at the time needed to achieve the rehabilitation objectives in the individual's IWRP, the state unit shall provide vocational rehabilitation services until those comparable services and benefits become available.

D. The following services are exempt from a determination of the availability of comparable services and benefits under subsection A of this section: assessment for determining eligibility and priority for services; assessment for determining vocational rehabilitation needs; vocational rehabilitation counseling, guidance, and referral services; vocational and other training services, such as personal and vocational adjustment training, books (including alternative format books accessible by computer and taped books), tools, and other training materials in accordance with 34 CFR 361.48(a)(6); placement services; rehabilitation technology; and post-employment services consisting of those services listed in this subsection.

E. The requirements of subsection A of this section also do not apply if the determination of the availability of comparable services and benefits under any other program would delay the provision of vocational rehabilitation services to any individual who is determined to be at extreme medical risk based on medical evidence provided by an appropriate qualified medical professional; or an immediate job placement would be lost due to a delay in the provision of comparable services and benefits.

22 VAC 30-20-181. Review of rehabilitation counselor or coordinator determinations.

A. The state plan must contain procedures, including standards of review under subdivision D 7 of this section, established by the Commissioner of the Department of Rehabilitative Services to ensure that any applicant or eligible individual who is dissatisfied with any determinations made by a rehabilitation counselor or coordinator concerning the furnishing or denial of services may request, or, if appropriate, may request through the individual's representative, a timely

review of those determinations. The procedures established by the Commissioner of the Department of Rehabilitative Services must be in accordance with this section.

B. Informal resolution. The Department of Rehabilitative Services may establish an informal process to resolve a request for review without conducting a formal hearing. However, the informal process must be conducted and concluded within the time period established under subdivision D 1 of this section for holding a formal hearing. If informal resolution is not successful, a formal hearing must be conducted by the end of this same period, unless the parties agree to a specific extension of time.

C. Formal hearing procedures.

1. Impartial hearing officer means an individual who:

- a. Is not an employee of a public agency (other than an administrative law judge, hearing examiner, or employee of an institution of higher education);
- b. Is not a member of the State Rehabilitation Advisory Council for the Department of Rehabilitative Services;
- c. Has not been involved in previous decisions regarding the vocational rehabilitation of the applicant or eligible individual;
- d. Has knowledge of the delivery of vocational rehabilitation services, the state plan, and the federal and state regulations governing the provision of services;
- e. Has received training with respect to the performance of official duties; and
- f. Has no personal, professional, or financial interest that would be in conflict with the objectivity of the individual.

2. An individual may not be considered to be an employee of a public agency for the purposes of this definition solely because the individual is paid by the agency to serve as a hearing officer.

D. ~~Except as provided in subsection F of this section,~~ The department shall establish formal review procedures that provide that:

1. A hearing by an impartial hearing officer, selected in accordance with subsection E of this section, must be held within 45 days of an individual's request for review, unless informal resolution is achieved prior to the 45th day or the parties agree to a specific extension of time;
2. The department may not institute a suspension, reduction, or termination of services being provided under an IWRP pending a final determination of the formal hearing under this subdivision or informal resolution under subsection B of this section, unless the individual or, in an appropriate case, the individual's representative so requests or the agency has evidence that the services have been obtained through misrepresentation, fraud, collusion, or criminal conduct on the part of the individual;

3. The individual or, if appropriate, the individual's representative must be afforded an opportunity to present additional evidence, information, and witnesses to the impartial hearing officer, to be represented by counsel or other appropriate advocate, and to examine all witnesses and other relevant sources of information and evidence;

4. The impartial hearing officer shall make a decision based on the provisions of the approved state plan, the federal Rehabilitation Act of 1973 as amended (the Act), federal vocational rehabilitation regulations, and state regulations and policies that are consistent with federal requirements and shall provide to the individual or, if appropriate, the individual's representative and to the commissioner a full written report of the findings and grounds for the decision within 30 days of the completion of the hearing;

5. If the commissioner decides to review the decision of the impartial hearing officer, the commissioner shall notify in writing the individual or, if appropriate, the individual's representative of that intent within 20 days of the mailing of the impartial hearing officer's decision;

6. If the commissioner fails to provide the notice required by subdivision 5 of this subsection, the impartial hearing officer's decision becomes a final decision;

7. The decision of the commissioner to review any impartial hearing officer's decision must be based on the standards of review contained in written departmental policy.

8. If the commissioner decides to review the decision of the impartial hearing officer, the commissioner shall provide the individual or, if appropriate, the individual's representative an opportunity to submit additional evidence and information relevant to the final decision;

9. The commissioner may not overturn or modify a decision, or part of a decision, of an impartial hearing officer that supports the position of the individual unless the commissioner concludes, based on clear and convincing evidence, that the decision of the impartial hearing officer is clearly erroneous because it is contrary to the approved state plan, the federal Rehabilitation Act, federal vocational rehabilitation regulations, or state regulations or policies that are consistent with federal requirements;

10. Within 30 days of providing notice of intent to review the impartial hearing officer's decision, the commissioner shall make a final decision and provide a full report in writing of the decision, including the findings and the statutory, regulatory, or policy grounds for the decision, to the individual or, if appropriate, the individual's representative;

11. The commissioner may not delegate responsibility to make any final decision to any other officer or employee of the Department of Rehabilitative Services; and

12. Except for the time limitations established in subdivisions 1 and 5 of this subsection, each state's review procedures may provide for reasonable time

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extensions for good cause shown at the request of a party or at the request of both parties.

E. Selection of impartial hearing officers. ~~Except as provided in subsection F of this section,~~ The impartial hearing officer for a particular case must be selected (i) from among the pool of persons qualified to be an impartial hearing officer, as defined in 34 CFR 361.5(b)(22) and 29 USC § 722(b) and (d), who are identified jointly by the Department of Rehabilitative Services and those members of the State Rehabilitation Advisory Council designated in § 102(d)(2)(C) of the Act (29 USC § 722(b) and (d)) and (ii) on a random basis.

F. Informing affected individuals. The department shall inform, through appropriate modes of communication, all applicants and eligible individuals of:

1. Their right to review under this section, including the names and addresses of individuals with whom appeals may be filed; and
2. The manner in which an impartial hearing officer will be selected consistent with the requirements of subsection E of this section.

22 VAC 30-20-200. Periodic Review of extended employment in ~~rehabilitation facilities.~~

A. ~~Periodic~~ *The state unit shall review and reevaluation shall be conducted reevaluate at least annually, of the status of these clients who have been placed each individual determined by the state unit to have achieved an employment outcome in an extended employment setting in a community rehabilitation facilities program or other employment setting in which the individual is compensated in accordance with § 14(c) of the Fair Labor Standards Act. This review or reevaluation must include input from the individual or, in an appropriate case, the individual's representative, to determine the feasibility of their interests, priorities, and needs of the individual for employment or their training for future employment in an integrated setting in the competitive labor market.*

B. ~~The state unit shall make maximum effort shall be made to place these clients in competitive employment or training for competitive employment whenever feasible,~~ *including the identification of vocational rehabilitation services, reasonable accommodations, and other support services to enable the eligible individual to benefit from training in or to be placed in an integrated setting.*

C. *The state unit shall provide services designed to promote movement from extended employment to integrated employment, including supported employment, independent living, and community participation.*

VA.R. Doc. No. R01-57; Filed November 17, 2000, 3:07 p.m.



EMERGENCY REGULATIONS

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF MEDICINE

Title of Regulation: **18 VAC 85-110-10 et seq. Regulations Governing the Practice of Licensed Acupuncturists (amending 18 VAC 85-110-100).**

Statutory Authority: §§ 54.1-2400 and 54.1-2956.9 of the Code of Virginia.

Effective Dates: November 17, 2000, through November 16, 2001.

Agency Contact: William L. Harp, M.D., Executive Director, Board of Medicine, 6606 W. Broad Street, 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9908, FAX (804) 662-9943, (804) 662-7197/TTY, or e-mail wharp@dhp.state.va.us.

Preamble:

Amendments are required in order to conform to an enactment clause in Chapter 814 of the 2000 Acts of the Assembly requiring the board to promulgate regulations within 280 days of enactment for the requirement of a standard form recommending a diagnostic examination for provision by the licensed acupuncturist to the patient.

The law requires the licensed acupuncturist to either get written documentation that the patient has received a diagnostic examination by a licensed practitioner of medicine, osteopathy, chiropractic or podiatry or to provide a written recommendation for such an examination to the patient. The enactment clause requires the board to promulgate regulations for this requirement, including a standard form to be signed by the patient, within 280 days of enactment of the law.

While the Code of Virginia no longer requires that a person get a medical examination and referral prior to receiving acupuncture, concerns remain that a medical problem will go undiagnosed and untreated during the course of acupuncture treatment. Therefore, the requirement for a written recommendation for an examination by a physician will provide a measure of protection for a patient's safety and health.

It is not anticipated that any issues related to the written recommendation form will arise. Many licensed acupuncturists already utilize such a form for their own protection and their concerns about their patients.

Approved:

James S. Gilmore, III

Governor

Date: October 11, 2000

18 VAC 85-110-100. General requirements.

Prior to performing acupuncture, a licensed acupuncturist shall obtain written documentation that the patient has received a diagnostic examination within the past six months

by a licensed doctor of medicine, osteopathy, chiropractic, or podiatry acting within the scope of his practice or shall provide to the patient a written recommendation for such a diagnostic examination on a form specified by the board and signed by the patient. One copy of the signed form shall be maintained in the patient's chart and another copy provided to the patient.

NOTICE: The forms used in administering 18 VAC 85-110-10 et seq., Regulations Governing the Practice of Licensed Acupuncturists, are listed below. Any amended or added forms are reflected in the listing and are published following the listing.

FORMS

Instructions for Completing the Application for Licensed Acupuncturist, American Graduates (rev. 8/99).

Instructions for Completing the Application for Licensed Acupuncturist, Non-American Graduates (rev. 8/99).

Application for a License to Practice as an Acupuncturist (rev. 7/98).

Form #A, Claims History Sheet (rev. 1/98).

Form #B, Activity Questionnaire (rev. 1/98).

Form #C, Clearance from Other State Boards (rev. 1/98).

Verification of NCCAOM Certification (rev. 7/98).

