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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printed below lists regulation sections, by Virginia Administrative Code (VAC) title, that have been amended, added or repealed in the *Virginia Register* since the regulations were originally published or last supplemented in VAC (the Spring 2001 VAC Supplement includes final regulations published through *Virginia Register* Volume 17, Issue 11, dated February 12, 2001). 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 1. Administration			
1 VAC 17-20-10	Amended	17:24 VA.R. 3556	9/12/01
1 VAC 17-20-40	Amended	17:24 VA.R. 3557	9/12/01
1 VAC 17-20-70	Amended	17:24 VA.R. 3557	9/12/01
1 VAC 17-20-110	Amended	17:24 VA.R. 3557	9/12/01
1 VAC 17-20-180	Amended	17:24 VA.R. 3557	9/12/01
1 VAC 17-20-210	Amended	17:24 VA.R. 3557	9/12/01
1 VAC 17-20-250	Amended	17:24 VA.R. 3558	9/12/01
1 VAC 17-20-270	Amended	17:24 VA.R. 3558	9/12/01
1 VAC 17-20-280	Amended	17:24 VA.R. 3558	9/12/01
1 VAC 17-20-310	Amended	17:24 VA.R. 3558	9/12/01
1 VAC 30-60-10 et seq.	Repealed	17:19 VA.R. 2731	7/4/01
1 VAC 30-70-10 et seq.	Repealed	17:19 VA.R. 2731	7/4/01
Title 2. Agriculture			
2 VAC 15-20-81	Amended	17:14 VA.R. 2179	3/1/01
Title 4. Conservation and Natural Resources			
4 VAC 15-20-80	Amended	17:19 VA.R. 2729	7/4/01
4 VAC 15-20-160	Amended	17:19 VA.R. 2729	7/4/01
4 VAC 15-40-20	Amended	17:19 VA.R. 2729	7/4/01
4 VAC 15-40-150	Repealed	17:19 VA.R. 2729	7/4/01
4 VAC 15-40-280	Amended	17:19 VA.R. 2729	7/4/01
4 VAC 15-50-90	Amended	17:19 VA.R. 2729	7/4/01
4 VAC 15-90-20	Amended	17:19 VA.R. 2729	7/4/01
4 VAC 15-90-21	Added	17:19 VA.R. 2729	7/4/01
4 VAC 15-90-70	Amended	17:19 VA.R. 2729	7/4/01
4 VAC 15-90-80	Amended	17:19 VA.R. 2730	7/4/01
4 VAC 15-90-85	Added	17:19 VA.R. 2730	7/4/01
4 VAC 15-90-100	Amended	17:19 VA.R. 2730	7/4/01
4 VAC 15-90-110	Amended	17:19 VA.R. 2730	7/4/01
4 VAC 15-90-141	Amended	17:19 VA.R. 2730	7/4/01
4 VAC 15-90-160	Amended	17:19 VA.R. 2730	7/4/01
4 VAC 15-90-170	Amended	17:19 VA.R. 2730	7/4/01
4 VAC 15-90-190	Amended	17:19 VA.R. 2730	7/4/01
4 VAC 15-90-195	Amended	17:19 VA.R. 2730	7/4/01
4 VAC 15-90-200	Amended	17:19 VA.R. 2730	7/4/01
4 VAC 15-90-210	Amended	17:19 VA.R. 2730	7/4/01
4 VAC 15-90-220	Amended	17:19 VA.R. 2730	7/4/01
4 VAC 15-90-240	Amended	17:19 VA.R. 2730	7/4/01
4 VAC 15-110-75	Amended	17:19 VA.R. 2730	7/4/01
4 VAC 15-190-60	Added	17:19 VA.R. 2729	7/4/01
4 VAC 15-240-20	Amended	17:19 VA.R. 2730	7/4/01
4 VAC 15-240-31	Amended	17:19 VA.R. 2730	7/4/01
4 VAC 15-240-90	Amended	17:19 VA.R. 2730	7/4/01
4 VAC 15-270-20	Amended	17:19 VA.R. 2729	7/4/01
4 VAC 15-290-140	Amended	17:19 VA.R. 2729	7/4/01

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4 VAC 15-320-100	Amended	17:19 VA.R. 2729	7/4/01
4 VAC 20-40-20	Amended	17:18 VA.R. 2576	5/1/01
4 VAC 20-252-70	Amended	17:12 VA.R. 2024	1/26/01
4 VAC 20-252-90	Amended	17:12 VA.R. 2024	1/26/01
4 VAC 20-252-100	Amended	17:12 VA.R. 2024	1/26/01
4 VAC 20-252-110	Amended	17:12 VA.R. 2025	1/26/01
4 VAC 20-252-140	Amended	17:12 VA.R. 2025	1/26/01
4 VAC 20-270-40	Amended	17:14 VA.R. 2179	3/1/01
4 VAC 20-270-40	Amended	17:18 VA.R. 2576	5/1/01
4 VAC 20-380-20	Amended	17:23 VA.R. 3455	7/1/01
4 VAC 20-380-50	Amended	17:23 VA.R. 3455	7/1/01
4 VAC 20-450-30	Amended	17:18 VA.R. 2576	5/1/01
4 VAC 20-561-10 through 4 VAC 20-561-50	Added	17:16 VA.R. 2332	8/16/01
4 VAC 20-610-30	Amended	17:23 VA.R. 3456	7/1/01
4 VAC 20-620-30	Amended	17:14 VA.R. 2180	3/1/01
4 VAC 20-620-50	Amended	17:14 VA.R. 2180	3/1/01
4 VAC 20-620-70	Amended	17:14 VA.R. 2180	3/1/01
4 VAC 20-620-70	Amended	17:20 VA.R. 2880	6/1/01
4 VAC 20-670-20	Amended	18:1 VA.R. 31	9/15/01
4 VAC 20-670-25	Added	17:18 VA.R. 2577	5/1/01
4 VAC 20-670-30	Amended	18:1 VA.R. 31	9/15/01
4 VAC 20-670-40	Amended	18:1 VA.R. 31	9/15/01
4 VAC 20-720-20	Amended	18:3 VA.R. 354	10/1/01
4 VAC 20-720-40 through 4 VAC 20-720-80	Amended	18:3 VA.R. 354-357	10/1/01
4 VAC 20-751-10	Amended	17:16 VA.R. 2333	4/1/01
4 VAC 20-751-20	Amended	17:16 VA.R. 2333	4/1/01
4 VAC 20-890-10 emer	Amended	17:20 VA.R. 2932	5/25/01-6/24/01
4 VAC 20-890-20 emer	Amended	17:20 VA.R. 2932	5/25/01-6/24/01
4 VAC 20-890-25 emer	Amended	17:20 VA.R. 2932	5/25/01-6/24/01
4 VAC 20-890-25	Amended	17:23 VA.R. 3457	7/1/01
4 VAC 20-890-30	Amended	17:16 VA.R. 2333	4/1/01
4 VAC 20-890-40 emer	Amended	17:20 VA.R. 2933	5/25/01-6/24/01
4 VAC 20-910-30	Amended	17:14 VA.R. 2181	3/1/01
4 VAC 20-910-45	Amended	17:18 VA.R. 2577	5/1/01
4 VAC 20-910-45	Amended	18:3 VA.R. 357	10/1/01
4 VAC 20-950-30	Amended	17:14 VA.R. 2181	3/1/01
4 VAC 20-950-45	Amended	17:14 VA.R. 2181	3/1/01
4 VAC 20-950-45	Amended	17:16 VA.R. 2334	4/1/01
4 VAC 20-950-45 emer	Amended	17:18 VA.R. 2673	4/24/01-5/23/01
4 VAC 20-950-45	Amended	17:20 VA.R. 2880	5/25/01
4 VAC 20-950-45	Amended	18:3 VA.R. 357	10/1/01
4 VAC 20-995-20	Amended	17:12 VA.R. 2025	1/26/01
4 VAC 20-995-20	Amended	17:14 VA.R. 2182	3/1/01
4 VAC 20-1040-20	Amended	17:20 VA.R. 2881	5/26/01
4 VAC 25-90-10 through 4 VAC 25-90-100	Amended	17:20 VA.R. 2882-2885	7/18/01
4 VAC 25-90-120	Repealed	17:20 VA.R. 2885	7/18/01
4 VAC 25-90-270	Repealed	17:20 VA.R. 2885	7/18/01
4 VAC 25-90-300	Repealed	17:20 VA.R. 2885	7/18/01
4 VAC 25-90-340	Repealed	17:20 VA.R. 2885	7/18/01
4 VAC 25-90-360	Repealed	17:20 VA.R. 2885	7/18/01
4 VAC 25-90 (Forms)	Added	17:21 VA.R. 3119	--
4 VAC 25-100-10 et seq.	Repealed	17:20 VA.R. 2885	7/18/01
4 VAC 25-101-10 through 4 VAC 25-101-220	Added	17:20 VA.R. 2886	7/18/01
4 VAC 25-101 (Forms)	Added	17:21 VA.R. 3119	--
4 VAC 25-130 (Forms)	Amended	17:23 VA.R. 3473	--

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Title 5. Corporations			
5 VAC 5-10-10 et seq.	Repealed	17:18 VA.R. 2577	6/1/01
5 VAC 5-20-10 through 5 VAC 5-20-280	Amended	17:18 VA.R. 2581-2587	6/1/01
5 VAC 5-30-10 through 5 VAC 5-30-70	Added	17:22 VA.R. 3312-3315	7/1/01
Title 6. Criminal Justice and Corrections			
6 VAC 20-200-10 through 6 VAC 20-200-180	Amended	17:19 VA.R. 2731-2735	7/4/01
Title 8. Education			
8 VAC 20-110-10	Amended	17:12 VA.R. 2026	3/28/01
8 VAC 20-110-20	Repealed	17:12 VA.R. 2026	3/28/01
8 VAC 20-110-40	Amended	17:12 VA.R. 2026	3/28/01
8 VAC 20-110-50	Amended	17:12 VA.R. 2026	3/28/01
8 VAC 20-110-60	Repealed	17:12 VA.R. 2026	3/28/01
8 VAC 20-110-70	Repealed	17:12 VA.R. 2026	3/28/01
8 VAC 20-110-140	Repealed	17:12 VA.R. 2026	3/28/01
8 VAC 20-540-10 et seq.	Repealed	17:16 VA.R. 2334	5/23/01
8 VAC 20-541-10 through 8 VAC 20-541-60	Added	17:16 VA.R. 2335-2342	5/23/01
8 VAC 20-650-10 through 8 VAC 20-650-20 emer	Added	17:14 VA.R. 2202	3/7/01-3/6/02
Title 9. Environment			
9 VAC 5-50-400	Amended	17:15 VA.R. 2248	6/1/01
9 VAC 5-60-60	Amended	17:15 VA.R. 2248	6/1/01
9 VAC 5-60-90	Amended	17:15 VA.R. 2248	6/1/01
9 VAC 5-60-100	Amended	17:15 VA.R. 2249	6/1/01
9 VAC 5-80-310 through 9 VAC 5-80-350	Amended	17:20 VA.R. 2887-2890	7/18/01
9 VAC 5-80-355	Repealed	17:20 VA.R. 2891	7/18/01
9 VAC 5-210-10 through 9 VAC 5-210-160	Added	17:16 VA.R. 2342-2344	7/1/01
9 VAC 15-30-20	Amended	17:21 VA.R. 3029	8/1/01
9 VAC 15-30-40 through 9 VAC 15-30-110	Amended	17:21 VA.R. 3030-3031	8/1/01
9 VAC 15-30-130	Amended	17:21 VA.R. 3031	8/1/01
9 VAC 15-30-150	Repealed	17:21 VA.R. 3031	8/1/01
9 VAC 15-30-160	Amended	17:21 VA.R. 3031	8/1/01
9 VAC 15-30-170	Amended	17:21 VA.R. 3031	8/1/01
9 VAC 20-15-10 through 9 VAC 20-15-160	Added	17:16 VA.R. 2344-2346	7/1/01
9 VAC 20-60-18	Amended	18:3 VA.R. 359	11/21/01
9 VAC 20-70 Appendices I through VI	Repealed	18:3 VA.R. 377-388	11/21/01
9 VAC 20-70-10	Amended	18:3 VA.R. 359	11/21/01
9 VAC 20-70-41	Repealed	18:3 VA.R. 361	11/21/01
9 VAC 20-70-50 through 9 VAC 20-70-75	Amended	18:3 VA.R. 362-363	11/21/01
9 VAC 20-70-81	Amended	18:3 VA.R. 363	11/21/01
9 VAC 20-70-90	Amended	18:3 VA.R. 363	11/21/01
9 VAC 20-70-111	Amended	18:3 VA.R. 364	11/21/01
9 VAC 20-70-112	Amended	18:3 VA.R. 364	11/21/01
9 VAC 20-70-113	Amended	18:3 VA.R. 365	11/21/01
9 VAC 20-70-150 through 9 VAC 20-70-230	Amended	18:3 VA.R. 366-376	11/21/01
9 VAC 20-70-240	Repealed	18:3 VA.R. 376	11/21/01
9 VAC 20-70-250	Amended	18:3 VA.R. 376	11/21/01
9 VAC 20-70-260	Amended	18:3 VA.R. 377	11/21/01
9 VAC 20-70-280	Repealed	18:3 VA.R. 377	11/21/01
9 VAC 20-70-290	Added	18:3 VA.R. 377	11/21/01
9 VAC 20-80-10	Amended	17:16 VA.R. 2349	5/23/01
9 VAC 20-80-40	Amended	17:16 VA.R. 2349	5/23/01
9 VAC 20-80-60	Amended	17:16 VA.R. 2349	5/23/01
9 VAC 20-80-80	Amended	17:16 VA.R. 2349	5/23/01
9 VAC 20-80-100	Amended	17:16 VA.R. 2349	5/23/01
9 VAC 20-80-110	Amended	17:16 VA.R. 2349	5/23/01
9 VAC 20-80-113	Added	17:16 VA.R. 2349	5/23/01
9 VAC 20-80-115	Added	17:16 VA.R. 2349	5/23/01