Renewal Notice and Application (rev. ~~2/00~~ 9/00).

Recommendation for a Diagnostic Examination (11/00).

Recommendation for a Diagnostic Examination

The Code of Virginia requires that prior to performing acupuncture, a licensed acupuncturist shall either "(i) obtain written documentation that the patient had received a diagnostic examination from a licensed practitioner of medicine, osteopathy, chiropractic or podiatry with regard to the ailment or condition to be treated or (ii) provide to the patient a written recommendation for such a diagnostic examination." (§54.1-2956.9 of the Code of Virginia)

The law further requires the Board to adopt a standard form to be used by licensed acupuncturists in making such a recommendation. **Therefore, this form must be given to any patient seeking acupuncture treatment from whom the acupuncturist has not obtained written documentation of a diagnostic examination from a licensed practitioner of medicine, osteopathy, chiropractic or podiatry for the ailment or condition being treated.**

- The form must be in duplicate with one copy to be given to the patient and one copy kept on file with the patient's records.
- The form must be signed and dated by both the patient and the licensed acupuncturist.
- If the patient does not understand English, the licensed acupuncturist must either provide the form in the language of the patient or ensure that it has been translated for the patient in his language.

WE, THE UNDERSIGNED, DO AFFIRM THAT _____
(NAME OF PATIENT) HAS BEEN ADVISED BY _____
(NAME OF LICENSED ACUPUNCTURIST), TO CONSULT A PHYSICIAN
REGARDING THE CONDITION FOR WHICH ACUPUNCTURE
TREATMENT IS BEING SOUGHT.

(Signature)

(Date)

(Signature)

(Date)

Form effective: November, 2000

VA.R. Doc. No. R01-51; Filed November 17, 2000, 1:57 p.m.



GOVERNOR

GOVERNOR'S COMMENTS ON PROPOSED REGULATIONS

TITLE 9. ENVIRONMENT

STATE AIR POLLUTION CONTROL BOARD

Title of Regulation: **9 VAC 5-210-10 et seq. Regulation for Dispute Resolution.**

I have reviewed the proposed regulation on a preliminary basis. While I reserve the right to take action under the Administrative Process Act during the final adoption period, I have no objection to this regulation based on the information and public comment currently available.

/s/ James S. Gilmore, III
Governor
Date: September 22, 2000

VA.R. Doc. No. R00-136; Filed November 21, 2000, 11:35 a.m.

VIRGINIA WASTE MANAGEMENT BOARD

Title of Regulation: **9 VAC 20-15-10 et seq. Regulation for Dispute Resolution.**

I have reviewed the proposed regulation on a preliminary basis. While I reserve the right to take action under the Administrative Process Act during the final adoption period, I have no objection to this regulation based on the information and public comment currently available.

/s/ James S. Gilmore, III
Governor
Date: September 22, 2000

VA.R. Doc. No. R00-139; Filed November 21, 2000, 11:35 a.m.

STATE WATER CONTROL BOARD

Title of Regulation: **9 VAC 25-15-10 et seq. Regulation for Dispute Resolution.**

I have reviewed the proposed regulation on a preliminary basis. While I reserve the right to take action under the Administrative Process Act during the final adoption period, I have no objection to this regulation based on the information and public comment currently available.

/s/ James S. Gilmore, III
Governor
Date: September 22, 2000

VA.R. Doc. No. R00-140; Filed November 21, 2000, 11:35 a.m.

* * * * *

Title of Regulation: **9 VAC 25-260-5 et seq. Water Quality Standards.**

I have reviewed the proposed regulation on a preliminary basis. While I reserve the right to take action under the

Administrative Process Act during the final adoption period, I have no objection to this regulation based on the information and public comment currently available.

/s/ James S. Gilmore, III
Governor
Date: November 15, 2000

VA.R. Doc. No. R00-57; Filed November 21, 2000, 11:35 a.m.

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY

Title of Regulation: **18 VAC 30-20-10 et seq. Regulations of the Board of Audiology and Speech-Language Pathology.**

Governor's Comment:

I have reviewed the proposed regulation on a preliminary basis. While I reserve the right to take action under the Administrative Process Act during the final adoption period, I have no objection to this regulation based on the information and public comment currently available.

/s/ James S. Gilmore, III
Governor
Date: November 15, 2000

VA.R. Doc. No. R99-219; Filed November 21, 2000, 11:35 a.m.

THE LEGISLATIVE RECORD

The Legislative Record is available on the Internet at <http://dls.state.va.us/pubs/legisrec/>

GENERAL NOTICES/ERRATA

DEPARTMENT OF ENVIRONMENTAL QUALITY

Notice of Public Meeting and Public Comment Regarding TMDL in Contrary Creek

The Department of Environmental Quality (DEQ) is seeking written comments from interested persons on the addition of 5.49 miles of Contrary Creek in Louisa County to Virginia's 1998 § 303(d) Total Maximum Daily Load Priority List and Report. The § 303(d) list identifies waters in Virginia that violate one or more of Virginia's water quality standards and require the development of Total Maximum Daily Loads (TMDLs). Water quality monitoring on Contrary Creek shows that 18 pH values out of 18 samples are below the minimum water quality criteria of six. The source of the pH impairment is the spoils from abandoned mining activity in the watershed. The impaired segment begins in the headwaters of Contrary Creek and ends at the confluence with Lake Anna.

Section 62.1-44.19:7 C of the Code of Virginia requires DEQ to include impaired waters on Virginia's § 303(d) TMDL List. Section 303(d)(1)(A) of the federal Clean Water Act and EPA's implementing regulations at 40 CFR § 130.7(d) require the states to develop a list of waters violating water quality standards and still needing TMDLs.

A fact sheet on this impaired stream segment is available. Written comments, questions, or information requests should include the name, address, telephone number, and signature of the person submitting the comments. Comments must be received by the end of the public comment period on January 18, 2001. After responding to the public comments, DEQ will request EPA's approval for adding Contrary Creek to Virginia's 1998 § 303(d) TMDL Priority List.

Contact: Charles Martin, Department of Environmental Quality, P.O. Box 10009, Richmond, Virginia 23240-0009, telephone (804) 698-4162, Fax (804) 698-4136, or e-mail chmartin@deq.state.va.us.

Notice of Annual Water Quality Monitoring Plan -- MY2001

The Department of Environmental Quality (DEQ) is making available for inspection to interested persons the Annual Water Quality Monitoring Plan – MY2001 (WQMP) for the monitoring year (MY) 2001, which began on July 1, 2000, and ends on June 30, 2001.

Section 62.1-44.19:5 B of the Code of Virginia requires DEQ, upon development of the plan, to publish notice in the Virginia Register that the plan is available for public inspection.

The WQMP 2001 contains a few significant changes from the previous monitoring year. The plan does contain the frequency, parameters, and stations where sampling is to occur.

Copies of the Annual Water Quality Monitoring Plan can be requested from Dr. Donald H. Smith. Also, comments, questions, or information requests should be addressed to Dr. Smith. Any written comments should include the name,

address, and telephone number of the person submitting the comments.

Contact: Dr. Donald H. Smith, Department of Environmental Quality, P.O. Box 10009, Richmond, Virginia 23240-0009, telephone (804) 698-4429, Fax (804) 698-4136, or e-mail dhsmith@deq.state.va.us.

DEPARTMENT OF GAME AND INLAND FISHERIES

Notice of Periodic Review of Regulations

The Virginia Department of Game and Inland Fisheries, pursuant to Executive Order Number Twenty-Five (98), invites public comment on the below listed existing regulations as part of a periodic review of the regulations' effectiveness at achieving their goals, and to determine if the regulations should be retained, amended, or terminated. Virginia regulations are available online at <http://leg1.state.va.us>, or copies of the below regulations may be obtained from the department. The regulations under review are:

4 VAC 15-10-10 et seq., Public Participation Guidelines.

4 VAC 15-370-10 et seq., Watercraft: In General.

4 VAC 15-380-10 et seq., Watercraft: Motorboat Numbering.

4 VAC 15-390-10 et seq., Watercraft: Safe and Reasonable Operation of Vessels.

4 VAC 15-400-10 et seq., Watercraft: Accident and Casualty Reporting.

Comments will be accepted from 9 a.m. December 19, 2000, until 5 p.m. January 9, 2001. Comments should be sent to Phil Smith, Policy Analyst and Regulatory Coordinator, Virginia Department of Game and Inland Fisheries, 4010 West Broad Street, Richmond, Virginia 23230, or emailed to regcomments@dgif.state.va.us. Contact the department at (804) 367-1000 with any questions.

BOARD OF MEDICINE

Notice of Periodic Review of Regulations Request for Comment

Pursuant to Executive Order 25 (98) and its Public Participation Guideline Regulations, the Board of Medicine is requesting comment on existing regulations:

18 VAC 85-20-10 et seq. Regulations Governing the Practice of Medicine, Osteopathy, Podiatry and Chiropractic

Goals of the regulation: 1) achieve a high level of satisfaction for application and renewal processes for all licensed practitioners; 2) establish a viable practitioner profile system for doctors of medicine, osteopathy and podiatry that is available to consumers; 3) ensure compliance by practitioners with continuing competency requirements; 4) license only persons who are qualified to practice.

General Notices/Errata

The board will consider whether the existing regulations are essential to protect the health, safety and welfare of the public and provide assurance that practitioners are competent to practice. Alternatives to the current regulations or suggestions for clarification of the regulation will also be received and considered.

If any member of the public would like to comment on regulations, please send comments by the close of the comment period on January 18, 2001, to Elaine J. Yeatts, Senior Policy Analyst, Department of Health Professions, 6606 West Broad Street, 4th Floor, Richmond, VA 23230. Comments may also be e-mailed to eyeatts@dhp.state.va.us or faxed to (804) 662-9114. Regulations may be viewed on-line at www.townhall.state.va.us or copies will be sent upon request.

VIRGINIA CODE COMMISSION

Change in Subscription Rate for the *Virginia Register of Regulations*

The Virginia Code Commission approved an increase of the annual subscription rate for the *Virginia Register of Regulations* to \$125 and an increase for single copy issues of the *Register* to \$5.00 per issue. The new rates became effective with Volume 17, Issue 1, which was published on September 25, 2000.

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 for Publication in *The Virginia Register of Regulations*

All agencies are required to use the appropriate forms when furnishing material 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/register/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

STATE WATER CONTROL BOARD

Title of Regulation: 9 VAC 25-630-10 et seq. Virginia Pollution Abatement General Permit Regulation for Poultry Waste Management.

Publication: 17:3 VA.R. 398-408 October 23, 2000

Corrections to Final Regulation:

Page 400, column 1, 9 VAC 25-630-30 A 3, line 8, insert "or Chapter 14 (§ 10.1-1400 et seq.) of Title 10.1" after "§ 3.1-726"

Page 402, column 2, 9 VAC 25-630-50 B 6, line 9, insert "or Chapter 14 (§ 10.1-1400 et seq.) of Title 10.1" after "§ 3.1-726"

CALENDAR OF EVENTS

Symbol Key

-  Location accessible to persons with disabilities
 Teletype (TTY)/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. If you are unable to find a meeting notice for an organization in which you are interested, please check the Commonwealth Calendar at www.vipnet.org or contact the organization directly.

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) 698-1500 or Senate Information and Constituent Services at (804) 698-7410 or (804) 698-7419/TTY , 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

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Virginia Sheep Industry Board

† **January 5, 2001 - 11 a.m.** -- Open Meeting
Sheraton Inn, 1400 East Market Street, Harrisonburg, Virginia. 

The board will hear the financial report and reports on the USDA Wildlife Services, Virginia Food Festival, Chesapeake Heritage Arts and Fiber Festival, and the State Fair Market Lamb Show. The board will discuss a Virginia Sheep Industry directory. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs any accommodation in order to participate at the meeting should contact the person identified in this notice at least five days before the meeting date so that suitable arrangements can be made.

Contact: Mike Carpenter, Program Director, Livestock Marketing Services, Department of Agriculture and Consumer Services, 116 Reservoir St., Harrisonburg, VA 22801, telephone (540) 434-0779, FAX (540) 434-5607.

Virginia Horse Industry Board

† **February 7, 2001 - 9 a.m.** -- Open Meeting
Middleburg Agricultural Experiment Station, 5527 Sullivans Mill Road, 1st Floor, Conference Room, Middleburg, Virginia. 

The board will review the minutes of the last meeting, review planned projects for 2001, and discuss the upcoming grant review period and process. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs any accommodation in order to participate at the meeting should contact the person

identified in this notice at least five days before the meeting date so that suitable arrangements can be made.

Contact: Andrea S. Heid, Program Director, Virginia Horse Industry Board, Department of Agriculture and Consumer Services, 1100 Bank St., Suite 1004, Richmond, VA 23219, telephone (804) 786-5842, FAX (804) 371-7786.

STATE AIR POLLUTION CONTROL BOARD VIRGINIA WASTE MANAGEMENT BOARD STATE WATER CONTROL BOARD

December 26, 2000 - Public comments may be submitted until 4:30 p.m. on this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Air Pollution Control Board intends to adopt regulations entitled **9 VAC 5-210-10 et seq., Regulation for Dispute Resolution**; that the Virginia Waste Management Board intends to adopt regulations entitled **9 VAC 20-15-20 et seq., Regulation for Dispute Resolution**; and that the State Water Control Board intends to adopt regulations entitled **9 VAC 25-15-10 et seq., Regulation for Dispute Resolution**. The proposed regulations encourage the fair, expeditious, voluntary, consensual resolution of disputes by providing an alternative to administrative hearings and litigation. The disputes eligible for referral to voluntary dispute resolution are those relating to the issuance of a permit or to the adoption of a regulation. The decision to employ dispute resolution is in the boards' sole discretion, and the outcome of any dispute resolution procedure does not bind the boards but may be considered by the boards in issuing a permit or promulgating a regulation. The proposed regulations contain provisions addressing situations appropriate for the use of dispute resolution, costs, confidentiality of proceedings, public participation, the use of neutral facilitators, and procedures for mediation.

Statutory Authority: § 10.1-1186.3 of the Code of Virginia.

Contact: Dr. Kathleen Sands, Policy Analyst, Office of Air Regulatory Development, Department of Environmental

Calendar of Events

Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4413, FAX (804) 698-4510, toll-free 1-800-592-5482 or (804) 698-4021/TTY ☎

ALCOHOLIC BEVERAGE CONTROL BOARD

January 4, 2001 - 9:30 a.m. -- Public Hearing
Department of Alcoholic Beverage Control, 2901 Hermitage Road, Richmond, Virginia. ♿

A meeting to receive and discuss reports and activities from staff members. Other matters for discussion are not yet determined.

Contact: W. Curtis Coleburn, Secretary to the Board, Alcoholic Beverage Control Board, 2901 Hermitage Rd., P.O. Box 27491, Richmond, VA 23261, telephone (804) 213-4409, FAX (804) 213-4442.

ART AND ARCHITECTURAL REVIEW BOARD

January 5, 2001 - 10 a.m. -- Public Hearing
February 2, 2001 - 10 a.m. -- Public Hearing
Science Museum of Virginia, 2500 West Broad Street, Forum Room, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A monthly meeting to review projects submitted by state agencies.

Contact: Richard L. Ford, Chairman, Art and Architectural Review Board, 1011 E. Main St., Room 221, Richmond, VA 23219, telephone (804) 643-1977, FAX (804) 643-1981, (804) 786-6152/TTY ☎

BOARD FOR ASBESTOS AND LEAD

February 15, 2001 - 10 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Conference Room 5W, Richmond, Virginia. ♿

A meeting to discuss routine business. A public comment period will be held at the beginning of the meeting.

Contact: David E. Dick, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, Virginia 23230, telephone (804) 367-2648, FAX (804) 367-6128, (804) 367-9753/TTY ☎, e-mail asbestos@dpor.state.va.us.

COMPREHENSIVE SERVICES FOR AT-RISK YOUTH AND FAMILIES

State Executive Council

December 20, 2000 - 9 a.m. -- Open Meeting
February 28, 2001 - 9 a.m. -- Open Meeting

Department of Social Services, 730 East Broad Street, Richmond, Lower Level, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A meeting to provide for interagency programmatic and fiscal policies and oversee the administration of funds appropriated under the Act. Advise the SHHR and the Governor. Agenda is posted on the web a week prior to the meeting.

Contact: Alan G. Saunders, Director, Comprehensive Services for At-Risk Youth and Families, 1604 Santa Rosa Rd., Suite 137, Richmond, VA 23229, telephone (804) 662-9815, FAX (804) 62-9831, e-mail AGS992@central.dss.state.va.us.

BOARD OF AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY

December 22, 2000 - 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 amend regulations entitled: **18 VAC 30-20-10 et seq. Regulations of the Board of Audiology and Speech-Language Pathology.** The purpose of the proposed amendments is to establish requirements for evidence of continued competency and for an inactive license for audiologists and speech-language pathologists.

Statutory Authority: §§ 54.1-103 and 54.1-2400 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) 662-9111, FAX (804) 662-9523 or e-mail Etisdale@dhp.state.va.us.

BOARD FOR BRANCH PILOTS

December 19, 2000 - 9:30 a.m. -- Open Meeting
Virginia Port Authority, 600 World Trade Center, Norfolk, Virginia. ♿ (Interpreter for the deaf provided upon request)

A meeting to conduct board business. Persons desiring to participate in the meeting and requiring special accommodations or interpretative services should contact the department at (804) 367-8514 at least 10 days prior to this meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: Mark N. Courtney, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., 5th Floor, Richmond, VA 23230-4917, telephone (804) 367-8514, FAX (804) 367-2475, (804) 367-9753/TTY ☎, e-mail branchpilots@dpor.state.va.us.

STATE BOARD FOR COMMUNITY COLLEGES

† **January 24, 2001 - 3 p.m.** -- Open Meeting
Virginia Community College System, James Monroe Building,
101 North 14th Street, 15th Floor, Richmond, Virginia. 
(Interpreter for the deaf provided upon request)

Meetings of the Academic and Student Affairs; Audit,
Budget and Finance; Facilities; and Personnel
Committees. Public comment will be taken at the
beginning of each committee meeting.

Contact: D. Susan Hayden, Public Relations Manager, State
Board for Community Colleges, James Monroe Bldg., 101 N.
14th St., 15th Floor, Richmond, VA 23219, telephone (804)
225-2126, FAX (804) 371-0085, (804) 371-8504/TTY 

† **January 25, 2001 - 9 a.m.** -- Open Meeting
Virginia Community College System, James Monroe Building,
101 North 14th Street, 15th Floor, Godwin-Hamel Board
Room, Richmond, Virginia.  (Interpreter for the deaf
provided upon request)

A regularly scheduled meeting. Public comment will be
heard at the beginning of the meeting.

Contact: D. Susan Hayden, Public Relations Manager, State
Board for Community Colleges, James Monroe Bldg., 101 N.
14th St., 15th Floor, Richmond, VA 23219, telephone (804)
225-2126, FAX (804) 371-0085, (804) 371-8504/TTY 

COMPENSATION BOARD

December 19, 2000 - 11 a.m. -- Open Meeting
† **January 23, 2001 - 11 a.m.** -- Open Meeting
Compensation Board, Ninth Street Office Building, 202 North
9th Street, 10th Floor, Richmond, Virginia. 

A monthly board meeting.

Contact: Cindy Waddell, Administrative Staff Assistant,
Compensation Board, P.O. Box 710, Richmond, VA 23218,
telephone (804) 786-0786, FAX (804) 371-0235, e-mail
cwaddell@scb.state.va.us.

† **January 9, 2001 - 2 p.m.** -- Open Meeting
Compensation Board, Ninth Street Office Building, 202 North
9th Street, 10th Floor, Richmond, Virginia. 

A board meeting with Constitutional Officer Association
Presidents regarding upcoming legislation for the 2001
Session of the General Assembly.

Contact: Cindy P. Waddell, Administrative Staff Assistant,
Compensation Board, P.O. Box 710, Richmond, VA 23218,
telephone (804) 786-0786, FAX (804) 371-0235, e-mail
cwaddell@scb.state.va.us.

DEPARTMENT OF CONSERVATION AND RECREATION

Cave Board

January 27, 2001 - 1 p.m. -- Open Meeting
Endless Caverns, New Market, Virginia.  (Interpreter for the
deaf provided upon request)

Committee meetings at 11 a.m. followed by a full board
meeting at 1 p.m.