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
9 VAC 20-80-120	Amended	17:16 VA.R. 2349	5/23/01
9 VAC 20-80-140 through 9 VAC 20-80-290	Amended	17:16 VA.R. 2349	5/23/01
9 VAC 20-80-310 through 9 VAC 20-80-340	Amended	17:16 VA.R. 2349	5/23/01
9 VAC 20-80-360 through 9 VAC 20-80-380	Amended	17:16 VA.R. 2349	5/23/01
9 VAC 20-80-400	Amended	17:16 VA.R. 2349	5/23/01
9 VAC 20-80-450	Added	17:16 VA.R. 2349	5/23/01
9 VAC 20-80-460	Added	17:16 VA.R. 2349	5/23/01
9 VAC 20-80-470	Amended	17:16 VA.R. 2349	5/23/01
9 VAC 20-80-480	Amended	17:16 VA.R. 2349	5/23/01
9 VAC 20-80-485	Added	17:16 VA.R. 2349	5/23/01
9 VAC 20-80-500 through 9 VAC 20-80-560	Amended	17:16 VA.R. 2349	5/23/01
9 VAC 20-80-620 through 9 VAC 20-80-650	Amended	17:16 VA.R. 2349	5/23/01
9 VAC 20-80-670	Amended	17:16 VA.R. 2349	5/23/01
9 VAC 20-80-700	Amended	17:16 VA.R. 2349	5/23/01
9 VAC 20-80-730	Amended	17:16 VA.R. 2349	5/23/01
9 VAC 20-80-750 through 9 VAC 20-80-790	Amended	17:16 VA.R. 2349	5/23/01
Appendices 2.1 and 2.2	Added	17:16 VA.R. 2349	5/23/01
Appendix 4.1	Repealed	17:16 VA.R. 2349	5/23/01
Appendix 5.1	Amended	17:16 VA.R. 2349	5/23/01
Appendices 5.2 and 5.3	Repealed	17:16 VA.R. 2349	5/23/01
Appendix 5.5	Amended	17:16 VA.R. 2349	5/23/01
Appendix 5.6	Added	17:16 VA.R. 2349	5/23/01
Appendices 7.4 and 9.1	Amended	17:16 VA.R. 2349	5/23/01
9 VAC 20-130-10 through 9 VAC 20-130-70	Amended	17:21 VA.R. 3033-3037	8/1/01
9 VAC 20-130-80	Repealed	17:21 VA.R. 3037	8/1/01
9 VAC 20-130-90	Amended	17:21 VA.R. 3037	8/1/01
9 VAC 20-130-110 through 9 VAC 20-130-150	Amended	17:21 VA.R. 3037-3040	8/1/01
9 VAC 20-130-160	Repealed	17:21 VA.R. 3040	8/1/01
9 VAC 20-130-165	Added	17:21 VA.R. 3040	8/1/01
9 VAC 20-130-170	Repealed	17:21 VA.R. 3040	8/1/01
9 VAC 20-130-175	Added	17:21 VA.R. 3040	8/1/01
9 VAC 20-130-180	Amended	17:21 VA.R. 3041	8/1/01
9 VAC 20-130-190	Amended	17:21 VA.R. 3041	8/1/01
9 VAC 20-130-220	Amended	17:21 VA.R. 3041	8/1/01
9 VAC 20-130-230	Amended	17:21 VA.R. 3041	8/1/01
9 VAC 20-130-240	Repealed	17:21 VA.R. 3041	8/1/01
9 VAC 20-130 (Forms)	Added	17:26 VA.R. 3758-3759	--
9 VAC 20-190-10 through 9 VAC 20-190-80	Added	18:3 VA.R. 389-390	11/21/01
9 VAC 25-15-10 through 9 VAC 25-15-160	Added	17:16 VA.R. 2347-2349	7/1/01
9 VAC 25-31-10	Amended	17:13 VA.R. 2076	4/11/01
9 VAC 25-31-30	Amended	17:13 VA.R. 2076	4/11/01
9 VAC 25-31-50	Amended	17:13 VA.R. 2076	4/11/01
9 VAC 25-31-100	Amended	17:13 VA.R. 2076	4/11/01
9 VAC 25-31-110	Amended	17:13 VA.R. 2076	4/11/01
9 VAC 25-31-120	Amended	17:13 VA.R. 2076	4/11/01
9 VAC 25-31-170	Amended	17:13 VA.R. 2076	4/11/01
9 VAC 25-31-220	Amended	17:13 VA.R. 2076	4/11/01
9 VAC 25-31-280	Amended	17:13 VA.R. 2076	4/11/01
9 VAC 25-31-370	Amended	17:13 VA.R. 2076	4/11/01
9 VAC 25-31-390	Amended	17:13 VA.R. 2076	4/11/01
9 VAC 25-31-410	Amended	17:13 VA.R. 2076	4/11/01
9 VAC 25-110-10	Amended	17:16 VA.R. 2350	8/1/01
9 VAC 25-110-20	Amended	17:16 VA.R. 2351	8/1/01
9 VAC 25-110-40	Repealed	17:16 VA.R. 2351	8/1/01
9 VAC 25-110-50	Repealed	17:16 VA.R. 2351	8/1/01
9 VAC 25-110-60	Amended	17:16 VA.R. 2351	8/1/01

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
9 VAC 25-110-70	Amended	17:16 VA.R. 2351	8/1/01
9 VAC 25-110-70	Amended	17:21 VA.R. 3044	8/1/01
9 VAC 25-110-80	Amended	17:16 VA.R. 2353	8/1/01
9 VAC 25-115-10 through 9 VAC 25-115-50	Amended	17:16 VA.R. 2367-2380	7/24/01
9 VAC 25-192-50	Amended	17:21 VA.R. 3044	8/1/01
9 VAC 25-192-60	Amended	17:21 VA.R. 3045	8/1/01
9 VAC 25-210-10	Amended	17:21 VA.R. 3049	8/1/01
9 VAC 25-210-20	Repealed	17:21 VA.R. 3052	8/1/01
9 VAC 25-210-30	Repealed	17:21 VA.R. 3052	8/1/01
9 VAC 25-210-40	Repealed	17:21 VA.R. 3052	8/1/01
9 VAC 25-210-45	Added	17:21 VA.R. 3052	8/1/01
9 VAC 25-210-50 through 9 VAC 25-210-110	Amended	17:21 VA.R. 3052-3063	8/1/01
9 VAC 25-210-80	Erratum	17:24 VA.R. 3604	--
9 VAC 25-210-115	Added	17:21 VA.R. 3063	8/1/01
9 VAC 25-210-120 through 9 VAC 25-210-180	Amended	17:21 VA.R. 3064-3067	8/1/01
9 VAC 25-210-185	Added	17:21 VA.R. 3067	8/1/01
9 VAC 25-210-190 through 9 VAC 25-210-260	Amended	17:21 VA.R. 3067-3069	8/1/01
9 VAC 25-260-50	Amended	17:16 VA.R. 2381	*
9 VAC 25-260-55	Added	17:16 VA.R. 2381	*
9 VAC 25-430-20	Amended	17:25 VA.R. 3657	9/26/01
9 VAC 25-430-30	Amended	17:25 VA.R. 3657	9/26/01
9 VAC 25-430-60	Amended	17:25 VA.R. 3657	9/26/01
9 VAC 25-660-10 through 9 VAC 25-660-100	Added	17:22 VA.R. 3316-3327	10/1/01
9 VAC 25-670-10 through 9 VAC 25-670-100	Added	17:22 VA.R. 3328-3344	10/1/01
9 VAC 25-680-10 through 9 VAC 25-680-100	Added	17:21 VA.R. 3070-3087	8/1/01
9 VAC 25-680-30	Erratum	17:24 VA.R. 3604	--
9 VAC 25-680-50	Erratum	17:24 VA.R. 3604	--
9 VAC 25-680-100	Erratum	17:24 VA.R. 3604	--
9 VAC 25-690-10 through 9 VAC 25-690-100	Added	17:21 VA.R. 3088-3107	8/1/01
9 VAC 25-690-30	Erratum	17:24 VA.R. 3604	--
9 VAC 25-690-40	Erratum	17:24 VA.R. 3604	--
Title 10. Finance and Financial Institutions			
10 VAC 5-10-10	Amended	17:22 VA.R. 3345	7/1/01
10 VAC 5-20-30	Amended	17:22 VA.R. 3346	6/27/01
Title 11. Gaming			
11 VAC 10-60 (Forms)	Amended	17:15 VA.R. 2259	--
11 VAC 10-130-10	Amended	17:19 VA.R. 2736	5/7/01
11 VAC 10-130-60	Amended	17:19 VA.R. 2736	5/7/01
11 VAC 10-130-70	Amended	17:19 VA.R. 2737	5/7/01
Title 12. Health			
12 VAC 30-10-20	Amended	17:19 VA.R. 2737	8/1/01
12 VAC 30-10-160	Amended	17:13 VA.R. 2077	4/11/01
12 VAC 30-10-1000	Added	17:19 VA.R. 2741	7/4/01
12 VAC 30-20-80	Amended	17:13 VA.R. 2077	4/11/01
12 VAC 30-20-290 through 12 VAC 30-20-490	Added	17:19 VA.R. 2741	7/4/01
12 VAC 30-20-500 through 12 VAC 30-20-560	Added	17:19 VA.R. 2741	7/4/01
12 VAC 30-30-10	Amended	17:13 VA.R. 2077	4/11/01
12 VAC 30-30-10	Amended	17:19 VA.R. 2737	8/1/01
12 VAC 30-30-20	Amended	17:13 VA.R. 2081	4/11/01
12 VAC 30-30-20	Amended	17:18 VA.R. 2588	7/1/01
12 VAC 30-30-20	Amended	17:18 VA.R. 2589	7/1/01
12 VAC 30-30-40	Amended	17:13 VA.R. 2082	4/11/01
12 VAC 30-30-50	Amended	17:13 VA.R. 2082	4/11/01

* 30 days after notice in *Virginia Register* of EPA approval

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
12 VAC 30-40-80	Amended	17:13 VA.R. 2087	4/11/01
12 VAC 30-40-100	Amended	17:13 VA.R. 2083	4/11/01
12 VAC 30-40-220	Amended	17:18 VA.R. 2590	7/1/01
12 VAC 30-40-220	Amended	17:18 VA.R. 2593	7/1/01
12 VAC 30-40-220	Erratum	17:21 VA.R. 3124	--
12 VAC 30-40-240	Amended	17:13 VA.R. 2083	4/11/01
12 VAC 30-40-250	Amended	17:13 VA.R. 2085	4/11/01
12 VAC 30-40-280	Amended	17:13 VA.R. 2085	4/11/01
12 VAC 30-40-290	Amended	17:13 VA.R. 2085	4/11/01
12 VAC 30-40-350	Amended	17:13 VA.R. 2087	4/11/01
12 VAC 30-50-300	Amended	17:12 VA.R. 2026	6/1/01**
12 VAC 30-50-490	Added	17:18 VA.R. 2595	7/1/01
12 VAC 30-50-530	Amended	17:12 VA.R. 2026	6/1/01**
12 VAC 30-70-140	Repealed	17:19 VA.R. 2741	7/4/01
12 VAC 30-70-141	Repealed	17:19 VA.R. 2741	7/4/01
12 VAC 30-70-142	Repealed	17:19 VA.R. 2741	7/4/01
12 VAC 30-70-143	Repealed	17:19 VA.R. 2741	7/4/01
12 VAC 30-70-144	Repealed	17:19 VA.R. 2741	7/4/01
12 VAC 30-70-145	Repealed	17:19 VA.R. 2741	7/4/01
12 VAC 30-80-110	Amended	17:18 VA.R. 2597	7/1/01
12 VAC 30-90-19	Added	17:18 VA.R. 2623	7/1/01
12 VAC 30-90-20	Amended	17:18 VA.R. 2624	7/1/01
12 VAC 30-90-29	Added	17:18 VA.R. 2624	7/1/01
12 VAC 30-90-30	Amended	17:18 VA.R. 2625	7/1/01
12 VAC 30-90-31	Amended	17:18 VA.R. 2626	7/1/01
12 VAC 30-90-33	Amended	17:18 VA.R. 2626	7/1/01
12 VAC 30-90-34	Amended	17:18 VA.R. 2628	7/1/01
12 VAC 30-90-35	Amended	17:18 VA.R. 2630	7/1/01
12 VAC 30-90-36	Amended	17:18 VA.R. 2630	7/1/01
12 VAC 30-90-37	Amended	17:18 VA.R. 2632	7/1/01
12 VAC 30-90-38	Amended	17:18 VA.R. 2632	7/1/01
12 VAC 30-90-39	Amended	17:18 VA.R. 2633	7/1/01
12 VAC 30-90-40	Amended	17:18 VA.R. 2633	7/1/01
12 VAC 30-90-41	Amended	17:18 VA.R. 2633	7/1/01
12 VAC 30-90-42	Repealed	17:18 VA.R. 2635	7/1/01
12 VAC 30-90-43	Repealed	17:18 VA.R. 2636	7/1/01
12 VAC 30-90-50	Amended	17:18 VA.R. 2636	7/1/01
12 VAC 30-90-51	Amended	17:18 VA.R. 2636	7/1/01
12 VAC 30-90-55	Amended	17:18 VA.R. 2637	7/1/01
12 VAC 30-90-60	Amended	17:18 VA.R. 2638	7/1/01
12 VAC 30-90-65	Amended	17:18 VA.R. 2638	7/1/01
12 VAC 30-90-70	Amended	17:18 VA.R. 2638	7/1/01
12 VAC 30-90-80	Amended	17:18 VA.R. 2639	7/1/01
12 VAC 30-90-110	Amended	17:18 VA.R. 2639	7/1/01
12 VAC 30-90-120	Amended	17:18 VA.R. 2639	7/1/01
12 VAC 30-90-123	Amended	17:18 VA.R. 2640	7/1/01
12 VAC 30-90-130	Repealed	17:18 VA.R. 2640	7/1/01
12 VAC 30-90-130	Repealed	17:19 VA.R. 2741	7/4/01
12 VAC 30-90-131	Repealed	17:18 VA.R. 2640	7/1/01
12 VAC 30-90-131	Repealed	17:19 VA.R. 2741	7/4/01
12 VAC 30-90-132	Repealed	17:18 VA.R. 2640	7/1/01
12 VAC 30-90-132	Repealed	17:19 VA.R. 2741	7/4/01
12 VAC 30-90-133	Repealed	17:18 VA.R. 2641	7/1/01
12 VAC 30-90-133	Repealed	17:19 VA.R. 2741	7/4/01