Contact: Lawrence Smith, Natural Area Protection Manager,
Department of Conservation and Recreation, 203 Governor
St., Richmond, VA 23219, telephone (804) 371-6205, e-mail
lsmith@dcr.state.va.us.

Virginia Land Conservation Foundation

January 4, 2001 - 9:30 a.m. -- Open Meeting
NOTE: CHANGE IN MEETING LOCATION
General Assembly Building, 9th and Broad Streets, House
Room C, Richmond, Virginia.  (Interpreter for the deaf
provided upon request)

A regular business meeting.

Contact: Silas Davenport, VLCF Special Assistant,
Department of Conservation and Recreation, 203 Governor
St., Suite 302, Richmond, VA 23219, telephone (804) 786-
5678, e-mail sdavenport@dcr.state.va.us.

DEPARTMENT FOR THE DEAF AND HARD-OF- HEARING

† **February 6, 2001 - 6 p.m.** -- Public Hearing
Department of Rehabilitative Services, 8004 Franklin Farms
Drive, Lee Building, 1st Floor, Conference Room, Richmond,
Virginia.  (Interpreter for the deaf provided upon request)

A meeting to receive comments on proposed
amendments to Regulations Governing Interpreter
Programs.

Contact: Laurie B. Malheiros, Interpreter Programs
Manager, Department for the Deaf and Hard-of-Hearing, 1602
Rolling Hills Dr., Suite 203, Richmond, VA 23229-5012,
telephone (804) 662-9702, FAX (804) 662-9718, toll-free
(800) 552-7917, (800) 552-7917/TTY , e-mail
malheilb@ddhh.state.va.us.

BOARD OF DENTISTRY

† **January 5, 2001 - 10 a.m.** -- Open Meeting
† **January 19, 2001 - 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)

Calendar of Events

An informal conference committee will hear possible violations of the regulations governing the practice of dentistry. No public comment will be heard.

Contact: Marcia J. Miller, Executive Director, Board of Dentistry, 6606 West Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9906, FAX (804) 662-7246, e-mail mjmiller@dhp.state.va.us.

BOARD OF EDUCATION

January 11, 2001 - 9 a.m. -- Open Meeting

February 15, 2001 - 9 a.m. -- Open Meeting

Richmond City School Board, 301 North 9th Street, Meeting Room, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

March 22, 2001 - 9 a.m. -- Open Meeting

Location to be announced.  (Interpreter for the deaf provided upon request)

A regular monthly meeting. Persons may register to speak at the meeting by calling Margaret Roberts. Persons requesting services of an interpreter for the deaf should do so in advance.

Contact: Dr. Margaret N. Roberts, Office of Policy, Board of Education, P.O. Box 2120, 101 N. 14th St., 25th Floor, Richmond, VA 23218, telephone (804) 225-2540, FAX (804) 225-2524, e-mail mroberts@mail.vak12ed.edu.

State Special Education Advisory Committee

January 10, 2000 - 9 a.m. -- Open Meeting

Holiday Inn Central, 3207 North Boulevard, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A meeting with representatives of the Virginia Interagency Coordinating Committee (VICC) to discuss the state special education self-assessment. This is a working session, and public comment will not be received.

Contact: Cathy Pomfrey, Office of Student Support Services, Board of Education, P.O. Box 2120, 101 N. 14th St., 25th Floor, Richmond, VA 23218, telephone (804) 225-2402, FAX (804) 225-2524.

January 11, 2001 - 9:15 a.m. -- Open Meeting

January 12, 2001 - 9:15 a.m. -- Open Meeting

Holiday Inn Central, 3207 North Boulevard, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A quarterly meeting of the committee. Public comment will be received from 9:45 a.m. to 10 a.m. each day.

Contact: Cathy Pomfrey, Office of Student Support Services, Board of Education, P.O. Box 2120, 101 N. 14th St., 25th Floor, Richmond, VA 23218, telephone (804) 225-2402, FAX (804) 225-2524.

VIRGINIA ENVIRONMENTAL EDUCATION ADVISORY COMMITTEE

† **January 25, 2001 - 10 a.m.** -- Open Meeting
Department of Game and Inland Fisheries, 4010 West Broad Street, Richmond, Virginia. 

A meeting of the Structure of Environmental Education Workgroup.

Contact: Ann Regn, Environmental Education Coordinator, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4442 or e-mail amregn@deq.state.va.us.

BOARD OF FUNERAL DIRECTORS AND EMBALMERS

February 28, 2001 - 9 a.m. -- Open Meeting

Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 1, Richmond, Virginia. 

A meeting of the Legislative Committee to review legislation from the 2001 Session of the General Assembly and possible proposals for the 2002 Session of the General Assembly. Public comment will be received at the beginning of the meeting.

Contact: Elizabeth Young Tisdale, Executive Director, Board of Funeral Directors and Embalmers, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9907, FAX (804) 662-9523, (804) 662-7197/TTY , e-mail etisdale@dhp.state.va.us.

DEPARTMENT OF HEALTH

† **January 25, 2001 - 10 a.m.** -- Open Meeting

Natural Resources Building, 900 Natural Resources Drive, Fontaine Research Park, Charlottesville, Virginia. 

A meeting of the Biosolids Use Regulations Advisory Committee to discuss implementation issues concerning the Biosolids Use Regulations involving land application, distribution and marketing of biosolids.

Contact: C. M. Sawyer, Ph.D., Director of Wastewater Engineering, Department of Health, Main Street Station, 1500 E. Main St., Room 308, Richmond, VA 23219, telephone (804) 786-1755, FAX (804) 786-5567, e-mail csawyer@vdh.state.va.us.

† **January 25, 2001 - 1 p.m.** -- Open Meeting

Natural Resources Building, 900 Natural Resources Drive, Fontaine Research Park, Charlottesville, Virginia. 

A meeting of the Biosolids Use Information Committee to discuss issues involving land application of biosolids and the agricultural use of biosolids as governed by the Biosolids Use Regulations.

Contact: C. M. Sawyer, Ph.D., Director of Wastewater Engineering, Department of Health, Main Street Station, 1500 E. Main St., Room 109, Richmond, VA 23219, telephone

(804) 786-1755, FAX (804) 786-5567, e-mail csawyer@vdh.state.va.us.

LIBRARY BOARD

January 19, 2001 - 8:15 a.m. -- Open Meeting

March 19, 2001 - 8:15 a.m. -- Open Meeting

The Library of Virginia, 800 East Broad Street, Richmond, Virginia. 

A meeting to discuss matters pertaining to The Library of Virginia and the Library Board. Committees of the board will meet as follows:

8:15 a.m. -- Public Library Development Committee, Orientation Room

Publications and Educational Services Committee, Conference Room B

Records Management Committee, Conference Room C

9:30 a.m. -- Archival and Information Services Committee, Orientation Room

Collection Management Services Committee, Conference Room B

Legislative and Finance Committee, Conference Room C

10:30 a.m. The full board will meet in the Conference Room on 2M.

Public comments will be received at approximately 11 a.m.

Contact: Jean H. Taylor, Executive Secretary to the Librarian of Virginia, The Library of Virginia, Richmond, VA 23219, telephone (804) 692-3535, FAX (804) 692-3594, (804) 692-3976/TTY , e-mail jtaylor@lva.lib.va.us.

COMMISSION ON LOCAL GOVERNMENT

January 8, 2001 - 10 a.m. -- Open Meeting

Pocahontas Building, 900 East Main Street, Suite 103, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A regular meeting to consider such matters as may be presented.

Contact: Barbara Bingham, Administrative Assistant, Commission on Local Government, 900 E. Main St., Suite 103, Richmond, VA 23219-3513, telephone (804) 786-6508, FAX (804) 371-7999, (800) 828-1120/TTY , e-mail bbingham@clg.state.va.us.

VIRGINIA MANUFACTURED HOUSING BOARD

† **January 18, 2001 - 10 a.m.** -- Open Meeting

The Jackson Center, 501 North 2nd Street, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A regular meeting to address licensing issues, handle complaints and claims against licensees in the program, conduct fact-findings regarding complaints and claims,

and carry out administration of the Manufactured Housing Licensing and Transaction Recovery Fund Regulations.

Contact: Curtis L. McIver, Associate Director, Virginia Manufactured Housing Board, State Building Code Administrative Office, 501 N. 2nd St., Richmond, VA 23219, telephone (804) 371-7160, FAX (804) 371-7092, (804) 371-7089/TTY , e-mail cmciver@dhcd.state.va.us.

MARINE RESOURCES COMMISSION

December 19, 2000 - 9:30 a.m. -- Open Meeting

Marine Resources Commission, 2600 Washington Avenue, 4th Floor, Newport News, Virginia.  (Interpreter for the deaf provided upon request)

The commission will hear and decide the following marine environmental matters beginning at 9:30 a.m.: permit applications for projects in wetlands, bottom lands, coastal primary sand dunes and beaches; appeals of local wetland board decisions; and policy and regulatory issues. The commission will hear and decide the following fishery management items beginning at approximately noon: regulatory proposals, fishery management plans, fishery conservation issues, licensing, and 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.

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/TTY 

BOARD OF MEDICINE

January 5, 2001 - 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 Medicine intends to amend regulations entitled: **18 VAC 85-40-10 et seq. Regulations Governing the Practice of Respiratory Care Practitioners.** The purpose of the proposed amendments is to establish an inactive license for respiratory care practitioners.

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

Public comments may be submitted until January 5, 2001, to Elaine J. Yeatts, Department of Health Professions, 6606 West Broad Street, 4th Floor, Richmond, VA 23230-1717.

Contact: William L. Harp, M.D., Executive Director, Board of Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9908 or FAX (804) 662-9943.

Calendar of Events

January 5, 2001 - 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 Medicine intends to amend regulations entitled: **18 VAC 85-50-10 et seq. Regulations Governing the Practice of Physician Assistants.** The purpose of the proposed amendments is to establish an inactive license for practitioners who do not intend to actively practice in Virginia.

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

Public comments may be submitted until January 5, 2001, to Elaine J. Yeatts, Department of Health Professions, 6606 West Broad Street, 4th Floor, Richmond, VA 23230-1717.

Contact: William L. Harp, M.D., Executive Director, Board of Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9908 or FAX (804) 662-9943.

† **January 11, 2001 - 9 a.m.** -- Public Hearing
Department of Health Professions, 6606 West Broad Street, 4th Floor, Richmond, Virginia.

February 16, 2001 - 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 Medicine intends to amend regulations entitled: **18 VAC 85-80-10 et seq. Regulations Governing the Licensure of Occupational Therapists.** Amendments are proposed to establish requirements for evidence of continued competency in renewal or reinstatement of licensure and for inactive license.

Statutory Authority: §§ 54.1-103, 54.1-2400 and 54.1-2912.1 of the Code of Virginia.

Contact: William L. Harp, M.D., Executive Director, Board of Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9908.

† **January 10, 2001 - 1 p.m.** -- Public Hearing
Department of Health Professions, 6606 West Broad Street, 4th Floor, Conference Room 4, Richmond, Virginia.

February 16, 2001 - 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 Medicine intends to amend 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 amendments is to establish

requirements for evidence of continued competency to renew or reinstate a license and for an inactive license.

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

Contact: William L. Harp, M.D., Executive Director, Board of Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9908.

† **January 10, 2001 - 9 a.m.** -- Public Hearing
Department of Health Professions, 6606 West Broad Street, 4th Floor, Conference Room 4, Richmond, Virginia.

February 16, 2001 - 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 Medicine intends to amend regulations entitled: **18 VAC 85-110-10 et seq. Regulations Governing the Practice of Licensed Acupuncturists.** Amendments are proposed to establish an inactive licensure and requirements for reactivation of status.

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

Contact: William L. Harp, M.D., Executive Director, Board of Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9908.

Informal Conference Committee

January 26, 2001 - 8:45 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, Richmond, Virginia. ☎

A meeting to inquire into allegations that certain practitioners may have violated laws and regulations governing the practice of medicine and other healing arts in Virginia. The committee will meet in open and closed sessions pursuant to § 2.1-344 of the Code of Virginia. Public comment will not be received.

Contact: Peggy Sadler or Renee Dixon, Board of Medicine, 6606 West Broad Street, 4th Floor, Richmond, VA 23230, telephone (804) 662-7332, FAX (804) 662-9517, (804) 662-7197/TTY ☎

STATE MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES BOARD

† **January 10, 2001 - 6 p.m.** -- Public Hearing
Virginia Housing Development Authority, 601 South Belvidere Street, Conference Room 1, Richmond, Virginia ☎
(Interpreter for the deaf provided upon request)

A regular meeting.

Contact: Marlene Butler, Executive Secretary, State Mental Health, Mental Retardation and Substance Abuse Services Board, Jefferson Bldg., 1220 Bank St., 13th Floor, Richmond,

VA 23219, telephone (804) 786-7945, FAX (804) 371-2308, e-mail mbutler@dmhmrsas.state.va.us.

February 4, 2001 - 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 Mental Health, Mental Retardation and Substance Abuse Services Board intends to repeal regulations entitled: **12 VAC 35-110-10 et seq. Rules and Regulations to Assure the Rights of Residents of Facilities Operated by the Department of Mental Health, Mental Retardation and Substance Abuse Services.** This regulation was designed to protect the legal and human rights of all residents of facilities operated by the Department of Mental Health, Mental Retardation and Substance Abuse Services. The provisions of this regulation are being incorporated into 12 VAC 35-115-10 et seq.

Statutory Authority: §§ 37.1-10 and 37.1-84.1 of the Code of Virginia.

Contact: Margaret S. Walsh, Director, Office of Human Rights, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23218-1797, telephone (804) 786-3988 or FAX (804) 371-2308.

January 10, 2001 - 5 p.m. -- Public Hearing
Hollins Branch Library, 6624 Peters Creek Road, Roanoke, Virginia.

January 10, 2001 - 6 p.m. -- Public Hearing
Virginia Housing Development Authority, 601 South Belvidere, Richmond, Virginia.

January 11, 2001 - 5 p.m. -- Public Hearing
Chesapeake City Hall Council Chamber, 306 Cedar Road, Chesapeake, Virginia.

February 4, 2001 - 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 Mental Health, Mental Retardation and Substance Abuse Services Board intends to adopt regulations entitled: **12 VAC 35-115-10 et seq. Rules and Regulations to Assure the Rights of Individuals Receiving Services from Providers of Mental Health, Mental Retardation and Substance Abuse Services.** The proposed regulation will protect the legal and human rights of individuals who receive treatment in programs and facilities operated, funded and licensed by the Department of Mental Health, Mental Retardation and Substance Abuse Services.

Statutory Authority: §§ 37.1-10 and 37.1-84.1 of the Code of Virginia.

Contact: Margaret S. Walsh, Director, Office of Human Rights, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23218-1797, telephone (804) 786-3988 or FAX (804) 371-2308.

February 4, 2001 - 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 Mental Health, Mental Retardation and Substance Abuse Services Board intends to repeal regulations entitled: **12 VAC 35-120-10 et seq. Rules and Regulations to Assure the Rights of Patients of Psychiatric Hospitals and Other Psychiatric Facilities Licensed by the Department of Mental Health, Mental Retardation and Substance Abuse Services.** This regulation was designed to protect the legal and human rights of all persons admitted to inpatient psychiatric programs licensed by the Department of Mental Health, Mental Retardation and Substance Abuse Services. The provisions of this regulation are being incorporated into 12 VAC 35-115-10 et seq.

Statutory Authority: §§ 37.1-10 and 37.1-84.1 of the Code of Virginia.

Contact: Margaret S. Walsh, Director, Office of Human Rights, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23218-1797, telephone (804) 786-3988 or FAX (804) 371-2308.

February 4, 2001 - 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 Mental Health, Mental Retardation and Substance Abuse Services Board intends to repeal regulations entitled: **12 VAC 35-130-10 et seq. Rules and Regulations to Assure the Rights of Clients in Community Programs Licensed or Funded by the Department of Mental Health, Mental Retardation and Substance Abuse Services.** This regulation was designed to protect the legal and human rights of consumers of community programs funded or licensed by the Department of Mental Health, Mental Retardation and Substance Abuse Services. The provisions of this regulation are being incorporated into 12 VAC 35-115-10 et seq.

Statutory Authority: §§ 37.1-10 and 37.1-84.1 of the Code of Virginia.

Contact: Margaret S. Walsh, Director, Office of Human Rights, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA

Calendar of Events

23218-1797, telephone (804) 786-3988 or FAX (804) 371-2308.

STATE MILK COMMISSION

† **January 10, 2001 - 10:30 a.m.** -- Open Meeting
Department of Mines, Minerals and Energy, 900 Natural Resources Drive, Room 2054, Charlottesville, Virginia. ☎

A regular meeting of the commission to consider industry issues, distributor licensing, base transfers, fiscal matters, and reports from staff of the agency. The commission will review and discuss subdivisions 6 (b) and (c) of 2 VAC 15-20-100 to determine if regulatory action should be commenced. Any persons requiring special accommodation should notify Edward C. Wilson Jr. at least five days prior to the meeting so that suitable arrangements can be made.

Contact: Edward C. Wilson, Jr., Deputy Administrator, State Milk Commission, Ninth St. Office Bldg., 202 N. Ninth St., Room 915, Richmond, VA 23219, telephone (804) 786-2013, FAX (804) 786-3779, (804) 786-2013/TTY ☎, e-mail ewilson@smc.state.va.us.

DEPARTMENT OF MINES, MINERALS AND ENERGY

† **January 25, 2001 - 10 a.m.** -- Public Hearing
Department of Mines, Minerals and Energy, Buchanan-Smith Building, Route 23 South, Rooms 218 and 219, Big Stone Gap, Virginia.

February 16, 2001 - 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 25-90-10 et seq. Regulations Governing the Use of Diesel-Powered Equipment in Underground Coal Mines.** The regulation sets forth the requirements for operation and maintenance, ventilation, air quality, fire protection, and fuel for diesel engines being used in underground coal mining.

Statutory Authority: §§ 45.1-161.3, 45.1-161.106, 45.1-107 and 45.1-161.206 of the Code of Virginia.

Contact: Frank Linkous, Mine Chief, Department of Mines, Minerals and Energy, P.O. Drawer 900, Big Stone Gap, VA 24219, telephone (540) 523-8100 or (540) 828-1120/TTY ☎

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† **January 25, 2001 - 10 a.m.** -- Public Hearing
Department of Mines, Minerals and Energy, Buchanan-Smith Building, Route 23 South, Rooms 218 and 219, Big Stone Gap, Virginia.

February 16, 2001 - 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 **repeal** regulations entitled: **4 VAC 25-100-10 et seq. Regulation Governing Vertical Ventilation Holes and Mining near Gas and Oil Wells** and **adopt** regulations entitled: **4 VAC 25-101-10 et seq. Regulation Governing Vertical Ventilation Holes and Mining near Gas and Oil Wells.** The purpose of the proposed action is to establish guidelines that govern drilling, equipping and operating of vertical ventilation holes that are used to remove methane gas from underground coal mines. This regulation is being developed to replace the existing regulation that is being repealed.

Statutory Authority: §§ 45.1-161.3, 45.1-161.106, 45.1-161.121, 45.1-161.254 and 45.1-161.292 of the Code of Virginia.

Contact: Frank Linkous, Mine Chief, Department of Mines, Minerals and Energy, P.O. Drawer 900, Big Stone Gap, VA 24219, telephone (540) 523-8100 or (540) 828-1120/TTY ☎

MOTOR VEHICLE DEALER BOARD

† **January 8, 2001 - 9 a.m.** -- Open Meeting
Department of Motor Vehicles, 2300 West Broad Street, Room 702, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

Committees will meet as follows:

- Dealer Practices Committee - 9 a.m.
- Franchise Law Committee - 10 a.m.
- Licensing Committee - 10:45 a.m.
- Transaction Recovery Fund Committee - 1:30 p.m.
- Advertising Committee - 2:15 p.m.
- Personnel Committee - 3 p.m.

Meetings may begin later, but not earlier than scheduled. Meeting end times are approximate. Any person who needs any accommodation in order to participate in the meeting should contact the board at least 10 days before the meeting so that suitable arrangements can be made.