** Effective date changed in 17:17 VA.R. 2443.

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
12 VAC 30-90-135	Repealed	17:18 VA.R. 2641	7/1/01
12 VAC 30-90-135	Repealed	17:19 VA.R. 2741	7/4/01
12 VAC 30-90-136	Added	17:18 VA.R. 2641	7/1/01
12 VAC 30-90-160	Amended	17:18 VA.R. 2641	7/1/01
12 VAC 30-90-165	Added	17:18 VA.R. 2641	7/1/01
12 VAC 30-90-170	Amended	17:18 VA.R. 2642	7/1/01
12 VAC 30-90-221	Amended	17:18 VA.R. 2642	7/1/01
12 VAC 30-90-240	Amended	17:18 VA.R. 2642	7/1/01
12 VAC 30-90-250	Amended	17:18 VA.R. 2643	7/1/01
12 VAC 30-90-253	Amended	17:18 VA.R. 2643	7/1/01
12 VAC 30-90-260	Repealed	17:18 VA.R. 2643	7/1/01
12 VAC 30-90-264	Amended	17:18 VA.R. 2643	7/1/01
12 VAC 30-90-266	Amended	17:18 VA.R. 2646	7/1/01
12 VAC 30-90-270	Amended	17:18 VA.R. 2646	7/1/01
12 VAC 30-90-272	Amended	17:18 VA.R. 2646	7/1/01
12 VAC 30-90-280	Amended	17:18 VA.R. 2648	7/1/01
12 VAC 30-110-630	Amended	17:13 VA.R. 2096	4/11/01
12 VAC 30-110-650	Amended	17:13 VA.R. 2096	4/11/01
12 VAC 30-110-660	Amended	17:13 VA.R. 2096	4/11/01
12 VAC 30-110-670	Amended	17:13 VA.R. 2096	4/11/01
12 VAC 30-110-700	Amended	17:13 VA.R. 2097	4/11/01
12 VAC 30-110-710	Amended	17:13 VA.R. 2097	4/11/01
12 VAC 30-110-720	Amended	17:13 VA.R. 2088	4/11/01
12 VAC 30-110-730	Amended	17:13 VA.R. 2090	4/11/01
12 VAC 30-110-740	Repealed	17:13 VA.R. 2091	4/11/01
12 VAC 30-110-741	Added	17:13 VA.R. 2091	4/11/01
12 VAC 30-110-744	Added	17:13 VA.R. 2091	4/11/01
12 VAC 30-110-747	Added	17:13 VA.R. 2091	4/11/01
12 VAC 30-110-751	Added	17:13 VA.R. 2091	4/11/01
12 VAC 30-110-760	Amended	17:13 VA.R. 2091	4/11/01
12 VAC 30-110-780	Amended	17:13 VA.R. 2091	4/11/01
12 VAC 30-110-790	Amended	17:13 VA.R. 2091	4/11/01
12 VAC 30-110-800	Amended	17:13 VA.R. 2091	4/11/01
12 VAC 30-110-810	Amended	17:13 VA.R. 2091	4/11/01
12 VAC 30-110-813	Added	17:13 VA.R. 2092	4/11/01
12 VAC 30-110-815	Added	17:13 VA.R. 2092	4/11/01
12 VAC 30-110-820	Repealed	17:13 VA.R. 2092	4/11/01
12 VAC 30-110-830	Amended	17:13 VA.R. 2092	4/11/01
12 VAC 30-110-840	Amended	17:13 VA.R. 2092	4/11/01
12 VAC 30-110-850	Amended	17:13 VA.R. 2092	4/11/01
12 VAC 30-110-853	Added	17:13 VA.R. 2092	4/11/01
12 VAC 30-110-856	Added	17:13 VA.R. 2093	4/11/01
12 VAC 30-110-860	Amended	17:13 VA.R. 2093	4/11/01
12 VAC 30-110-870	Amended	17:13 VA.R. 2093	4/11/01
12 VAC 30-110-880	Amended	17:13 VA.R. 2093	4/11/01
12 VAC 30-110-890	Repealed	17:13 VA.R. 2093	4/11/01
12 VAC 30-110-900	Amended	17:13 VA.R. 2093	4/11/01
12 VAC 30-110-910	Amended	17:13 VA.R. 2094	4/11/01
12 VAC 30-110-920	Amended	17:13 VA.R. 2094	4/11/01
12 VAC 30-110-921	Added	17:13 VA.R. 2094	4/11/01
12 VAC 30-110-930	Amended	17:13 VA.R. 2094	4/11/01
12 VAC 30-110-940	Amended	17:13 VA.R. 2094	4/11/01
12 VAC 30-110-950	Amended	17:13 VA.R. 2094	4/11/01
12 VAC 30-110-960	Amended	17:13 VA.R. 2095	4/11/01
12 VAC 30-110-970	Amended	17:13 VA.R. 2095	4/11/01
12 VAC 30-110-980	Amended	17:13 VA.R. 2095	4/11/01

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12 VAC 30-110-990	Amended	17:13 VA.R. 2095	4/11/01
12 VAC 30-110-1010	Amended	17:13 VA.R. 2095	4/11/01
12 VAC 30-110-1011	Added	17:13 VA.R. 2095	4/11/01
12 VAC 30-120-700 through 12 VAC 30-120-790	Added	17:18 VA.R. 2597-2622	7/1/01
12 VAC 30-120-770	Erratum	17:21 VA.R. 3124	--
12 VAC 35-110	Repealed	18:3 VA.R. 391	11/21/01
12 VAC 35-115-10 through 12 VAC 35-115-250	Added	18:3 VA.R. 392-414	11/21/01
12 VAC 35-115-50	Erratum	17:22 VA.R. 3371	--
12 VAC 35-115-70	Erratum	17:22 VA.R. 3371	--
12 VAC 35-120	Repealed	18:3 VA.R. 414	11/21/01
12 VAC 35-130	Repealed	18:3 VA.R. 415	11/21/01
12 VAC 30-141-10 et seq. emer	Added	17:25 VA.R. 3660-3670	8/1/01-7/31/02
12 VAC 30-141-100 emer	Amended	17:26 VA.R. 3757	8/22/01-7/31/02
Title 13. Housing			
13 VAC 10-40-30	Amended	17:22 VA.R. 3347	6/20/01
13 VAC 10-40-110	Amended	17:22 VA.R. 3347	6/20/01
13 VAC 10-40-130	Amended	17:22 VA.R. 3347	6/20/01
13 VAC 10-40-190	Amended	17:22 VA.R. 3347	6/20/01
13 VAC 10-40-230	Amended	17:22 VA.R. 3347	6/20/01
13 VAC 10-180-10	Amended	17:17 VA.R. 2444	4/9/01
13 VAC 10-180-40	Amended	17:17 VA.R. 2444	4/9/01
13 VAC 10-180-60	Amended	17:17 VA.R. 2444	4/9/01
13 VAC 10-180-70	Amended	17:17 VA.R. 2452	4/9/01
13 VAC 10-180-90	Amended	17:17 VA.R. 2452	4/9/01
13 VAC 10-180-100	Amended	17:17 VA.R. 2452	4/9/01
Title 14. Insurance			
14 VAC 5-170-20	Amended	17:24 VA.R. 3559	9/1/01
14 VAC 5-170-30	Amended	17:24 VA.R. 3559	9/1/01
14 VAC 5-170-70	Amended	17:24 VA.R. 3559	9/1/01
14 VAC 5-170-90	Amended	17:24 VA.R. 3559	9/1/01
14 VAC 5-170-105	Amended	17:24 VA.R. 3562	9/1/01
14 VAC 5-170-120	Amended	17:24 VA.R. 3563	9/1/01
14 VAC 5-170-130	Amended	17:24 VA.R. 3565	9/1/01
14 VAC 5-170-150	Amended	17:24 VA.R. 3566	9/1/01
14 VAC 5-170-180	Amended	17:24 VA.R. 3566	9/1/01
Appendix D	Added	17:24 VA.R. 3566	9/1/01
14 VAC 5-215 (Forms)	Amended	17:19 VA.R. 2753-2758	7/4/01
14 VAC 5-300-90	Amended	17:22 VA.R. 3347	8/1/01
14 VAC 5-300-130	Amended	17:16 VA.R. 2382	5/1/01
14 VAC 5-330-10	Repealed	18:3 VA.R. 415	12/31/01
Title 16. Labor and Employment			
16 VAC 25-90-1910.1043	Amended	17:23 VA.R. 3458	9/15/01
16 VAC 25-90-1910.1030	Amended	17:23 VA.R. 3459	9/15/01
Title 17. Libraries and Cultural Resources			
17 VAC 15-20-20 through 17 VAC 15-20-50	Amended	17:14 VA.R. 2183	5/1/01
17 VAC 15-20-70 through 17 VAC 15-20-120	Amended	17:14 VA.R. 2183	5/1/01
17 VAC 15-20-150 through 17 VAC 15-20-170	Amended	17:14 VA.R. 2183	5/1/01
17 VAC 15-30-10 et seq.	Repealed	17:14 VA.R. 2183	5/1/01
17 VAC 15-40-10 et seq.	Repealed	17:14 VA.R. 2183	5/1/01
17 VAC 15-50-20 through 17 VAC 15-50-50	Amended	17:14 VA.R. 2184	5/1/01
17 VAC 15-50-70	Amended	17:14 VA.R. 2184	5/1/01
17 VAC 15-50-90 through 17 VAC 15-50-110	Amended	17:14 VA.R. 2184	5/1/01
17 VAC 15-50-130	Amended	17:14 VA.R. 2184	5/1/01
17 VAC 15-50-140	Repealed	17:14 VA.R. 2184	5/1/01
17 VAC 15-50-150	Amended	17:14 VA.R. 2184	5/1/01
17 VAC 15-50-160	Amended	17:14 VA.R. 2184	5/1/01

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
Title 18. Professional and Occupational Licensing			
18 VAC 5-20-10 et seq.	Repealed	17:14 VA.R. 2184	4/25/01
18 VAC 5-21-10 through 18 VAC 5-21-170	Amended	17:14 VA.R. 2184-2198	4/25/01
18 VAC 30-10-10	Amended	17:20 VA.R. 2921	7/18/01
18 VAC 30-10-20	Amended	17:20 VA.R. 2921	7/18/01
18 VAC 30-10-30	Amended	17:20 VA.R. 2921	7/18/01
18 VAC 30-10-40	Amended	17:20 VA.R. 2921	7/18/01
18 VAC 30-10-60	Amended	17:20 VA.R. 2921	7/18/01
18 VAC 30-10-70	Amended	17:20 VA.R. 2921	7/18/01
18 VAC 30-10-80	Amended	17:20 VA.R. 2921	7/18/01
18 VAC 30-10-100	Amended	17:20 VA.R. 2921	7/18/01
18 VAC 30-20-10	Amended	17:16 VA.R. 2383	5/23/01
18 VAC 30-20-80	Amended	17:16 VA.R. 2383	5/23/01
18 VAC 30-20-160	Amended	17:16 VA.R. 2383	5/23/01
18 VAC 30-20-300	Added	17:16 VA.R. 2384	5/23/01
18 VAC 30-20-310	Added	17:16 VA.R. 2384	5/23/01
18 VAC 30-20-320	Added	17:16 VA.R. 2384	5/23/01
18 VAC 50-22-10 through 18 VAC 50-22-60	Amended	17:21 VA.R. 3108-3113	9/1/01
18 VAC 50-22-80	Amended	17:21 VA.R. 3113	9/1/01
18 VAC 50-22-100 through 18 VAC 50-22-270	Amended	17:21 VA.R. 3113-3115	9/1/01
18 VAC 50-30-10	Amended	17:26 VA.R. 3756	11/1/01
18 VAC 50-30-20	Amended	17:26 VA.R. 3756	11/1/01
18 VAC 50-30-40	Amended	17:26 VA.R. 3756	11/1/01
18 VAC 50-30-50	Amended	17:26 VA.R. 3756	11/1/01
18 VAC 50-30-90	Amended	17:26 VA.R. 3756	11/1/01
18 VAC 50-30-200	Amended	17:26 VA.R. 3756	11/1/01
18 VAC 60-10-10 through 18 VAC 60-10-40	Amended	17:24 VA.R. 3566	9/12/01
18 VAC 60-10-60	Amended	17:24 VA.R. 3566	9/12/01
18 VAC 60-10-70	Amended	17:24 VA.R. 3566	9/12/01
18 VAC 60-10-80	Amended	17:24 VA.R. 3566	9/12/01
18 VAC 60-10-100	Amended	17:24 VA.R. 3566	9/12/01
18 VAC 65-10-10	Amended	17:21 VA.R. 3116	8/1/01
18 VAC 65-10-20	Amended	17:21 VA.R. 3116	8/1/01
18 VAC 65-10-30	Amended	17:21 VA.R. 3116	8/1/01
18 VAC 65-10-40	Amended	17:21 VA.R. 3116	8/1/01
18 VAC 65-10-60	Amended	17:21 VA.R. 3116	8/1/01
18 VAC 65-10-70	Amended	17:21 VA.R. 3116	8/1/01
18 VAC 65-10-80	Amended	17:21 VA.R. 3116	8/1/01
18 VAC 65-10-100	Amended	17:21 VA.R. 3116	8/1/01
18 VAC 75-10-10	Amended	17:26 VA.R. 3756	10/10/01
18 VAC 75-10-20	Amended	17:26 VA.R. 3756	10/10/01
18 VAC 75-10-30	Amended	17:26 VA.R. 3756	10/10/01
18 VAC 75-10-40	Amended	17:26 VA.R. 3756	10/10/01
18 VAC 75-10-60	Amended	17:26 VA.R. 3756	10/10/01
18 VAC 75-10-70	Amended	17:26 VA.R. 3756	10/10/01
18 VAC 75-10-80	Amended	17:26 VA.R. 3756	10/10/01
18 VAC 75-10-100	Amended	17:26 VA.R. 3756	10/10/01
18 VAC 85-10-10	Amended	17:21 VA.R. 3116	8/1/01
18 VAC 85-10-20	Amended	17:21 VA.R. 3116	8/1/01
18 VAC 85-10-30	Amended	17:21 VA.R. 3116	8/1/01
18 VAC 85-10-40	Amended	17:21 VA.R. 3116	8/1/01
18 VAC 85-10-60	Amended	17:21 VA.R. 3116	8/1/01
18 VAC 85-10-70	Amended	17:21 VA.R. 3116	8/1/01
18 VAC 85-10-80	Amended	17:21 VA.R. 3116	8/1/01
18 VAC 85-10-100	Amended	17:21 VA.R. 3116	8/1/01
18 VAC 85-40-61	Added	17:13 VA.R. 2097	4/11/01

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
18 VAC 85-50-10	Amended	17:21 VA.R. 3116	8/1/01
18 VAC 85-50-58	Added	17:13 VA.R. 2098	4/11/01
18 VAC 85-50-101	Amended	17:21 VA.R. 3117	8/1/01
18 VAC 85-50-130	Amended	17:21 VA.R. 3117	8/1/01
18 VAC 85-50-140	Amended	17:21 VA.R. 3117	8/1/01
18 VAC 85-50-150	Amended	17:21 VA.R. 3117	8/1/01
18 VAC 85-80-10	Amended	17:17 VA.R. 2452	6/6/01
18 VAC 85-80-70	Amended	17:17 VA.R. 2452	6/6/01
18 VAC 85-80-71	Added	17:17 VA.R. 2452	6/6/01
18 VAC 85-80-72	Added	17:17 VA.R. 2452	6/6/01
18 VAC 85-80-80	Amended	17:17 VA.R. 2452	6/6/01
18 VAC 85-101-150	Amended	17:17 VA.R. 2452	6/6/01
18 VAC 85-101-151	Added	17:17 VA.R. 2452	6/6/01
18 VAC 85-101-152	Added	17:17 VA.R. 2452	6/6/01
18 VAC 85-110-150	Amended	17:17 VA.R. 2452	6/6/01
18 VAC 85-110-155	Added	17:17 VA.R. 2452	6/6/01
18 VAC 85-110-160	Amended	17:17 VA.R. 2452	6/6/01
18 VAC 85-120-10 et seq.	Added	17:17 VA.R. 2453	6/6/01
18 VAC 90-10-10	Amended	17:20 VA.R. 2921	7/18/01
18 VAC 90-10-20	Amended	17:20 VA.R. 2921	7/18/01
18 VAC 90-10-30	Amended	17:20 VA.R. 2921	7/18/01
18 VAC 90-10-40	Amended	17:20 VA.R. 2921	7/18/01
18 VAC 90-10-60	Amended	17:20 VA.R. 2921	7/18/01
18 VAC 90-10-70	Amended	17:20 VA.R. 2921	7/18/01
18 VAC 90-10-80	Amended	17:20 VA.R. 2921	7/18/01
18 VAC 90-10-100	Amended	17:20 VA.R. 2921	7/18/01
18 VAC 90-20-210	Amended	17:20 VA.R. 2921	7/18/01
18 VAC 90-30-50	Amended	17:13 VA.R. 2098	4/11/01
18 VAC 90-30-110	Amended	17:13 VA.R. 2098	4/11/01
18 VAC 90-40-60	Amended	17:13 VA.R. 2098	4/11/01
18 VAC 90-40-70	Amended	17:13 VA.R. 2098	4/11/01
18 VAC 95-10-10 through 18 VAC 95-10-40	Amended	17:24 VA.R. 3566	9/12/01
18 VAC 95-10-60	Amended	17:24 VA.R. 3566	9/12/01
18 VAC 95-10-70	Amended	17:24 VA.R. 3566	9/12/01
18 VAC 95-10-80	Amended	17:24 VA.R. 3566	9/12/01
18 VAC 95-10-100	Amended	17:24 VA.R. 3566	9/12/01
18 VAC 105-10-10 through 18 VAC 105-10-40	Amended	17:24 VA.R. 3566	9/12/01
18 VAC 105-10-60	Amended	17:24 VA.R. 3566	9/12/01
18 VAC 105-10-70	Amended	17:24 VA.R. 3566	9/12/01
18 VAC 105-10-80	Amended	17:24 VA.R. 3566	9/12/01
18 VAC 105-10-100	Amended	17:24 VA.R. 3566	9/12/01
18 VAC 105-20-60	Amended	17:17 VA.R. 2453	6/6/01
18 VAC 110-10-10	Amended	17:21 VA.R. 3118	8/1/01
18 VAC 110-10-20	Amended	17:21 VA.R. 3118	8/1/01
18 VAC 110-10-30	Amended	17:21 VA.R. 3118	8/1/01
18 VAC 110-10-40	Amended	17:21 VA.R. 3118	8/1/01
18 VAC 110-10-60	Amended	17:21 VA.R. 3118	8/1/01
18 VAC 110-10-70	Amended	17:21 VA.R. 3118	8/1/01
18 VAC 110-10-80	Amended	17:21 VA.R. 3118	8/1/01
18 VAC 110-10-100	Amended	17:21 VA.R. 3118	8/1/01
18 VAC 112-20-10	Amended	17:25 VA.R. 3657	9/12/01
18 VAC 112-20-10 emer	Amended	18:3 VA.R. 429	11/1/01-10/31/02
18 VAC 112-20-90	Amended	17:25 VA.R. 3658	9/12/01
18 VAC 112-20-130 emer	Amended	18:3 VA.R. 430	11/1/01-10/31/02
18 VAC 112-20-131 emer	Added	18:3 VA.R. 430	11/1/01-10/31/02
18 VAC 112-20-135 emer	Amended	18:3 VA.R. 431	11/1/01-10/31/02

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
18 VAC 112-20-136 emer	Added	18:3 VA.R. 431	11/1/01-10/31/02
18 VAC 112-20-140 emer	Amended	18:3 VA.R. 431	11/1/01-10/31/02
18 VAC 115-10-10	Amended	18:1 VA.R. 32	10/24/01
18 VAC 115-10-20	Amended	18:1 VA.R. 32	10/24/01
18 VAC 115-10-30	Amended	18:1 VA.R. 32	10/24/01
18 VAC 115-10-40	Amended	18:1 VA.R. 32	10/24/01
18 VAC 115-10-60	Amended	18:1 VA.R. 32	10/24/01
18 VAC 115-10-70	Amended	18:1 VA.R. 32	10/24/01
18 VAC 115-10-80	Amended	18:1 VA.R. 32	10/24/01
18 VAC 115-10-100	Amended	18:1 VA.R. 32	10/24/01
18 VAC 115-60-20	Amended	17:18 VA.R. 2651	6/20/01
18 VAC 115-60-40	Amended	17:18 VA.R. 2651	6/20/01
18 VAC 115-60-50	Amended	17:18 VA.R. 2651	6/20/01
18 VAC 115-60-120	Amended	17:18 VA.R. 2651	6/20/01
18 VAC 115-60-150	Amended	17:18 VA.R. 2651	6/20/01
18 VAC 125-20-10	Amended	17:12 VA.R. 2026	3/28/01
18 VAC 125-20-30	Amended	17:12 VA.R. 2027	3/28/01
18 VAC 125-20-30	Amended	17:18 VA.R. 2652	6/20/01
18 VAC 125-20-43	Added	17:12 VA.R. 2027	3/28/01
18 VAC 125-20-120	Amended	17:18 VA.R. 2652	6/20/01
18 VAC 125-20-121	Added	17:18 VA.R. 2653	6/20/01
18 VAC 125-20-122	Added	17:18 VA.R. 2653	6/20/01
18 VAC 125-20-123	Added	17:18 VA.R. 2653	6/20/01
18 VAC 125-20-130	Amended	17:18 VA.R. 2654	6/20/01
18 VAC 125-20-160	Amended	17:18 VA.R. 2654	6/20/01
18 VAC 140-10-10	Amended	17:21 VA.R. 3118	8/1/01
18 VAC 140-10-20	Amended	17:21 VA.R. 3118	8/1/01
18 VAC 140-10-30	Amended	17:21 VA.R. 3118	8/1/01
18 VAC 140-10-40	Amended	17:21 VA.R. 3118	8/1/01
18 VAC 140-10-60	Amended	17:21 VA.R. 3118	8/1/01
18 VAC 140-10-70	Amended	17:21 VA.R. 3118	8/1/01
18 VAC 140-10-80	Amended	17:21 VA.R. 3118	8/1/01
18 VAC 140-10-100	Amended	17:21 VA.R. 3118	8/1/01
18 VAC 140-20-100	Amended	17:14 VA.R. 2198	4/25/01
18 VAC 140-20-105	Added	17:14 VA.R. 2198	4/25/01
18 VAC 140-20-106	Added	17:14 VA.R. 2199	4/25/01
18 VAC 140-20-110	Amended	17:14 VA.R. 2199	4/25/01
18 VAC 140-20-160	Amended	17:14 VA.R. 2199	4/25/01
18 VAC 150-10-10 through 18 VAC 150-10-40	Amended	17:24 VA.R. 3567	9/12/01
18 VAC 150-10-60	Amended	17:24 VA.R. 3567	9/12/01
18 VAC 150-10-70	Amended	17:24 VA.R. 3567	9/12/01
18 VAC 150-10-80	Amended	17:24 VA.R. 3567	9/12/01
18 VAC 150-10-100	Amended	17:24 VA.R. 3567	9/12/01
Title 19. Public Safety			
19 VAC 30-40-30	Amended	17:15 VA.R. 2252	5/9/01
19 VAC 30-70-160	Amended	17:15 VA.R. 2252	5/9/01
19 VAC 30-70-530	Amended	17:15 VA.R. 2255	5/9/01
19 VAC 30-150-5	Added	17:15 VA.R. 2257	5/9/01
19 VAC 30-150-10	Amended	17:15 VA.R. 2257	5/9/01
19 VAC 30-150-20	Repealed	17:15 VA.R. 2257	5/9/01
19 VAC 30-150-30	Amended	17:15 VA.R. 2257	5/9/01
19 VAC 30-150-50	Amended	17:15 VA.R. 2257	5/9/01
19 VAC 30-160-5	Added	17:15 VA.R. 2257	5/9/01
19 VAC 30-160-20	Repealed	17:15 VA.R. 2257	5/9/01
19 VAC 30-160-30	Amended	17:15 VA.R. 2257	5/9/01
19 VAC 30-160-40	Amended	17:15 VA.R. 2257	5/9/01

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
19 VAC 30-160-45	Added	17:15 VA.R. 2257	5/9/01
19 VAC 30-165-10 et seq.	Amended	17:15 VA.R. 2258	5/9/01
Title 20. Public Utilities and Telecommunications			
20 VAC 5-309-10	Amended	17:18 VA.R. 2657	7/1/01
20 VAC 5-309-15	Added	17:18 VA.R. 2657	7/1/01
20 VAC 5-309-20	Amended	17:18 VA.R. 2657	7/1/01
20 VAC 5-309-30	Amended	17:18 VA.R. 2657	7/1/01
20 VAC 5-309-40	Amended	17:18 VA.R. 2657	7/1/01
20 VAC 5-309-50	Amended	17:18 VA.R. 2658	7/1/01
20 VAC 5-309-70	Amended	17:18 VA.R. 2658	7/1/01
20 VAC 5-309-90 through 20 VAC 5-309-180	Added	17:18 VA.R. 2658-2660	7/1/01
20 VAC 5-312-10 through 20 VAC 5-312-110	Added	17:22 VA.R. 3351-3364	8/1/01
20 VAC 5-325-10 through 20 VAC 5-325-110	Added	17:23 VA.R. 3464-3466	7/1/01
Title 21. Securities and Retail Franchising			
21 VAC 5-10 (Forms)	Amended	17:20 VA.R. 2925	7/1/01
21 VAC 5-20-10	Amended	17:20 VA.R. 2925	7/1/01
21 VAC 5-20-30	Amended	17:20 VA.R. 2925	7/1/01
21 VAC 5-20-40	Amended	17:20 VA.R. 2925	7/1/01
21 VAC 5-20-60 through 21 VAC 5-20-80	Amended	17:20 VA.R. 2925	7/1/01
21 VAC 5-20-85	Added	17:20 VA.R. 2925	7/1/01
21 VAC 5-20-90	Amended	17:20 VA.R. 2926	7/1/01
21 VAC 5-20-120	Amended	17:20 VA.R. 2926	7/1/01
21 VAC 5-20-130	Amended	17:20 VA.R. 2926	7/1/01
21 VAC 5-20-155	Added	17:20 VA.R. 2926	7/1/01
21 VAC 5-20-220	Amended	17:20 VA.R. 2926	7/1/01
21 VAC 5-20-240	Amended	17:20 VA.R. 2926	7/1/01
21 VAC 5-20-280	Amended	17:20 VA.R. 2926	7/1/01
21 VAC 5-20-290	Amended	17:20 VA.R. 2931	7/1/01
21 VAC 5-30-30	Repealed	17:20 VA.R. 2931	7/1/01
21 VAC 5-30-60	Repealed	17:20 VA.R. 2931	7/1/01
21 VAC 5-30-80	Amended	17:20 VA.R. 2931	7/1/01
21 VAC 5-30-90	Amended	17:20 VA.R. 2931	7/1/01
21 VAC 5-80-10	Amended	17:20 VA.R. 2931	7/1/01
21 VAC 5-80-30 through 21 VAC 5-80-70	Amended	17:20 VA.R. 2931	7/1/01
21 VAC 5-80-90 through 21 VAC 5-80-110	Amended	17:20 VA.R. 2931	7/1/01
21 VAC 5-80-160	Amended	17:20 VA.R. 2931	7/1/01
21 VAC 5-80-200	Amended	17:20 VA.R. 2931	7/1/01
21 VAC 5-80-210	Amended	17:20 VA.R. 2931	7/1/01
Title 22. Social Services			
22 VAC 20-30-10 through 22 VAC 20-30-60	Amended	17:23 VA.R. 3466-3468	***
22 VAC 20-30-70	Repealed	17:23 VA.R. 3468	***
22 VAC 20-30-80 through 22 VAC 20-30-140	Amended	17:23 VA.R. 3468-3469	***
22 VAC 20-30-150	Added	17:23 VA.R. 3469	***
22 VAC 40-71-10 emer	Amended	17:24 VA.R. 3568	10/9/01-10/8/02
22 VAC 40-71-20 emer	Amended	17:24 VA.R. 3571	10/9/01-10/8/02
22 VAC 40-71-30 emer	Amended	17:24 VA.R. 3572	10/9/01-10/8/02
22 VAC 40-71-50 emer	Amended	17:24 VA.R. 3572	10/9/01-10/8/02
22 VAC 40-71-60 emer	Amended	17:24 VA.R. 3572	10/9/01-10/8/02
22 VAC 40-71-80 emer	Amended	17:24 VA.R. 3573	10/9/01-10/8/02
22 VAC 40-71-90 emer	Amended	17:24 VA.R. 3573	10/9/01-10/8/02
22 VAC 40-71-110 emer	Amended	17:24 VA.R. 3573	10/9/01-10/8/02
22 VAC 40-71-130 emer	Amended	17:24 VA.R. 3574	10/9/01-10/8/02
22 VAC 40-71-150 through 22 VAC 40-71-180 emer	Amended	17:24 VA.R. 3574-3579	10/9/01-10/8/02