Contact: Alice R. Weedon, Administrative Assistant, Motor Vehicle Dealer Board, 2201 W. Broad St., Suite 104, Richmond, VA 23220, telephone (804) 367-1100, FAX (804) 367-1053, toll-free (877) 270-0203, e-mail dboard@mvb.state.va.us.

† **January 9, 2001 - 8:30 a.m.** -- Open Meeting
Department of Motor Vehicles, 2300 West Broad Street, Room 702, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A meeting of the full board. Prior to the meeting the following committees will meet:

- Finance Committee - 8:30 a.m. -- Room 702
- Finance and Personnel Committee - 9:15 a.m. -- Room 702
- Full board - 9:30 a.m. -- Room 702

Meetings may begin later, but not earlier than scheduled. Meeting end times are approximate. Any person who needs any accommodation in order to participate in the meeting should contact the board at least 10 days before the meeting so that suitable arrangements can be made.

Contact: Alice R. Weedon, Administrative Assistant, Motor Vehicle Dealer Board, 2201 W. Broad St., Suite 104, Richmond, VA 23220, telephone (804) 367-1100, FAX (804) 367-1053, toll-free (877) 270-0203, e-mail dboard@mvb.state.va.us.

VIRGINIA MUSEUM OF FINE ARTS

January 2, 2001 - 8 a.m. -- Open Meeting
Virginia Museum of Fine Arts, 2800 Grove Avenue, Main Lobby Conference Room, Richmond, Virginia. 

A monthly meeting for staff to brief the Executive Committee. Public comment will not be received.

Contact: Suzanne Broyles, Acting Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Avenue, Richmond, VA 23221, telephone (804) 340-1503, FAX (804) 340-1502, (804) 340-1401/TTY , e-mail sbroyles@vmfa.state.va.us.

† **January 9, 2001 - 8 a.m.** -- Open Meeting
Virginia Museum of Fine Arts, 2800 Grove Avenue, Main Lobby Conference Room, Richmond, Virginia. 

A monthly meeting held for staff to brief the Executive Committee. Public comment will not be received.

Contact: Suzanne Broyles, Acting Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond, Virginia 23221, telephone (804) 340-1503, FAX (804) 340-1502, (804) 340-1401/TTY , e-mail sbroyles@vmfa.state.va.us.

BOARD OF NURSING

January 5, 2001 - 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 Nursing intends to amend regulations entitled: **18 VAC 90-50-10 et seq. Regulations Governing the Certification of Massage Therapists.** The purpose of the proposed amendments is to increase application, renewal and other fees charged to applicants and regulated entities in order to cover the expenditures for the regulatory and disciplinary functions of the board.

Statutory Authority: §§ 54.1-113 and 54.1-2400 of the Code of Virginia.

Public comments may be submitted until January 5, 2001.

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

Special Conference Committee

January 4, 2001 - 8:30 a.m. -- Open Meeting
February 12, 2001 - 8:30 a.m. -- Open Meeting
February 13, 2001 - 8:30 a.m. -- Open Meeting
February 15, 2001 - 8:30 a.m. -- Open Meeting
February 22, 2001 - 8:30 a.m. -- Open Meeting
February 23, 2001 - 8:30 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room, Richmond, Virginia. 

A Special Conference Committee, comprised of two or three members of the Virginia Board of Nursing, will conduct informal conferences with licensees or certificate holders. Public comment will not be received.

Contact: Nancy K. Durrett, R.N., Executive Director, Board of Nursing, 6606 W. Broad Street, 4th Floor, Richmond, VA 23230, telephone (804) 662-9909, FAX (804) 662-9512, (804) 662-7197/TTY , e-mail nursebd@dhp.state.va.us.

January 22, 2001 - 8:30 a.m. -- Open Meeting
January 24, 2001 - 8:30 a.m. -- Open Meeting
January 25, 2001 - 8:30 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room, Richmond, Virginia. 

A panel of the board will conduct formal hearings with licensees and/or certificate holders. Public comment will not be received.

Contact: Nancy K. Durrett, R.N., Executive Director, Board of Nursing, 6606 W. Broad Street, 4th Floor, Richmond, VA 23230, telephone (804) 662-9909, FAX (804) 662-9512, (804) 662-7197/TTY , e-mail nursebd@dhp.state.va.us.

OLD DOMINION UNIVERSITY

January 22, 2001 - 3 p.m. -- Open Meeting
February 19, 2001 - 3 p.m. -- Open Meeting
March 19, 2001 - 3 p.m. -- Open Meeting
Old Dominion University, Webb University Center, Norfolk, Virginia.  (Interpreter for the deaf provided upon request)

A regular meeting of the executive committee of the governing board of the institution to discuss business of the board and the institution as determined by the Rector and the President.

Contact: Donna Meeks, Assistant to the Vice President for Administration and Finance, Old Dominion University, 225 Koch Hall, Norfolk, VA 23529, telephone (757) 683-3072, FAX (757) 683-5679, e-mail dmeeks@odu.edu.

VIRGINIA BOARD FOR PEOPLE WITH DISABILITIES

† **January 3, 2001 - 9 a.m.** -- Open Meeting
General Assembly Building, 9th and Broad Streets, House Room D, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A regular meeting of the Disability Commission.

Calendar of Events

Contact: Brian S. Parsons, Director, Virginia Board for People with Disabilities, 202 N. 9th St., 9th Floor, Richmond, VA 23219, telephone (804) 786-0016, FAX (804) 786-1118, toll-free (800) 846-4464, (804) 786-0016/TTY ☎

DEPARTMENT OF STATE POLICE

January 5, 2001 - 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 State Police intends to amend regulations entitled: **19 VAC 30-40-10 et seq. Standards and Specifications for the Stickers or Decals Used by Cities, Counties, and Towns in Lieu of Licensure Plates.** The proposed amendment relates to the placement of stickers used by counties, cities, and towns in lieu of license plates.

Statutory Authority: § 46.2-1052 of the Code of Virginia.

Public comments may be submitted until January 5, 2001, to Major Jerry S. Conner, P.O. Box 27472, Richmond, VA 23261-7472.

Contact: Dennis W. Robertson, Captain, Department of State Police, P.O. Box 27472, Richmond, VA 23472-7472, telephone (804) 378-3472 or FAX (804) 378-3487.

January 5, 2001 - 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 State Police intends to amend regulations entitled: **19 VAC 30-150-10 et seq. Regulations Relating to Standards and Specifications for Overdimensional Warning Lights.** The proposed amendments make the regulation consistent with the Society of Automotive Engineers (SAE) Standards J575, J578, J579, and J845, upon which the standards and specifications are based.

Statutory Authority: §§ 46.2-1005 and 46.2-1026 of the Code of Virginia.

Public comments may be submitted until January 5, 2001, to Major Jerry S. Conner, P.O. Box 27472, Richmond, VA 23261-7472.

Contact: Dennis W. Robertson, Captain, Department of State Police, P.O. Box 27472, Richmond, VA 23472-7472, telephone (804) 378-3472 or FAX (804) 378-3487.

January 5, 2001 - 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 State Police intends to amend regulations entitled: **19 VAC 30-160-5 et seq. Regulations Relating to Standards and**

Specifications for the Safety Lights for Farm Tractors in Excess of 108 Inches in Width. The proposed amendments make the regulation consistent with the Society of Automotive Engineers (SAE) Standards J575 and J974, upon which the standards and specifications are based.

Statutory Authority: §§ 46.2-1005 and 46.2-1102 of the Code of Virginia.

Public comments may be submitted until January 5, 2001, to Major Jerry S. Conner, P.O. Box 27472, Richmond, VA 23261-7472.

Contact: Dennis W. Robertson, Captain, Department of State Police, P.O. Box 27472, Richmond, VA 23472-7472, telephone (804) 378-3472 or FAX (804) 378-3487.

January 5, 2001 - 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 State Police intends to adopt regulations entitled: **19 VAC 30-165-10 et seq. Regulations Relating to Standards and Specifications for Purple Warning Lights Used by Vehicles Leading or Escorting Funeral Processions.** The proposed regulation was promulgated in response to an amendment during the 1999 Session of the General Assembly to § 46.2-1025 of the Code of Virginia, which authorizes flashing purple warning lights on vehicles used to lead or provide escorts for funeral processions.

Statutory Authority: §§ 46.2-1005 and 46.2-1025 of the Code of Virginia.

Public comments may be submitted until January 5, 2001, to Major Jerry S. Conner, P.O. Box 27472, Richmond, VA 23261-7472.

Contact: Dennis W. Robertson, Captain, Department of State Police, P.O. Box 27472, Richmond, VA 23472-7472, telephone (804) 378-3472 or FAX (804) 378-3487.

BOARD OF PSYCHOLOGY

January 19, 2001 - 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 amend regulations entitled: **18 VAC 125-20-10 et seq. Regulations Governing the Practice of Psychology.** The purpose of the proposed amendment is to establish a temporary license with an 18-month term limit for residents in clinical psychology and residents in school psychology who have achieved a passing score on the Examination for Professional Practice in Psychology. Upon passing the state examinations and successful completion of the residency requirements, the temporary license will be replaced with a permanent license.

Statutory Authority: §§ 54.1-2400 and 54.1-3605 of the Code of Virginia.

Contact: Janet Delorme, Deputy Executive Director, Board of Psychology, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9575 or FAX (804) 662-9943.

REAL ESTATE BOARD

† **December 21, 2000 - 10 a.m.** -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, 5th Floor, Richmond, Virginia. 

A regular meeting to discuss condominium, time-share, property owners' association, and other property registration issues. Periodic review of regulations will be discussed.

Contact: Eric Olson, Regulatory Boards Administrator, Real Estate Board, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8548, FAX (804) 367-2475, (804) 367-9753/TTY , e-mail olson@dpor.state.va.us.

VIRGINIA RESOURCES AUTHORITY

† **January 9, 2001 - 9 a.m.** -- Open Meeting
† **February 13, 2001 - 9 a.m.** -- Open Meeting
† **March 13, 2001 - 9 a.m.**
Virginia Resources Authority, Eighth and Main Building, 707 East Main Street, Second Floor Conference Room, Richmond, Virginia.