*** Effective date suspended in 18:1 VA.R. 32.

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
22 VAC 40-71-210 emer	Amended	17:24 VA.R. 3579	10/9/01-10/8/02
22 VAC 40-71-270 emer	Amended	17:24 VA.R. 3579	10/9/01-10/8/02
22 VAC 40-71-275 emer	Added	17:24 VA.R. 3580	10/9/01-10/8/02
22 VAC 40-71-280 emer	Amended	17:24 VA.R. 3580	10/9/01-10/8/02
22 VAC 40-71-290 emer	Amended	17:24 VA.R. 3580	10/9/01-10/8/02
22 VAC 40-71-310 emer	Amended	17:24 VA.R. 3580	10/9/01-10/8/02
22 VAC 40-71-330 emer	Amended	17:24 VA.R. 3580	10/9/01-10/8/02
22 VAC 40-71-360 emer	Amended	17:24 VA.R. 3580	10/9/01-10/8/02
22 VAC 40-71-410 emer	Amended	17:24 VA.R. 3580	10/9/01-10/8/02
22 VAC 40-71-440 emer	Amended	17:24 VA.R. 3580	10/9/01-10/8/02
22 VAC 40-71-450 emer	Amended	17:24 VA.R. 3580	10/9/01-10/8/02
22 VAC 40-71-460 emer	Amended	17:24 VA.R. 3581	10/9/01-10/8/02
22 VAC 40-71-480 emer	Amended	17:24 VA.R. 3581	10/9/01-10/8/02
22 VAC 40-71-490 emer	Amended	17:24 VA.R. 3581	10/9/01-10/8/02
22 VAC 40-71-530 through 22 VAC 40-71-600 emer	Amended	17:24 VA.R. 3582-3584	10/9/01-10/8/02
22 VAC 40-71-630 through 22 VAC 40-71-700 emer	Amended	17:24 VA.R. 3584-3589	10/9/01-10/8/02
22 VAC 40-130-10 et seq.	Withdrawn	17:17 VA.R. 2456	--
22 VAC 40-230-10 et seq.	Repealed	17:18 VA.R. 2660	6/20/01
22 VAC 40-480-10 et seq.	Repealed	17:18 VA.R. 2661	6/20/01
22 VAC 40-690-10	Amended	17:18 VA.R. 2661	9/1/01
22 VAC 40-690-15	Added	17:18 VA.R. 2662	9/1/01
22 VAC 40-690-20	Amended	17:18 VA.R. 2662	9/1/01
22 VAC 40-690-30	Amended	17:18 VA.R. 2662	9/1/01
22 VAC 40-690-35	Added	17:18 VA.R. 2663	9/1/01
22 VAC 40-690-40	Amended	17:18 VA.R. 2663	9/1/01
22 VAC 40-690-50	Repealed	17:18 VA.R. 2664	9/1/01
22 VAC 40-690-55	Added	17:18 VA.R. 2664	9/1/01
22 VAC 40-690-55	Erratum	17:21 VA.R. 3124	--
22 VAC 40-690-60	Amended	17:18 VA.R. 2664	9/1/01
22 VAC 40-690-65	Added	17:18 VA.R. 2664	9/1/01
22 VAC 40-690-70	Repealed	17:18 VA.R. 2664	9/1/01
22 VAC 40-730-10 emer	Amended	17:13 VA.R. 2103	4/1/01-3/31/02
22 VAC 40-730-10	Erratum	17:25 VA.R. 3679	--
22 VAC 40-730-40 through 22 VAC 40-730-100 emer	Amended	17:13 VA.R. 2103-2104	4/1/01-3/31/02
22 VAC 40-900-10 et seq.	Repealed	17:18 VA.R. 2671	6/20/01
22 VAC 40-901-10 through 22 VAC 40-901-30	Added	17:18 VA.R. 2671	6/20/01
Title 24. Transportation and Motor Vehicles			
24 VAC 20-70-30 emer	Amended	18:3 VA.R. 433	9/21/01-9/20/02
24 VAC 30-40	Repealed	18:3 VA.R. 416	11/21/01
24 VAC 30-41-10 through 24 VAC 30-41-760	Added	18:3 VA.R. 416-427	11/21/01
24 VAC 30-61-20	Amended	17:17 VA.R. 2456	6/6/01
24 VAC 30-61-40	Amended	17:17 VA.R. 2456	6/6/01
24 VAC 30-240-10	Amended	17:18 VA.R. 2671	5/1/01
24 VAC 30-260-10 et seq.	Repealed	17:25 VA.R. 3658	7/26/01
24 VAC 30-280-10	Amended	17:13 VA.R. 2099	2/15/01
24 VAC 30-280-20 through 24 VAC 30-280-70	Added	17:13 VA.R. 2099-2102	2/15/01
24 VAC 30-370-10 et seq.	Repealed	17:24 VA.R. 3567	9/12/01
24 VAC 30-440-10 et seq.	Repealed	17:14 VA.R. 2200	3/6/01
24 VAC 30-450-10 et seq.	Amended	17:14 VA.R. 2200	3/6/01
24 VAC 30-460-10	Repealed	17:14 VA.R. 2201	3/6/01
24 VAC 30-520-10	Amended	17:25 VA.R. 3658	7/26/01
24 VAC 30-520-20	Amended	17:25 VA.R. 3658	7/26/01
24 VAC 30-540-10	Added	17:23 VA.R. 3472	6/29/01
24 VAC 30-540-20	Added	17:23 VA.R. 3472	6/29/01
24 VAC 30-540-30	Added	17:23 VA.R. 3472	6/29/01
24 VAC 30-540-40	Added	17:23 VA.R. 3472	6/29/01

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
24 VAC 30-561-10	Amended	17:18 VA.R. 2672	5/2/01

NOTICES OF INTENDED REGULATORY ACTION

Symbol Key

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

TITLE 2. AGRICULTURE

STATE BOARD OF AGRICULTURE AND CONSUMER SERVICES

† Withdrawal of Notice of Intended Regulatory Action

Notice is hereby given that the Board of Agriculture and Consumer Services has WITHDRAWN the Notice of Intended Regulatory Action for 2 VAC 5-580, Rules and Regulations Pertaining to the Sanitary and Operating Requirements in Retail Food Stores, which was published in 17:13 VA.R. 2071-2072 March 12, 2001.

Contact: Lawrence Redford, Department of Agriculture and Consumer Services, P.O. Box 1163, Richmond, VA 23218, telephone (804) 786-3501, FAX (804) 371-2945, toll-free 1-800-828-1120/TTY ☎

VA.R. Doc. No. R01-120; Filed October 10, 2001, 4:01 p.m.

TITLE 6. CRIMINAL JUSTICE AND CORRECTIONS

STATE BOARD OF JUVENILE JUSTICE

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Juvenile Justice intends to consider amending regulations entitled: **6 VAC 35-140. Standards for Juvenile Residential Facilities.** The purpose of the proposed action is to provide standards for post-dispositional detention in accordance with the 2000 Appropriations Act, item 476 A 3 and to reinstate certain historical standards that conform closely to nationally accepted standards.

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

Statutory Authority: §§ 16.1-309.9, 66-10 and 66-25.1 of the Code of Virginia.

Public comments may be submitted until December 7, 2001.

Contact: Donald R. Carignan, Regulatory Coordinator, 700 E. Franklin St., 4th Floor, P.O. Box 1110, Richmond, VA 23208-1110, telephone (804) 371-0743 or FAX (804) 371-0773.

VA.R. Doc. No. R02-43; Filed October 10, 2001, 1:37 p.m.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Juvenile Justice intends to consider promulgating regulations entitled: **6 VAC 35-160. Regulations Governing Juvenile Record Information and the Virginia Juvenile Justice Information System.** The purpose of the proposed action is to establish standards for the form and content of information submitted to the Virginia Juvenile Justice Information System, protect the integrity and the confidentiality of the information, and ensure the security and dissemination of information in accordance with law.

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

Statutory Authority: §§ 16.1-223 and 66-10 of the Code of Virginia.

Public comments may be submitted until December 7, 2001.

Contact: Donald R. Carignan, Regulatory Coordinator, 700 E. Franklin St., 4th Floor, P.O. Box 1110, Richmond, VA 23208-1110, telephone (804) 371-0743 or FAX (804) 371-0773.

VA.R. Doc. No. R02-42; Filed October 10, 2001, 1:38 p.m.

TITLE 9. ENVIRONMENT

STATE AIR POLLUTION CONTROL BOARD

† Withdrawal of Notice of Intended Regulatory Action

Notice is hereby given that the State Air Pollution Control Board has WITHDRAWN the Notice of Intended Regulatory Action for 9 VAC 5-40, Existing Stationary Sources, 9 VAC 5-91, Regulations for the Control of Motor Vehicle Emissions in Northern Virginia, and 9 VAC 5-180, Regulations for Mobile Sources (Rev. I-00), which was published in 17:9 VA.R. 1252 January 15, 2001.

Contact: Cindy Berndt, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, FAX (804) 698-4500 or (804) 698-4021/TTY ☎

VA.R. Doc. No. R01-69; Filed October 17, 2001, 8:54 a.m.

STATE WATER CONTROL BOARD

† Withdrawal of Notice of Intended Regulatory Action

Notice is hereby given that the State Water Control Board has WITHDRAWN the Notice of Intended Regulatory Action for 9

Notices of Intended Regulatory Action

VAC 25-260, Water Quality Standards, which was published in 14:22 VA.R. 3045 July 20, 1998. The board is withdrawing the Notice of Intended Regulatory Action based on other regulatory actions currently underway that address issues outstanding from the triennial review of the water quality standards.

Contact: Cindy Berndt, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, FAX (804) 698-4500 or (804) 698-4021/TTY ☎

VA.R. Doc. No. R98-266; Filed October 17, 2001, 8:53 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Water Control Board intends to consider regulations entitled: **9 VAC 25-760. James River (Richmond Regional West) Surface Water Management Area.** The purpose of the proposed action is to designate the James River near Richmond as a surface water management area. The area would encompass the James River upstream from the southeastern toe of the I-95 Bridge in the City of Richmond to the southwest toe of the U.S. Route 522 Bridge in Goochland and Powhatan Counties. After designation the requirements of the Surface Water Management Area Regulation (9 VAC 25-220) would apply. (More detailed information on this regulatory action may be found in 18:3 VA.R. 242-244 October 22, 2001.)

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

Statutory Authority: § 62.1-246 of the Code of Virginia.

Public comments may be submitted until 5 p.m., November 30, 2001, to Erlinda Patron, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240.

Contact: Erlinda Patron, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4047, FAX (804) 698-4032 or e-mail elpatron@deq.state.va.us.

VA.R. Doc. No. R02-14; Filed September 26, 2001, 7:59 a.m.

TITLE 12. HEALTH

STATE BOARD OF HEALTH

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 that the State Board of Health intends to consider promulgating regulations entitled: **12 VAC 5-218. Rules and Regulations Governing Outpatient Data Reporting.** The purpose of the proposed action is to make emergency regulations addressing this matter into permanent regulations. The intended regulations are required by Virginia law, and will collect aggregate information on outpatient surgical procedures.

The agency does not intend to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 32.1-276.6 of the Code of Virginia.

Public comments may be submitted until December 7, 2001.

Contact: Ivy Cole, Director, OIM, Department of Health, 1500 E. Main St., Richmond, VA 23230, telephone (804) 786-6272 or FAX (804) 692-0698.

VA.R. Doc. No. R02-51; Filed October 16, 2001, 3:36 p.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 that the State Board of Health intends to consider repealing regulations entitled: **12 VAC 5-390. Rules and Regulations for the Licensure of Hospices** and promulgating regulations entitled: **12 VAC 5-391. Regulations for the Licensure of Hospices.** The purpose of the proposed action is to replace the current hospice organization regulation (12 VAC 5-390) with a new regulation (12 VAC 5-391). The intent of the revised regulation is to clarify issues of practice and reflect the changes that have occurred in the industry in the last several years while providing the necessary consistency in the provision of hospice services in order to assure safe, adequate and efficient hospice program operation.

The agency does not intend to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 32.1-12 and 32.1-162.5 of the Code of Virginia.

Public comments may be submitted until November 26, 2001.

Contact: Carrie Eddy, Senior Policy Analyst, Department of Health, Center for Quality Health Care Services, 3600 W. Broad St., Suite 216, Richmond, VA 23230, telephone (804) 367-2102 or FAX (804) 367-2149.

VA.R. Doc. No. R02-40; Filed October 2, 2001, 10:22 a.m.

TITLE 16. LABOR AND EMPLOYMENT

DEPARTMENT OF LABOR AND INDUSTRY

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Department of Labor and Industry intends to consider amending regulations entitled: **16 VAC 15-10. Public Participation Guidelines.** The purpose of the proposed action is to conform language to current Administrative Process Act requirements, include references to agency website and Town Hall, and remove redundant language.

The agency does not intend to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 2.2-4007 and 40.1-6 (3) of the Code of Virginia.

Notices of Intended Regulatory Action

Public comments may be submitted until November 21, 2001.

Contact: Bonnie R. Hopkins, Regulatory Coordinator, Department of Labor and Industry, Powers-Taylor Bldg., 13 S. 13th St., Richmond, VA 23219, telephone (804) 371-2631 or FAX (804) 371-6524.

VA.R. Doc. No. R02-15; Filed September 19, 2001, 1:59 p.m.

Apprenticeship Council

Notice of Intended Regulatory Acton

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Apprenticeship Council intends to consider amending regulations entitled: **16 VAC 20-10. Public Participation Guidelines**. The purpose of the proposed action is to conform language to current Administrative Process Act requirements, include references to agency website and Town Hall, and remove redundant language.

The agency does not intend to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 2.2-4007 and 40.1-117 of the Code of Virginia.

Public comments may be submitted until November 21, 2001.

Contact: Bonnie R. Hopkins, Regulatory Coordinator, Department of Labor and Industry, Powers-Taylor Bldg., 13 S. 13th St., Richmond, VA 23219, telephone (804) 371-2631 or FAX (804) 371-6524.

VA.R. Doc. No. R02-15; Filed September 19, 2001, 1:59 p.m.

Safety and Health Codes Board

Notice of Intended Regulatory Acton

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Safety and Health Codes Board intends to consider amending regulations entitled: **16 VAC 25-10. Public Participation Guidelines**. The purpose of the proposed action is to conform language to current Administrative Process Act requirements, include references to agency website and Town Hall, and remove redundant language.

The agency does not intend to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 2.2-4007 and 40.1-22 of the Code of Virginia.

Public comments may be submitted until November 21, 2001.

Contact: Bonnie R. Hopkins, Regulatory Coordinator, Department of Labor and Industry, Powers-Taylor Bldg., 13 S. 13th St., Richmond, VA 23219, telephone (804) 371-2631 or FAX (804) 371-6524.

VA.R. Doc. No. R02-17; Filed September 19, 2001, 1:59 p.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Safety and Health Codes Board intends to consider amending regulations entitled: **16 VAC 25-50. Boiler and Pressure Vessel Rules and Regulations**. The purpose of the proposed action is to decrease the frequency of inspections for certain pressure vessels, update references to national standards, and make housekeeping changes to facilitate electronic reporting.

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

Statutory Authority: § 40.1-51.6 of the Code of Virginia.

Contact: Fred P. Barton, Director, Boiler Safety Compliance, Department of Labor and Industry, Powers-Taylor Bldg., 13 S. 13th St., Richmond, VA 23219, telephone (804) 786-3169 or FAX (804) 371-2324.

VA.R. Doc. No. R02-16; Filed September 19, 2001, 1:59 p.m.

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD FOR ARCHITECTS, PROFESSIONAL ENGINEERS, LAND SURVEYORS, CERTIFIED INTERIOR DESIGNERS AND LANDSCAPE ARCHITECTS

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects intends to consider amending regulations entitled: **18 VAC 10-10. Public Participation Guidelines**. The purpose of the proposed action is to amend the regulations to allow the board to accept requests to be placed on a notification list, and to notify list members via electronic means. Amendments will make necessary grammatical changes. Other changes that may be necessary will be considered.

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

Statutory Authority: §§ 2.2-4007 and 54.1-404 of the Code of Virginia.

Public comments may be submitted until November 8, 2001.

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

VA.R. Doc. No. R02-6; Filed September 19, 2001, 9:23 a.m.

Notices of Intended Regulatory Action

BOARD OF DENTISTRY

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Dentistry intends to consider amending regulations entitled: **18 VAC 60-20. Regulations Governing the Practice of Dentistry and Dental Hygiene.** The purpose of the proposed action is to increase fees to cover expenses for essential functions of the licensing of dentists and dental hygienists, investigation of complaints against licensees, and adjudication of disciplinary cases.

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

Statutory Authority: Chapter 27 (§ 54.1-2700 et seq.) of the Code of Virginia.

Public comments may be submitted until November 21, 2001.

Contact: Sandra Reen, Executive Director, Board of Dentistry, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9906 or FAX (804) 662-9943.

VA.R. Doc. No. R02-24; Filed September 21, 2001, 11:39 a.m.

BOARD OF FUNERAL DIRECTORS AND EMBALMERS

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Funeral Directors and Embalmers intends to consider amending regulations entitled: **18 VAC 65-30. Regulations for Preneed Funeral Planning.** The purpose of the proposed action is to correctly define appointee and designee and to eliminate a confusing and unnecessary requirement for a number to be placed on the preneed contract. It will also consider any other issues raised during public comment.

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

Statutory Authority: Chapter 28 (§ 54.1-2800 et seq.) of 54.1 of the Code of Virginia.

Public comments may be submitted until 5 p.m., December 5, 2001.

Contact: Elizabeth Young Tisdale, Executive Director, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone 804-662-9907, FAX 804-662-9943, or e-mail etisdale@dhp.state.va.us.

VA.R. Doc. No. R02-46; Filed October 16, 2001, 4:35 p.m.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Funeral Directors and Embalmers intends to consider amending regulations entitled: **18 VAC 65-40. Resident Trainee Program for Funeral**

Service. The purpose of the proposed action is to specify that information and training about preneed funeral contracts must be included in the resident trainee program. It will also consider any other issues raised during public comment on the Notice of Intended Regulatory Action.

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

Statutory Authority: Chapter 28 (§ 54.1-2800 et seq.) of 54.1 of the Code of Virginia.

Public comments may be submitted until 5 p.m., December 5, 2001.

Contact: Elizabeth Young Tisdale, Executive Director, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone 804-662-9907, FAX 804-662-9943, or e-mail etisdale@dhp.state.va.us.

VA.R. Doc. No. R02-47; Filed October 16, 2001, 4:35 p.m.

BOARD OF MEDICINE

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Medicine intends to consider amending regulations entitled: **18 VAC 85-40. Regulations Governing the Practice of Respiratory Care Practitioners.** The purpose of the proposed action is to amend the regulation to address the need for regulations to assure the continued competency of practitioners who are renewing their active licenses. Other amendments are recommended for greater clarity for the regulated entities or for adaptability to computerized testing.

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

Statutory Authority: § 54.1-2400 and Chapter 29 (§ 54.1-2900) of Title 54.1 of the Code of Virginia.

Public comments may be submitted until November 7, 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) 662-9909 or FAX (804) 662-9943.

VA.R. Doc. No. R02-30; Filed September 18, 2001, 8:39 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Medicine intends to consider amending regulations entitled: **18 VAC 85-101. Regulations Governing the Practice of Radiologic Technology.** The purpose of the proposed action is to amend the regulation to accept another credential or professional certification specifically for a radiologic technologist-limited license for bone densitometry.

Notices of Intended Regulatory Action

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

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

Public comments may be submitted until November 7, 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) 662-9909 or FAX (804) 662-9943.

VA.R. Doc. No. R02-10; Filed September 18, 2001, 8:39 a.m.

BOARD OF NURSING

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Nursing intends to consider amending regulations entitled: **18 VAC 90-20. Regulations Governing the Practice of Nursing.** The purpose of the proposed action is to promulgate regulations to establish a career advancement certification for certified nurse aides.

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

Statutory Authority: § 54.1-2400 and Chapter 30 (§ 54.1-300 et seq.) of Title 54.1 of the Code of Virginia.

Public comments may be submitted until November 21, 2001.

Contact: Nancy K. Durrett, R.N., Executive Director, Board of Nursing, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9909 or FAX (804) 662-9512.

VA.R. Doc. No. R02-21; Filed September 21, 2001, 11:39 a.m.

BOARD OF NURSING HOME ADMINISTRATORS

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Nursing Home Administrators intends to consider amending regulations entitled: **18 VAC 95-20. Regulations Governing the Practice of Nursing Home Administrators.** The purpose of the proposed action is to amend the regulation to increase fees to cover expenses for essential functions of approving preceptorships, licensing administrators, investigation of complaints, and disciplinary actions.

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

Statutory Authority: § 54.1-2400 and Chapter 31 (§ 54.1-3100 et seq.) of Title 54.1 of the Code of Virginia.

Public comments may be submitted until November 21, 2001.

Contact: Sandra Reen, Executive Director, Board of Nursing Home Administrators, 6606 W. Broad St., 4th Floor,

Richmond, VA 23230-1717, telephone (804) 662-7457 or FAX (804) 662-9943.

VA.R. Doc. No. R02-20; Filed September 21, 2001, 11:39 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Nursing Home Administrators intends to consider amending regulations entitled: **18 VAC 95-20. Regulations Governing the Practice of Nursing Home Administrators.** The purpose of the proposed action is to amend the regulation for clarification and for adaptability to computerized testing. The board will consider amendments to enable a trainee to work in a practicum or administrator-in-training program outside of Virginia in a licensed nursing care facility under the supervision of a nursing home administrator licensed in that jurisdiction.

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

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

Public comments may be submitted until November 7, 2001.

Contact: Sandra Reen, Executive Director, Board of Nursing Home Administrators, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-7457 or FAX (804) 662-9943.

VA.R. Doc. No. R02-8; Filed September 18, 2001, 8:39 a.m.

BOARD OF OPTOMETRY

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Optometry intends to consider amending regulations entitled: **18 VAC 105-20. Regulations of the Virginia Board of Optometry.** The purpose of the proposed action is to revise certain requirements of licensure by endorsement, to reduce the burden of reinstatement, to add some miscellaneous fees consistent with other boards, and to clarify certain provisions related to the provision of prescriptions for contact lenses, the use of professional designations and continuing education. The board recommended increasing by two the number of continuing education hours but expanding the scope of course work for which optometrists may receive credit. It will also consider establishment of an inactive license and any other issues raised during public comment.

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

Statutory Authority: Chapter 32 (§ 54.1-3200 et seq.) of Title 54.1 of the Code of Virginia.

Public comments may be submitted until 5 p.m., December 5, 2001.

Contact: Elizabeth A. Carter, Ph.D., Executive Director, Department of Health Professions, 6606 W. Broad St., 4th

Notices of Intended Regulatory Action

Floor, Richmond, VA 23230-1717, telephone (804) 662-9910, FAX (804) 662-7098 or e-mail ecarter@dhp.state.va.us.

VA.R. Doc. No. R02-49; Filed October 16, 2001, 4:36 p.m.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Optometry intends to consider amending regulations entitled: **18 VAC 105-30. Regulations on Certification of Optometrists to Use Therapeutic Pharmaceutical Agents.** The purpose of the proposed action is to specify that some of the required hours of continuing education be directed to the use of therapeutic pharmaceutical agents, to require licensees who have allowed TPA certification to lapse to submit a reinstatement application with evidence of continued competency, and to revise the fees for consistency with the principles established by the department. It will also consider any other issues raised during the public comment period.

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

Statutory Authority: Chapter 32 (§ 54.1-3200 et seq.) of Title 54.1 of the Code of Virginia.

Public comments may be submitted until 5 p.m., December 5, 2001.

Contact: Elizabeth A. Carter, Ph.D., Executive Director, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9910, FAX (804) 662-7098 or e-mail ecarter@dhp.state.va.us.

VA.R. Doc. No. R02-50; Filed October 16, 2001, 4:36 p.m.

BOARD OF PHARMACY

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Pharmacy intends to consider amending regulations entitled: **18 VAC 110-20. Regulations Governing the Practice of Pharmacy.** The purpose of the proposed action is to increase fees to cover expenses for essential functions of licensing, investigation of complaints against pharmacists, adjudication of disciplinary cases, and pharmacy inspections.

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

Statutory Authority: Chapters 33 (§ 54.1-3300 et seq.) and 34 (§ 54.1-3400 et seq.) of Title 54.1 of the Code of Virginia.

Public comments may be submitted until November 21, 2001.

Contact: Elizabeth Scott Russell, Executive Director, Board of Pharmacy, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9911 or FAX (804) 662-9913.

VA.R. Doc. No. R02-22; Filed September 21, 2001, 11:39 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Pharmacy intends to consider amending regulations entitled: **18 VAC 110-30. Regulations for Practitioners of the Healing Arts to Sell Controlled Substances.** The purpose of the proposed action is to increase fees to cover expenses for essential functions of licensing, investigation of complaints against pharmacists, adjudication of disciplinary cases, and pharmacy inspections.

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

Statutory Authority: §§ 54.1-2400 and 54.1-3304 of the Code of Virginia.

Public comments may be submitted until November 21, 2001.

Contact: Elizabeth Scott Russell, Executive Director, Board of Pharmacy, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9911 or FAX (804) 662-9913.

VA.R. Doc. No. R02-22; Filed October 4, 2001, 4:02 p.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Pharmacy intends to consider amending regulations entitled: **18 VAC 110-20. Regulations Governing the Practice of Pharmacy.** The purpose of the proposed action is to establish the criteria of training and examination necessary for registration and the requirements for evidence of continued competency as a condition of renewal as required by § 54.1-3321 of the Code of Virginia. Pursuant to § 54.1-2400 of the Code of Virginia, the board will establish fees to support the regulatory and disciplinary activities related to registration of pharmacy technicians and any other qualifications necessary to ensure competency and integrity.

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

Statutory Authority: §§ 54.1-2400 and 54.1-3321 of the Code of Virginia.

Public comments may be submitted until November 7, 2001.

Contact: Elizabeth Scott Russell, Executive Director, Board of Pharmacy, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9938 or FAX (804) 662-9943.

VA.R. Doc. No. R02-7; Filed September 18, 2001, 8:39 a.m.

BOARD OF PHYSICAL THERAPY

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Physical Therapy intends to consider amending regulations entitled: **18 VAC 112-20. Regulations Governing the Practice of Physical Therapy.**

Notices of Intended Regulatory Action

The purpose of the proposed action is to establish continuing competency requirements for renewal of licensure.

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

Statutory Authority: §§ 54.1-2400, 54.1-3474 and 54.1-3480 of the Code of Virginia.

Public comments may be submitted until November 21, 2001, to Elaine J. Yeatts, Department of Health Professions, 6606 West Broad Street, 4th Floor, Richmond, VA 23230-1717.

Contact: Elizabeth Young Tisdale, Executive Director, Board of Physical Therapy, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9924 or (804) 662-9943.

VA.R. Doc. No. R02-29; Filed September 26, 2001, 1:53 p.m.

BOARD OF COUNSELING

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Counseling intends to consider amending regulations entitled: **18 VAC 115-30. Regulations Governing the Certification of Substance Abuse Counselors.** The purpose of the proposed action is to promulgate regulations for certification of substance abuse counselors with a bachelor's degree and substance abuse assistants with a high school or GED degree.

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

Statutory Authority: §§ 54.1-2400 and 54.1-3505 of the Code of Virginia.

Public comments may be submitted until November 21, 2001.

Contact: Evelyn B. Brown, Executive Director, Board of Counseling, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9133 or FAX (804) 662-9943.

VA.R. Doc. No. R01-23; Filed September 21, 2001, 11:39 a.m.

BOARD OF PSYCHOLOGY

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Psychology intends to consider amending regulations entitled: **18 VAC 125-20. Regulations Governing the Practice of Psychology.** The purpose of the proposed action is to increase fees to cover expenses for essential functions of the approving, licensing, investigation of complaints against licensees, and adjudication of disciplinary cases.

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

Statutory Authority: § 54.1-2400 and Chapter 36 (§ 54.1-3600 et seq.) of Title 54.1 of the Code of Virginia.

Public comments may be submitted until November 21, 2001.

Contact: Evelyn B. Brown, Executive Director, Board of Counseling, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9912 or FAX (804) 662-9943.

VA.R. Doc. No. R02-25; Filed September 21, 2001, 11:39 a.m.

REAL ESTATE BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Real Estate Board intends to consider promulgating regulations entitled: **18 VAC 135-60. Common Interest Community Management Information Fund.** The purpose of the proposed action is to promulgate regulations for the administration of Chapter 29 (§ 55-528 et seq.) of Title 55 of the Code of Virginia, which creates the Common Interest Community Management Information Fund and provides for the collection of moneys from common interest communities to supply the fund.

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

Statutory Authority: § 55-530 of the Code of Virginia,

Public comments may be submitted until November 7, 2001.

Contact: Eric Olson, Regulatory Boards Administrator, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8548, FAX (804) 367-2475 or (804) 367-9753/TTY ☎

VA.R. Doc. No. R02-9; Filed September 14, 2001, 1:25 p.m.

BOARD OF VETERINARY MEDICINE

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Veterinary Medicine intends to consider amending regulations entitled: **18 VAC 150-20. Regulations Governing the Practice of Veterinary Medicine.** The purpose of the proposed action is to address issues that have arisen during the periodic review of regulations, to update facility requirements, and to clarify certain provisions that have been confusing or problematic to licensees and applicants.

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

Statutory Authority: Chapter 38 (§ 54.1-3800 et seq.) of Title 54.1 of the Code of Virginia.

Public comments may be submitted until 5 p.m., December 5, 2001.

Contact: Elizabeth A. Carter, Ph.D., Executive Director, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9910, FAX (804) 662-7098 or e-mail ecarter@dhp.state.va.us.

Notices of Intended Regulatory Action

VA.R. Doc. No. R02-50; Filed October 16, 2001, 4:35 p.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Veterinary Medicine intends to consider amending regulations entitled: **18 VAC 150-20. Regulations Governing the Practice of Veterinary Medicine.** The purpose of the proposed action is to increase fees in compliance with the statutory mandate to levy fees sufficient to cover expenditures of the board.

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

Statutory Authority: § 54.1-2400 and Chapter 38 (§ 54.1-3800 et seq.) of Title 54.1 of the Code of Virginia.

Public comments may be submitted until November 21, 2001.

Contact: Elizabeth A. Carter, Ph.D., Executive Director, Board of Veterinary Medicine, 6606 W. Broad St, 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9915 or FAX (804) 662-7098.

VA.R. Doc. No. R02-19; Filed September 21, 2001, 11:39 a.m.

TITLE 22. SOCIAL SERVICES

STATE BOARD OF SOCIAL SERVICES

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Social Services intends to consider amending regulations entitled: **22 VAC 40-680. Virginia Energy Assistance Program.** The purpose of this action is to (i) provide the program with flexibility to respond to federal funding fluctuations by adjusting the maximum income limit, not to exceed the maximum allowed by federal law; and (ii) assist households with summer energy needs by establishing an optional cooling assistance component in the Virginia Energy Assistance Program. A cooling component will serve the needs of those households with high-energy bills and those in need of cooling equipment to alleviate extreme temperatures inside homes of young children and the elderly.

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 November 7, 2001.

Contact: Charlene H. Chapman, Human Services Program Manager, Department of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1751 or FAX (804) 225-2196.

VA.R. Doc. No. R02-3; Filed September 6, 2001, 7:38 a.m.

TITLE 24. TRANSPORTATION AND MOTOR VEHICLES

COMMONWEALTH TRANSPORTATION BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Commonwealth Transportation Board intends to consider amending regulations entitled: **24 VAC 30-71. Minimum Standards of Entrances to State Highways.** The purpose of the proposed action is to amend the text for clarity and update text for documents incorporated by reference, illustrations or tables.

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

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

Public comments may be submitted until November 21, 2001.

Contact: Steve D. Edwards, Transportation Engineer Senior, Department of Transportation, Traffic Engineering Division, 1401 E. Broad St., 2nd Floor, Richmond, VA 23219, telephone (804) 786-0121 or FAX (804) 225-4978.