A regular meeting of the Board of Directors to (i) review and, if appropriate, approve the minutes from the most recent monthly meeting; (ii) review the authority's operations for the prior month; (iii) review applications for loans submitted to the authority for approval; (iv) consider loan commitments for approval and ratification under its various programs; (v) approve the issuance of any bonds; (vi) review the results of any bond sales; and (vii) consider such other matters and take such other actions as it may deem appropriate. Various committees of the Board of Directors may also meet immediately before or after the regular meeting and consider matters within their purview. The planned agenda of the meeting and any committee meetings will be available at the offices of the authority one week prior to the date of the meeting. Any person who needs any accommodation in order to participate in the meeting should contact the authority at least 10 days before the meeting so that suitable arrangements can be made.

Contact: Benjamin M. Hoyle, Executive Assistant, Virginia Resources Authority, 707 E. Main St., Suite 1350, Richmond, VA 23219, telephone (804) 644-3100, FAX (804) 644-3109, e-mail bhoyle@vra.state.va.us.

STATE BOARD OF SOCIAL SERVICES

† **February 16, 2001** - 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 Social Services intends to amend regulations entitled: **22 VAC 40-690-10 et seq. Virginia Child Care Provider Scholarship Program (formerly Child Day Care Scholarship Programs)**. This regulation is being amended to reflect the administration of the current child care scholarship program. The current regulation was written to administer two different scholarship programs. The two scholarship programs are the CDA credentialing program and the college tuition program. The CDA credentialing scholarship program ended in 1995. The college tuition scholarship program still exists. All references to the CDA credentialing scholarship program have been removed.

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

Contact: Rhonda Harrell, Program Development Consultant, Division of Licensing Programs, Department of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1775.

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† **February 16, 2001** - 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 Social Services intends to repeal regulations entitled: **22 VAC 40-900-10 et seq. Community Services Block Grant Guidelines**. This action will repeal the outdated and excessive regulation for the Community Services Block Grant Program.

Statutory Authority: §§ 2.1-590 and 63.1-25 of the Code of Virginia.

Contact: Phyl Parrish, Department of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1895.

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† **February 16, 2001** - 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 Social Services intends to adopt regulations entitled: **22 VAC 40-901-10 et seq. Community Services Block Grant Program**. The purpose of the proposed regulation is to detail the formula used for the distribution of Community Services Block Grant funds to local community action agencies. The regulation will also require that community action agencies provide matching funds equal to 20% of the grant award.

Statutory Authority: §§ 2.1-590 and 63.1-25 of the Code of Virginia.

Contact: Phyl Parrish, Department of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1895.

Calendar of Events

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January 19, 2001 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 63.1-25 of the Code of Virginia that the State Board of Social Services intends to repeal regulations entitled: **22 VAC 40-230-10 et seq. Agency Placement Adoptions - Preplacement Services.** The purpose of the proposed action is to repeal this regulation. The requirement for development of an adoptive placement plan will be incorporated into foster care policies and procedures to be implemented at the point in time that adoption is selected as the goal for the child.

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

Contact: Brenda Kerr, Adoption Policy Consultant, Department of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1290.

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January 19, 2001 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 63.1-25 of the Code of Virginia that the State Board of Social Services intends to repeal regulations entitled: **22 VAC 40-480-10 et seq. Relocation Assistance General Relief Program.** This regulation provides information to local departments of social services on relocation assistance for general relief recipients. This assistance has not been used in at least five years and is unnecessary and recommended for repeal.

Statutory Authority: §§ 63.1-25 and 63.1-106 of the Code of Virginia.

Contact: Joy Duke, Adult Protective Services Program Consultant, Department of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1260.

January 23, 2001 - 9 a.m. -- Open Meeting
Hanover Department of Social Services, 12304 Washington Highway, Ashland, Virginia. 

A meeting to discuss legislative issues and proposals.

Contact: Pat Rengnerth, State Board Liaison, State Board of Social Services, 730 E. Broad St., Richmond, VA 23219-1849, telephone (804) 692-1826, FAX (804) 692-1962, toll-free (800) 552-3431.

BOARD OF SOCIAL WORK

January 5, 2001 - 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 Social Work intends to amend regulations entitled: **18 VAC 140-20-10 et seq. Regulations Governing the Practice of Social Work.** The purpose of the proposed action is to

comply with a statutory mandate to develop regulations to implement continuing education requirements for licensure renewal.

Statutory Authority: §§ 54.1-2400 and 54.1-3705.

Contact: Janet Delorme, Deputy Executive Director, Board of Social Work, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9575, FAX (804) 662-9943 or (804) 662-7197/TTY 

VIRGINIA SOIL AND WATER CONSERVATION BOARD

January 18, 2001 - 9 a.m. -- Open Meeting
Natural Resources Conservation Service, 1606 Santa Rosa Road, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A regular business meeting.

Contact: Leon E. App, Acting Deputy Director, Department of Conservation and Recreation, 203 Governor St., Suite 302, Richmond, VA 23219, telephone (804) 786-6124, FAX (804) 786-6141, e-mail leonapp@dcr.state.va.us.

BOARD FOR THE VISUALLY HANDICAPPED

January 16, 2001 - 10 a.m. -- Open Meeting
Department for the Visually Handicapped, 397 Azalea Avenue, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

The board for the visually handicapped is an advisory board responsible for advising the governor, the secretary of health and human resources, the commissioner, and the general assembly on the delivery of public services to the blind and the protection of their rights. The board also reviews and comments on policies, budget and request for appropriations for the department. At this regular meeting, the board will review information regarding department activities and operations, review expenditures from the board's endowment fund, and discuss other issues raised for board members.

Contact: Katherine C. Proffitt, Administrative Staff Assistant, Department for the Visually Handicapped, 397 Azalea Ave., Richmond, VA 23227, telephone (804) 371-3145, FAX (804) 371-3157, toll-free (800) 622-2155, (804) 371-3140/TTY , e-mail proffikc@dvh.state.va.us.

VIRGINIA WASTE MANAGEMENT BOARD

January 5, 2001 - 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 Waste Management Board intends to amend regulations entitled: **9 VAC 20-130-10 et seq. Regulations for the Development of Solid Waste Management Plans.** The purpose of the

proposed amendments requires counties, cities and towns to develop complete, revised solid waste management plans.

Statutory Authority: § 10.1-1411 of the Code of Virginia.

Contact: Daniel S. Gwinner, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4218 or FAX (804) 698-4327, email dsgwinner@deq.state.va.us.

December 19, 2000 - 10 a.m. -- Public Hearing
Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia. (Interpreter for the deaf provided upon request)

January 9, 2001 - 11 a.m. -- Public Hearing
Department of Environmental Quality, Northern Regional Office, 13901 Crown Court, Woodbridge, Virginia. (Interpreter for the deaf provided upon request)

January 11, 2001 - 1 p.m. -- Public Hearing
Department of Environmental Quality, West Central Regional Office, 2019 Peters Creek Road, Roanoke, Virginia. (Interpreter for the deaf provided upon request)

February 2, 2001 - Public comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Waste Management Board intends to amend regulations entitled: **9 VAC 20-140-10 et seq. Regulations for the Certification of Recycling Machinery and Equipment for Tax Exemption Purposes.** The proposed amendments remove requirements for submittal of proof of purchase price and for equipment to be in a fixed location to qualify for state income tax credit and clarify what is not covered by the regulation.

Statutory Authority: §§ 58.1-338, 58.1-439.7, 58.1-439.8 and 58.1-3661 of the Code of Virginia.

Contact: Daniel S. Gwinner, Virginia Waste Management Board, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4218, e mail dsgwinner@deq.state.va.us.

STATE WATER CONTROL BOARD

December 22, 2000 - 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 25-110-10 et seq. General Virginia Pollutant Discharge Elimination System (VPDES) Permit for Domestic Sewage Discharges of Less Than or Equal to 1,000 Gallons Per Day.** The proposed regulation will replace the general permit VAG40 which expires August 1, 2001. The regulation sets forth guidelines for the permitting of

discharges of treated wastewaters from small volume sources of domestic sewage.

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

Contact: Lily Choi, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4054 or FAX (804) 698-4032.

December 22, 2000 - 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 25-260-5 et seq. Water Quality Standards.** The proposed amendments change the state's approach to assessment of dissolved oxygen water quality criteria in certain waters that are naturally low in dissolved oxygen concentration. In addition to any other comments, the board is seeking comments on the costs and benefits of the proposal. Also, the proposed regulation states that a determination of natural water quality should be based upon an evaluation of aquatic life uses, habitat, available monitoring data, available computer modeling results or other accepted scientific principles. The board requests comments on how the board should use these parameters to make the determination of natural water quality.

Anyone wishing to submit written comments for the public comment file may do so at the public hearing or by mail. Written comments should be signed by the commenter and include the name and address of the commenter. In order to be considered, the comments must be received by the close of the comment period. Oral comments may be submitted at the public hearing.

Opportunity for formal hearing: The board will hold a formal hearing at a time and place to be established if a petition for such a hearing is received and granted. Affected persons may petition for a formal hearing concerning any issue of fact directly relevant to the legal validity of the proposed action. Petitions must meet the requirements of the board's Procedural Rule No. 1 (9 VAC 25-230-130 B) and must be received by the contact person no later than November 22, 2000.

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

Contact: Eleanore Daub, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4378.

January 8, 2001 - 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 25-115-10**

Calendar of Events

et seq. General Virginia Pollutant Discharge Elimination System (VPDES) Permit Regulation for Seafood Processing Facilities. The purpose of the proposed amendment is to reissue general permit VAG52 which will expire on July 24, 2001. This general permit regulation sets forth guidelines for the permitting of wastewater discharges from seafood processing facilities.

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

Contact: Michael B. Gregory, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4065 or FAX (804) 698-4032, e-mail mbgregory@deq.state.va.us.

BOARD FOR WATERWORKS AND WASTEWATER WORKS OPERATORS

December 21, 2000 - 8:30 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Conference Room 5W, Richmond, Virginia.

A meeting to conduct routine business. A public comment period will be held at the beginning of the meeting. This meeting was rescheduled from December 14, 2000.

Contact: David E. Dick, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2648, FAX (804) 367-6128, (804) 367-9753/TTY , e-mail waterwasteoper@dpor.state.va.us.

INDEPENDENT

VIRGINIA RETIREMENT SYSTEM

December 20, 2000 - Noon -- Open Meeting
February 13, 2001 - Noon -- Open Meeting
† March 14, 2001 - 3 p.m. -- Open Meeting
Virginia Retirement System Headquarters, 1200 East Main Street, Richmond, Virginia.