VA.R. Doc. No. R02-36; Filed October 2, 2001, 9:59 a.m.

PROPOSED REGULATIONS

For information concerning Proposed Regulations, see Information Page.

Symbol Key

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

TITLE 9. ENVIRONMENT

STATE WATER CONTROL BOARD

Title of Regulation: **9 VAC 25-260. Water Quality Standards (amending 9 VAC 25-260-5, 9 VAC 25-260-140, 9 VAC 25-260-160, 9 VAC 25-260-170, 9 VAC 25-260-310, and 9 VAC 25-260-390; adding 9 VAC 25-260-155).**

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

Public Hearing Dates: January 8, 2002 - 2 p.m. (Glen Allen)
January 9, 2002 - 2 p.m. (Roanoke)

Public comments may be submitted until 5 p.m. on January 31, 2002.

(See Calendar of Events section for additional information)

Agency Contact: Eleanore Daub, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4111 or e-mail emdaub@deq.state.va.us.

Basis: Section 62.1-44.15(3a) of the Code of Virginia mandates and authorizes the board to establish water quality standards and policies for any state waters consistent with the purpose and general policy of the State Water Control Law, and to modify, amend or cancel any such standards or policies established. The federal Clean Water Act at § 303(c) mandates the State Water Control Board to review and, as appropriate, modify and adopt water quality standards. The corresponding federal water quality standards regulation at 40 CFR 131.6 describes the minimum requirements for water quality standards. The minimum requirements are use designations, water quality criteria to protect the designated uses and an antidegradation policy. All of the citations mentioned describe mandates for water quality standards.

Purpose: Water Quality Standards establish the requirements for the protection of water quality and of beneficial uses of these waters. The purpose of this rulemaking is to update the statewide ammonia and bacteria criteria to match updates published by the Environmental Protection Agency.

The amendments are needed because EPA has published updates to these criteria for the states to incorporate into their water quality standards. EPA's updates contain more recent scientific information. All states are required to consider these updates when amending their water quality standards. EPA disapproved Virginia's fecal coliform bacteria criteria and has specifically required Virginia to update these standards to match EPA's guidelines. If the new bacteria criteria are not adopted, EPA will promulgate the new criteria for Virginia. The existing ammonia criteria are not disapproved by the EPA but the updates are included in this proposal because these criteria represent the most recent scientific information regarding the toxicity of ammonia.

This provision of the regulation is justified from the standpoint of the public's health, safety or welfare in that it allows for the protection of designated uses of the water bodies. Proper criteria protect water quality and living resources of Virginia's waters for consumption of fish and shellfish, recreational uses and conservation in general.

Substance: A new section (9 VAC 25-260-155) is proposed which includes the updates to the ammonia criteria. This section includes EPA's 1999 freshwater ammonia criteria with acute criteria and chronic criteria for waters with early life stages of fish present and chronic criteria for waters with early life stages of fish absent. The chronic criteria for waters with early life stages of fish present applies unless a specific procedure is followed to make the determination if the early life stages of fish are absent. The procedure to determine whether early life stages of fish are absent is described in the regulation. These determinations of whether the early life stages of fish are absent are implemented via the permit process. If the procedure is not followed or if any additional data are used to make the determination, then a site-specific criterion must be adopted.

Several localities in the northern Virginia area have made the determination of early life stages of fish absent for November through February in the freshwater tidal Potomac embayments. This determination is incorporated into the proposal as an amendment to the special standards section as "y". It is incorporated as a site-specific standard because the study incorporated additional data to make the determination. The special standard "y" has been added to the appropriate column in the River Basin Section Tables at 9 VAC 25-260-390.

The saltwater ammonia criteria are updated to reflect the same concentration units (mg nitrogen per liter) as the freshwater criteria. In addition, the saltwater ammonia criteria have been recalculated based on the formulas referenced in EPA's 1989 saltwater ammonia criteria document.

A definition is proposed for primary contact recreation in support of the new bacteria criteria.

The shellfish bacteria criteria are reworded to reflect the National Shellfish Sanitation Commission recommendations for fecal coliform levels in shellfish waters.

The bacteria criteria for swimming waters (primary contact recreation) are updated to include the EPA 1986 criteria recommendations for enterococci and *E. coli* in designated swimming areas. These criteria apply in all state waters since all waters are considered swimmable. The existing fecal coliform bacteria criterion is changed to match the fecal coliform criterion published by EPA in 1976. This criterion has a "sunset clause" associated with it to phase out the fecal coliform criteria as DEQ collects more data on the new bacterial indicators recommended in 1986 by EPA (enterococci and *E. coli*).

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The time period associated with the new criteria is proposed as a calendar month rather than a 30-day average. This is to reflect the DEQ's monitoring program schedule which is based on monthly site visits, rather than 30-day intervals.

The board's disinfection policy for sewage effluents is updated in the proposal to reflect the new bacteria criteria.

Issues: The primary advantage to the public is that the updated criteria are based on better scientific information to protect water quality. For example, the updated bacteria criteria (enterococci and/or *E. coli*) are proven to be better indicators of the risk of contracting a gastrointestinal illness while swimming than the existing indicator (fecal coliform). The updated ammonia criteria may be viewed as less stringent than the existing criteria; however, the scientific database supporting that criteria is better than the one supporting the existing criteria and more accurately portrays the toxicity of ammonia in fresh water. Being less stringent, the new ammonia criteria may result in financial relief for some Virginia Pollutant Discharge Elimination System permittees, particularly in the wintertime when early life stages of fish are absent. The disadvantage is that the public may see this as an attempt to "lower the bar" on water quality. The goal is to set realistic, protective goals in water quality management and to maintain the most scientifically defensible criteria in the water quality standards regulation.

A potential disadvantage to the public may occur in the implementation of the new indicator bacteria criteria. The new indicators are more expensive to analyze than the existing criteria. These expenses are outlined under "Fiscal Impacts." However, the DEQ plans to study the levels at which chlorine disinfection reduces the levels of these bacteria to the levels specified by the criteria. This type of study was done with the existing fecal coliform criteria and that study resulted in most permittees getting a specified chlorine residual limit rather than a fecal coliform limit. If DEQ cannot demonstrate that chlorine disinfection of effluent is sufficient to remove the indicator bacteria to acceptable levels, then sewage treatment plant operators may be required to measure these additional indicators directly in the effluent rather than just measuring for chlorine residual for discharge monitoring reporting requirements.

There is no advantage or disadvantage to the agency or the Commonwealth that will result from the adoption of the ammonia amendments. Many existing permits already contain ammonia limits based on the existing criteria and may not be able to modify their permit to obtain the less stringent limits based on the new criteria because of antibacksliding rules (9 VAC 25-31-220 L). Backsliding of limits is not allowed by the permit regulation when regulations are revised or when existing limits are met.

Regarding the advantages or disadvantages to the agency for the bacteria amendments, limited data indicates that using the new bacterial indicators may result in equal to or greater numbers of waters identified as impaired than those identified as impaired using the fecal coliform indicator. There may be more impaired waters because the new indicator bacteria criteria are much lower than the existing fecal coliform criteria. This may disadvantage the agency financially via the need for development of more TMDLs. The costs of implementation of

these TMDLs will be adsorbed by citizens including the agricultural community, municipalities, industries, and localities. These expenses are summarized under "Fiscal Impacts."

The agency will be disadvantaged financially because the new bacteria criteria will require more monitoring expenses. These expenses are outlined under "Fiscal Impacts."

Another pertinent matter of interest is that the proposal does not include amendments related to intermittent streams or shellfish use designations as stated in the Notice of Intended Regulatory Action. DEQ and the ad hoc committee discussed alternatives that were revealed after the comment period to meet the needs for the shellfish use designations via discussions with EPA. Also existing procedures were deemed appropriate for meeting the needs for use designations in intermittent streams.

Locality Particularly Affected: These amendments are statewide in nature and will not affect any one locality more than another.

Public Participation: In addition to any other comments, the board is seeking comments on the costs and benefits of the proposal and impacts of the regulation on farm or forestlands. The board also requests comments on whether we should incorporate both of the new indicators in freshwater (enterococci and *E. coli*) or just adopt one indicator for protection of primary contact recreational uses in freshwater in Virginia. The only indicator recommended by EPA in saltwater is enterococci.

Anyone wishing to submit written comments for the public comment file may do so at the public hearing, by mail, or by email to Eleanore Daub, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, (804) 698-4111, by fax to (804) 698-4522 or email emdau@deq.state.va.us. Written comments must include the name and address of the commenter. In order to be considered, comments must be received by the close of the comment period.

A public hearing will be held and notice of the public hearing can be found in the Calendar of Events section of the Virginia Register of Regulations.

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 § 1.23(b) of the board's Procedural Rule No. 1 (1980), and must be received by the contact person by January 31, 2002.

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 § 2.2-4007 G of the Administrative Process Act and Executive Order Number 25 (98). Section 2.2-4007 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 regulations will establish two additional water quality criteria for bacteria and gradually phase out the current criteria. In addition, the water quality ammonia standard will be less stringent and point sources will be given an option to demonstrate the absence of early life stages of fish in a waterbody in order to comply with less stringent ammonia standards than the proposed levels.

Estimated economic impact. The purpose of the water quality standards is to protect the state waters for designated uses including fish consumption, shellfishing, aquatic life, swimming, drinking water, and conservation in general. The standards include narrative and numerical criteria for physical, chemical, and biological characteristics of water set at levels to protect the use of the waterbody. Pollutants can limit the designated uses of water.

If the concentration levels for a pollutant measured in a waterbody exceed the criteria more than 10% of the time, the stream, creek, lake, or river is classified as impaired. These waters are listed in the 303(d) list of impaired waters and a total maximum daily load (TMDL) must be developed and implemented to bring the waterbody into compliance with the water quality standards. A TMDL reflects the total pollutant loading a water body can receive and still meet the water quality standards. TMDLs are pollutant specific. A TMDL establishes the maximum allowable pollutant loading from both point and nonpoint sources for a waterbody, allocates the load among the pollutant contributors, and provides a framework for taking actions to restore water quality. While the TMDL program has significant implications for the point sources, probably the most significant impact is on the nonpoint sources. This is because point sources are subject to discharge limits under permits issued to them. The 303(d) list and developed TMDLs are submitted to the federal Environmental Protection Agency (EPA) for review and approval.

Currently fecal coliform concentrations are employed as a bacteria indicator in the regulations to establish water quality standards to protect people from the risk of gastrointestinal illness contracted while swimming. Pollution from both point and nonpoint sources can lead to fecal coliform bacteria contamination of waterbodies. Sources of fecal contamination to surface waters include wastewater treatment plants, on-site septic systems, domestic and wild animal manure, and storm runoff. The fecal coliform is found in the intestinal tract of warm-blooded animals; consequently, fecal waste of warm-blooded animals contains fecal coliform. Even though fecal coliform is not pathogenic, its presence in water indicates the potential for contamination by fecal material. Thus, recreational activities in contaminated waters and eating shellfish might be a health risk. Since it is difficult, time-consuming, and expensive to test directly for the presence of a large variety of pathogens, water is usually tested for fecal

coliforms instead. For primary contact recreational uses such as swimming and kayaking, health risk increases with fecal coliform count in the waterbody. For a waterbody to comply with Virginia regulations, fecal coliform standards for primary contact recreational use must be met.

The proposed changes will update the bacteria criteria designed to protect waters for primary contact recreation activities. According to EPA, the correlation between different bacterial indicators and the occurrence of digestive system illness at swimming beaches suggests that the best indicators of health risk from recreational water contact in fresh water are *E. coli* and enterococci. Like fecal coliform bacteria, these organisms indicate the presence of fecal contamination. Enterococci are distinguished by their ability to survive in salt water, and in this respect they are more representative for pathogens than the other indicators are. EPA recommends enterococci as the best indicator of health risk in salt water used for recreation and as a useful indicator in fresh water as well. EPA recommends that all states adopt an *E. coli* or enterococci standard for fresh water and enterococci standard for marine waters by 2003, and consequently disapproved the current fecal coliform standard established in Virginia regulations. Thus, EPA and the Department of Environmental Quality (the agency) are pursuing the adoption of the proposed standards. Adoption of only one indicator would be satisfactory to EPA, but the Virginia Department of Health requests adoption of *E. coli* and enterococci standards simultaneously for fresh water.

These alternate bacteria are better indicators of the risk of contracting gastroenteritis from fecal contaminated waters than Virginia's current fecal coliform standard.¹ Preliminary Virginia data collected by the agency from surface waters show that the water quality criteria recommended for the new indicators are exceeded as often or more often than the fecal coliform criterion. From this preliminary analysis, it seems that the number of impaired water designations will increase if the two alternate bacterial indicators are adopted. The current fecal coliform standard will be phased out over time as more samples are collected from all state waters. According to the agency, it would take about two years to replace the current standard with the proposed one for a specific waterbody since at least twelve data points are required to implement the new criteria. However, the phase-in process for all state waters is expected to take up to 2008.

Testing for two new indicators of health risks is expected to improve the identification of waters that have a potential to contract digestive diseases. Once the identification is made, the quality of these waters is likely to be improved through the TMDL process. Thus, the count of digestive illness occurrences because of the contact with impaired waters is likely to decline, but there is not enough information to estimate by how much.

Monitoring for two additional indicators will increase the analysis costs of the agency. It is expected that the analysis costs associated with *E. coli* and enterococci will be about \$33 per sample. The tests for *E. coli* and enterococci require

¹ Source: EPA and the agency.

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different procedures than the test for fecal coliform. Most of the additional costs can be attributed to additional labor requirements to conduct the additional two tests. The agency monitors approximately 800 samples from stations every two months. Thus, the agency's monitoring costs are likely to increase about \$158,400 per year. However, once the phase-in is completed, state waters will no longer be tested for fecal coliform concentrations. The testing cost for fecal coliform is approximately \$14.50 per sample.² Thus, the agency is expected to realize about \$69,600 in savings from eliminating fecal coliform testing annually when the phase-in is completed.

In addition, point sources are issued a permit and are required to test water for pollutants. There are 726 pollutant discharge elimination system sewage discharge permittees in Virginia. Most of these permits contain limits for disinfection of chlorine residual in lieu of fecal coliform limits. It is assumed that the waters are free from fecal coliform contamination if there is sufficient chlorine residual. The same practice is likely to continue. However, 222 permits contain fecal coliform limits instead of, or in addition to, chlorine residual limits. This occurs primarily at facilities using substances other than chlorine for disinfection. As mentioned before, testing for two additional indicators is expected to increase the testing costs. If the new indicators are used as the permit limits instead of fecal coliform, this could increase costs by approximately \$8,000 per facility per year with weekly monitoring. One major facility with daily monitoring requirements provided a cost estimate of \$60,225 per year for testing *E. coli* and enterococcus. These suggest that the additional cost per sample is likely to be between \$154 and \$165 for sewage discharge permittees. This estimate is significantly greater than the estimated testing costs to the agency because most point sources do not have laboratories of their own. The required testing frequency varies from once a year to three times a day depending on the source. Based on the frequency data provided by the agency, approximately 24,767 samples are tested by the permit holders every year. Thus, the total testing costs to point sources are expected to increase by about \$3.8 million to \$4 million per year. On the other hand, the requirement for the fecal coliform test will be phased-out gradually. The fecal coliform test costs incurred by the point sources is estimated to be three times more than the costs to the agency, totaling about \$43.50. Thus, the point sources are likely to experience about \$1.1 million in annual savings from eliminating fecal coliform test when the transition is completed.