A regular meeting of the Investment Advisory Committee.

Contact: Darla K. Glazier, Office Manager, Virginia Retirement System, P.O. Box 2500, Richmond, VA 23218, telephone (804) 649-8059, FAX (804) 786-1541, toll-free (888) 827-3847, (804) 344-3190/TTY , e-mail dglazier@vrs.state.va.us.

December 21, 2000 - 1 p.m. -- Open Meeting
February 15, 2001 - 1 p.m. -- Open Meeting
† March 15, 2001 - 1 p.m. -- Open Meeting
Virginia Retirement System Headquarters, 1200 East Main Street, Richmond, Virginia.

A regular meeting of the Board of Trustees.

Contact: Darla K. Glazier, Office Manager, Virginia Retirement System, P.O. Box 2500, Richmond, VA 23218,

telephone (804) 649-8059, FAX (804) 786-1541, toll-free (888) 827-3847, (804) 344-3190/TTY , e-mail dglazier@vrs.state.va.us.

February 15, 2001 - 10 a.m. -- Open Meeting
Virginia Retirement System Headquarters, 1200 East Main Street, Richmond, Virginia.

The following committees will meet:

Benefits and Actuarial Committee - 10 a.m.
Audit and Compliance Committee - 11 a.m.
Administration and Personnel Committee - Noon

Contact: Darla K. Glazier, Office Manager, Virginia Retirement System, P.O. Box 2500, Richmond, VA 23218, telephone (804) 649-8059, FAX (804) 786-1541, toll-free (888) 827-3847, (804) 344-3190/TTY , e-mail dglazier@vrs.state.va.us.

LEGISLATIVE

JOINT SUBCOMMITTEE STUDYING COMMERCIAL PROMOTIONAL ACTIVITIES IN HIGH SCHOOLS (HJR 239)

† December 18, 2000 - 2 p.m. -- Open Meeting
General Assembly Building, 9th and Broad Streets, House Room C, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A regular meeting. Individuals requiring interpreter services or other special assistance should contact the committee operations office at least 10 working days prior to the meeting.

Contact: Scott Maddrea, House Committee Operations, P.O. Box 406, Richmond, VA 23218, telephone (804) 698-1540 or (804) 786-2369/TTY

HOUSE COMMITTEE ON FINANCE

December 20, 2000 - 9:30 a.m. -- Open Meeting
General Assembly Building, 9th and Broad Streets, House Room D, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A joint meeting of the House Appropriations, House Finance and Senate Finance Committees. Questions regarding the meeting should be addressed to Joan Putney or David Rosenberg, Division of Legislative Services, (804) 786-3591. Individuals requiring interpreter services or other special assistance should contact the committee operations office at least 10 working days prior to the meeting.

Contact: Lois V. Johnson, House Committee Operations, P.O. Box 406, Richmond, VA 23218, telephone (804) 698-1540 or (804) 786-2369/TTY

December 20, 2000 - 1 p.m. -- Open Meeting
General Assembly Building, 9th and Broad Streets, House Room D, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A meeting for consideration of finance carry-over legislation. Please contact Joan Putney or David Rosenberg, Division of Legislative Services, (804) 786-3591, concerning legislation that remains in committee. Individuals requiring interpreter services or other special assistance should contact the committee operations office at least 10 working days prior to the meeting.

Contact: Lois V. Johnson, House Committee Operations, P.O. Box 406, Richmond, VA 23218, telephone (804) 698-1540 or (804) 786-2369/TTY 

HAMPTON ROADS THIRD CROSSING BRIDGE-TUNNEL COMMISSION

January 15, 2001 - 4 p.m. -- Open Meeting
General Assembly Building, 9th and Broad Streets, 6th Floor, Speakers Conference Room, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A meeting to be held in conjunction with the Hampton Roads Caucus to update caucus members on the plans for the Hampton Roads Third Crossing Bridge-Tunnel. Questions regarding the agenda should be addressed to Alan Wambold, Division of Legislative Services, (804) 786-3591. Individuals requiring interpreter services or other special assistance should contact the committee operations office at least 10 working days prior to the meeting.

Contact: Dawn B. Smith, House Committee Operations, P.O. Box 406, Richmond, VA 23218, telephone (804) 698-1540 or (804) 786-2369/TTY 

SENATE COMMITTEE ON PRIVILEGES AND ELECTIONS

December 20, 2000 - 2 p.m. -- Open Meeting
General Assembly Building, 9th and Broad Streets, Senate Room A, Richmond, Virginia. 

A meeting to consider legislation continued to the 2001 Session of the General Assembly. Patrons of continued legislation should contact Mary Spain, Division of Legislative Services, (804) 786-3591, if they do not wish their bill to be considered at this meeting. Individuals requiring interpreter services or other accommodations should contact the committee operations office at least seven working days prior to the meeting.

Contact: Patricia J. Lung, Senate Committee Operations, P.O. Box 396, Richmond, VA 23218, telephone (804) 698-7450 or (804) 225-4749/TTY 

JOINT COMMISSION ON TECHNOLOGY AND SCIENCE

January 9, 2001 - 10 a.m. -- Open Meeting
General Assembly Building, 9th and Broad Streets, House Room D, Richmond, Virginia. 

A review of committee final reports and the commission's legislative agenda.

Contact: Mitchell P. Goldstein, Director, Joint Commission on Technology and Science, 911 Capitol St., Second Floor, Richmond, VA 23219, telephone (804) 786-3591, e-mail MGoldstein@leg.state.va.us.

CHRONOLOGICAL LIST

OPEN MEETINGS

December 18

† Commercial Promotional Activities in High Schools, Joint Subcommittee Studying

December 19

Branch Pilots, Board for
Compensation Board
Marine Resources Commission

December 20

At-Risk Youth and Families, Comprehensive Services for
- State Executive Council
Finance, House Committee on
- Joint Meeting of House Appropriations, House Finance and Senate Finance Committees
Privileges and Elections, Senate Committee on Retirement System, Virginia
- Investment Advisory Committee

December 21

† Real Estate Board
Retirement System, Virginia
- Board of Trustees
Waterworks and Wastewater Works Operators, Board for

January 2, 2001

Museum of Fine Arts, Virginia
- Executive Committee

January 3

† People with Disabilities, Virginia Board for

January 4

Alcoholic Beverage Control Board
Conservation and Recreation, Department of
- Virginia Land Conservation Foundation
Nursing, Board of
- Special Conference Committee

January 5

† Agriculture and Consumer Services, Department of
- Virginia Sheep Industry Board
Art and Architectural Review Board
† Dentistry, Board of

Calendar of Events

January 8

- Local Government, Commission on
- † Motor Vehicle Dealer Board
 - Advertising Committee
 - Dealer Practices Committee
 - Franchise Law Committee
 - Licensing Committee
 - Personnel Committee
 - Transaction Recovery Fund Committee

January 9

- † Compensation Board
- † Motor Vehicle Dealer Board
- † Museum of Fine Arts, Virginia
 - Executive Committee
- † Resources Authority, Virginia
- Technology and Science, Joint Commission on

January 10

- Education, Board of
 - State Special Education Advisory Committee
- † Milk Commission, State

January 11

- Education, Board of
 - State Special Education Advisory Committee

January 12

- Education, Board of
 - State Special Education Advisory Committee

January 15

- Hampton Roads Third Crossing Bridge-Tunnel Commission

January 16

- Visually Handicapped, Board for the

January 18

- † Manufactured Housing Board, Virginia
- Soil and Water Conservation Board, Virginia

January 19

- † Dentistry, Board of
- Library Board
 - Archival and Information Services Committee
 - Collection Management Services Committee
 - Legislative and Finance Committee
 - Public Library Development Committee
 - Publications and Educational Services Committee
 - Records Management Committee

January 22

- Old Dominion University
 - Executive Committee
- Nursing, Board of

January 23

- † Compensation Board
- Social Services, State Board of

January 24

- † Community Colleges, State Board for
- Nursing, Board of

January 25

- † Community Colleges, State Board for

- † Environmental Education Advisory Committee, Virginia
- † Health, Department of
 - Biosolids Use Information Committee
 - Biosolids Use Regulations Advisory Committee
- Nursing, Board of

January 26

- † Medicine, Board of

January 27

- Conservation and Recreation, Department of
 - Cave Board

February 2

- Art and Architectural Review Board

February 7

- † Agriculture and Consumer Services, Department of
 - Virginia Horse Industry Board

February 12

- Nursing, Board of
 - Special Conference Committee

February 13

- Nursing, Board of
 - Special Conference Committee
- † Resources Authority, Virginia
- Retirement System, Virginia
 - Investment Advisory Committee

February 15

- Asbestos and Lead, Board for
- Education, Board of
- Nursing, Board of
 - Special Conference Committee
- Retirement System, Virginia
 - Board of Trustees
 - Administration and Personnel Committee
 - Audit and Compliance Committee
 - Benefits and Actuarial Committee

February 19

- Old Dominion University
 - Board of Visitors Executive Committee

February 22

- Nursing, Board of
 - Special Conference Committee

February 23

- Nursing, Board of
 - Special Conference Committee

February 28

- At-Risk Youth and Families, Comprehensive Services for
- Funeral Directors and Embalmers, Board of
 - Legislative Committee

March 13

- † Resources Authority, Virginia

March 14

- † Retirement System, Virginia

March 15

- † Retirement System, Virginia

March 19

Library Board

- Archival and Information Services Committee
- Collection Management Services Committee
- Legislative and Finance Committee
- Public Library Development Committee
- Publications and Educational Services Committee
- Records Management Committee

Old Dominion University

- Board of Visitors Executive Committee

March 22

Education, Board of

PUBLIC HEARINGS

December 19

Waste Management Board, Virginia

January 9, 2001

Waste Management Board, Virginia

January 10

† Medicine, Board of
Mental Health, Mental Retardation and Substance Abuse
Services Board, State

January 11

† Medicine, Board of
Mental Health, Mental Retardation and Substance Abuse
Services Board, State
Waste Management Board, Virginia

January 25

† Mines, Minerals and Energy, Department of

February 6

† Deaf and Hard-of-Hearing, Department for the