Also, fiscal impacts to the state and nonpoint sources are expected due to the effect the new bacterial indicators will have on the TMDL program. According to the agency, preliminary analysis of bacterial data at 100 sites statewide over the past year indicates that the number of samples exceeding the enterococci standard is 40 percent higher than the number of samples exceeding the existing fecal coliform criteria. It is expected that approximately 102 additional TMDLs will be developed during the next ten years as a result of the proposed criteria. Development of TMDLs requires significant amounts of labor to collect data, to determine land

uses, animal densities, crop densities, the number of septic systems, contributions from point sources, and to construct a simulation model. According to the agency, developing a fecal TMDL may require \$33,000 to \$76,000 depending on whether modeling is needed or not. Half of the TMDLs are expected to fall at the low end and the other half at the upper end of the cost scale. Thus, a cost increase of approximately \$5.5 million to develop 102 additional bacterial TMDLs is expected. The agency incurs the development costs, but some funding is provided from the federal government. Currently, the federal government funds about forty percent of TMDL development costs.

Implementation of a TMDL represents significant costs to pollution sources. For example, fencing may be required to prevent direct deposition into water from cattle, a buffer area may be needed to function as a filter, and failing septic systems may have to be fixed. In addition to these, the implementation involves public participation, and staff travel which add to the overall costs. It is expected that a significant part of implementation costs are labor costs. The agency's total cost estimate for implementing a TMDL in a typical watershed is about \$1.4 million. Thus, the total costs for implementation of TMDLs may increase by about \$142.8 million over the next ten years. There are various cost share and incentive programs for this program, but the exact amount the state may eventually pay is not known.

The proposed changes will also update the ammonia criteria with the newer standards developed by EPA in 1999. Ammonia is a colorless gas with a very sharp odor and may originate from both manmade sources and nature. High levels of ammonia in lakes and streams might cause health effects from skin contact, drinking water, and eating contaminated fish. However, the focus of the current ammonia standard is to protect aquatic life from toxicity.

Current ammonia standards for fresh and salt water vary for the combinations of pH and temperature levels. According to the agency, recent evidence indicates that temperature is not an important factor in determining acute ammonia standards. The proposed acute ammonia standards for fresh and salt water do not depend on temperature. The proposed standards are based on EPA approved criteria. They are generally less stringent than the current standards and are based on most recent scientific evidence. However, the agency does not expect a significant impact on environment or pollution sources.

Currently, only one TMDL has been developed for ammonia standard. Only a small number of nonpoint sources are limiting ammonia discharges. Thus, the impact on nonpoint sources and the amount of discharges are expected to be small. However, the potential development of some TMDLs may not take place in the future for some waters because the proposed change will relax the standard. The agency does not have an estimate on the number of TMDLs that may not be required due to lower standards. Additionally, antibacksliding rule established in other regulations is likely to mitigate the impact of this proposed change on point sources. The point sources are issued permits for ammonia discharges. About 455 permits contain ammonia limits. Due to the antibacksliding rule, the discharge limits for the point

² Source: The agency.

sources cannot be reduced in permits. Thus, current permit holders are unlikely to benefit from this proposed change except in the case of an early life stages absent determination discussed in detail below. However, the antibacksliding rules do not apply to new facilities. If new facilities come on line, they are likely to benefit from the proposed change.

In addition, the proposed fresh water chronic standards will allow different ammonia levels in the waters with and without the early stages of fish present. The proposed default standard for ammonia is the standard for the waters with early stages of fish present, but the source will be given an option to demonstrate that the early life stages of fish are absent to comply with appropriate lower standards. Presence of early life stage is seasonal and may be absent during winter months. The proposed language contains a generic process to demonstrate the absence of early life stages of fish. A group of localities in northern Virginia have already made the determination of the absence of early life stages of fish for November through February in the freshwater tidal Potomac embayments. Since that determination was already performed on a site-specific basis in consultation with the agency rather than according to the generic process proposed, an amendment to the special standards section has been incorporated as a site-specific standard.

The agency believes that the seasonal variations in the ammonia standards will not be subject to the antibacksliding rule and the current permit holders may be allowed to comply with the lower standards during winter months when the waterbody is devoid of early life stages of fish. Since the ammonia standards established in the permits can be relaxed after an early life stages absent determination for a waterbody is completed, some point sources are likely to take advantage of this proposed change.

The treatment technology allows plant operators flexibility in the way they allocate treatment plant capacity between reducing nitrogen discharges and ammonia discharges into water. During the winter months, there is an inverse relationship between ammonia and nitrogen discharged into water. Ammonia contains nitrogen. The first step of the treatment, nitrification process, converts ammonia to nitrate-nitrogen. This process reduces the toxicity contributed by ammonia, but contributes to nitrate-nitrogen discharges. At the second step of the process called denitrification, nitrate-nitrogen from the first step is converted into the harmless gas form of nitrogen and discharged to the air. In other words, ammonia treatment causes an increase in nitrate-nitrogen at the first step, but the total nitrogen discharged into both air and water remains unchanged at the second step. The agency expects that the sources will allocate their limited resources to reduce nitrogen discharges into water when allowed to comply with the early life stage absent ammonia standards. The early life stage absent ammonia standards, where applicable, will allow the sources to remove more nitrogen from waters in the wintertime. This is expected to be an environmentally positive contribution to the Chesapeake Bay.

Additionally, more stringent nitrogen standards are expected to be adopted in 2003 as a separate rule making. Some point sources in northern Virginia are currently upgrading their

treatment facilities to reduce total nitrogen discharges to the state waters. Given the substitutability of the ammonia and nitrogen treatment, more stringent standards expected from this separate rule making for nitrogen are likely to strengthen the incentives to demonstrate the absence of early life stages of fish. This approach is especially expected from point sources whose treatment capacity are not sufficient to meet more stringent nitrogen standards expected in 2003. Some of these sources may be able to avoid costs of expanding the treatment capacity to meet higher nitrogen standards or costs of chemicals used in the treatment process that may be necessary to meet more stringent nitrogen standards. These cost savings are not expected to be large.³ However, some permitted facilities may choose not to alter the treatment process and reduce the chance of violating permit conditions for ammonia. Prolonged violations of permit limits may result in fines. The agency does not have information to estimate the number of sources who may choose to make a determination to benefit from lower ammonia limits.

Businesses and entities affected. The proposed changes will primarily affect 222 point sources required to monitor for bacteria concentrations. In addition, a number of point and nonpoint sources discharging into about 102 waterbodies may be affected in the future. However, it is not known at this time which waters will be classified as impaired. Additionally, the proposal to adopt site-specific ammonia standard will affect Alexandria Sanitation Authority, Arlington County, Fairfax County, and Prince William County Service Authority.

Localities particularly affected. The proposed regulations apply throughout the Commonwealth. However, the proposed site-specific ammonia standard is expected to particularly affect Counties of Fairfax, Arlington, Alexandria, and Prince William.

Projected impact on employment. Anticipated water quality monitoring requirements, development, and implementation of TMDLs are labor intensive and are likely to increase the demand for labor. Thus, there is likely to be a positive impact on employment in water quality monitoring.

Effects on the use and value of private property. The value of businesses providing laboratory services for water quality testing and providing other services in prevention of fecal discharges into state waters may increase due to higher volume of business. The value of private property adjacent to state waters where there is a noticeable improvement in water quality may also increase slightly.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The department has reviewed the economic impact analysis prepared by the Department of Planning and Budget and has no comment.

Summary:

Water Quality Standards consist of designated uses of the water body and narrative and numeric criteria that protect

³ Source: Telephone conversations with Chris Pomeroy, McGuire Woods LLP, and Clyde Wilber, Greeley and Hansen LLC, representing Alexandria Sanitation Authority, Arlington County, Fairfax County, and Prince William County Service Authority.

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those uses by describing water quality in general terms and specifically as numerical limits for physical, chemical and biological characteristics of water.

The proposed amendments update the statewide ammonia and bacteria criteria to match updates published by the Environmental Protection Agency (EPA). The bacteria criteria proposed are designed to protect all state waters for primary contact recreation (swimming). The amendments also incorporate a site specific chronic ammonia criterion for the northern Virginia tidal embayments. All of these amendments will be used in calculating Virginia Pollutant Discharge Elimination System permit limits where appropriate and for water quality assessments per the federal Clean Water Act §§ 305(b) and 303(d) reports.

The proposal does not include amendments related to intermittent streams or shellfish use designations as stated in the Notice of Intended Regulatory Action. Alternatives were revealed after the comment period to meet the needs for the shellfish use designations via discussions with EPA and existing procedures were deemed appropriate for meeting the needs for use designations in intermittent streams. However, the shellfish bacteria criteria have been reworded to reflect the National Shellfish Sanitation Commission recommendations for fecal coliform levels in shellfish waters.

9 VAC 25-260-5. Definitions.

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

"Board" means State Water Control Board.

"Criteria" means elements of the board's water quality standards, expressed as constituent concentrations, levels, or narrative statements, representing a quality of water that supports a particular use. When criteria are met, water quality will generally protect the designated use.

"Designated uses" means those uses specified in water quality standards for each water body or segment whether or not they are being attained.

"Existing uses" means those uses actually attained in the water body on or after November 28, 1975, whether or not they are included in the water quality standards.

"Primary contact recreation" means any water-based form of recreation, the practice of which has a high probability for total

body immersion or ingestion of water (examples include but are not limited to swimming, water skiing, canoeing and kayaking).

"Use attainability analysis" means a structured scientific assessment of the factors affecting the attainment of the use which may include physical, chemical, biological, and economic factors as described in 9 VAC 25-260-10 G.

"Water quality standards" means provisions of state or federal law which consist of a designated use or uses for the waters of the Commonwealth and water quality criteria for such waters based upon such uses. Water quality standards are to protect the public health or welfare, enhance the quality of water and serve the purposes of the State Water Control Law (§ 62.1-44.2 et seq. of the Code of Virginia) and the federal Clean Water Act (33 USC § 1251 et seq.).

9 VAC 25-260-140. Criteria for surface water.

A. Instream water quality conditions shall not be acutely² or chronically³ toxic except as allowed in 9 VAC 25-260-20 B (mixing zones). The following are definitions of acute and chronic toxicity conditions:

"Acute toxicity" means an adverse effect that usually occurs shortly after exposure to a pollutant. Lethality to an organism is the usual measure of acute toxicity. Where death is not easily detected, immobilization is considered equivalent to death.

"Chronic toxicity" means an adverse effect that is irreversible or progressive or occurs because the rate of injury is greater than the rate of repair during prolonged exposure to a pollutant. This includes low level, long-term effects such as reduction in growth or reproduction.

B. The following table is a list of numerical water quality criteria for specific parameters.

1. For those waters with multiple designated beneficial uses, the most stringent criteria in the following table shall apply.

2. When information has become available from the Environmental Protection Agency to calculate additional aquatic life or human health criteria not contained in the table, the board may employ these values in establishing effluent limitations or other limitations pursuant to 9 VAC 25-260-20 A necessary to protect designated uses until the board has completed the regulatory standards adoption process.

Table of Parameters^{8,10}

SUBSTANCE ⁴	AQUATIC LIFE				HUMAN HEALTH	
	FRESHWATER		SALTWATER		PUBLIC WATER SUPPLIES ⁴	ALL OTHER SURFACE WATERS ⁵
	ACUTE ²	CHRONIC ³	ACUTE ²	CHRONIC ³		
µg/l	µg/l	µg/l	µg/l	µg/l	µg/l	
Acenaphthene					1,200	2,700
Aldrin ^c	3.0	0.3	1.3	0.13	0.0013	0.0014
Ammonia See 9 VAC 25-260-155	See Table 1	See Table 2	See Tables 3 and 4			
Anthracene					9,600	110,000
Antimony					14	4,300

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Arsenic						50	
Arsenic III ¹	360	190	69	36			
Bacteria	See 9 VAC 25-260-160 and 170						
Barium						2,000	
Benzene ^c						12	710
Benzo(a) anthracene ^c						0.044	0.49
Benzo(b) fluoranthene ^c						0.044	0.49
Benzo(k) fluoranthene ^c						0.044	0.49
Benzo(a)pyrene ^c						0.044	0.49
Bromoform ^c						44	3,600
Butyl benzyl phthalate						3,000	5,200
Cadmium ¹	3.9 (See Note 9)	1.1 (See Note 9)	43	9.3			
Carbon Tetrachloride ^c						2.5	45
Chlordane ^c	2.4	0.0043	0.09	0.0040		0.0058	0.0059
Chloride	860,000	230,000				250,000**	
Chlorine Total Residual	19	11					
Chlorine Produced Oxidant			13	7.5			
Chlorodibromomethane						690	57,000
Chloroform ^c						57	4,700
2-Chlorophenol						120	400
Chlorpyrifos	0.083	0.041	0.011	0.0056			
Chromium III ¹	1700 (See Note 9)	210 (See Note 9)					
Chromium VI ¹	16	11	1,100	50			
Chrysene ^c						0.044	0.49
Copper ¹	18 (See Note 9)	12 (See Note 9)	5.9	3.8		1,300	
Cyanide	22	5.2	1.0	1.0		700	215,000
DDD ^c						0.0083	0.0084
DDE ^c						0.0059	0.0059
DDT ^c	1.1	0.0010	0.13	0.0010		0.0059	0.0059
Demeton		0.1		0.1			
Dibenz(a,h) anthracene ^c						0.044	0.49
Dibutyl phthalate						2,700	12,000
Dichloromethane ^c						47	16,000
1,2-Dichlorobenzene						2,700	17,000
1,3-Dichlorobenzene						400	2,600
1,4-Dichlorobenzene						400	2,600
Dichlorobromomethane ^c						5.6	460
1,2-Dichloroethane ^c						3.8	990
1,1-Dichloroethylene						310	17,000
2,4 Dichlorophenol						93	790
2,4-dichlorophenoxy acetic acid (2,4-D)						71	
Dieldrin ^c	2.5	0.0019	0.71	0.0019		0.0014	0.0014
Diethyl phthalate						23,000	120,000
Di-2-Ethylhexyl Phthalate ^c						18	59
2,4 Dimethylphenol						540	2,300
2,4-Dinitrotoluene ^c						1.1	91
Dioxin See 9 VAC 25-260-150							
Dissolved Oxygen See 9 VAC 25-260-50							
Endosulfan	0.22	0.056	0.034	0.0087		110	240
Endrin	0.18	0.0023	0.037	0.0023		0.76	0.81
Ethylbenzene						3,100	29,000
Fecal Coliform See Part II (9 VAC 25-260-160 et seq.) of this chapter							
Fluoranthene						300	370
Fluorene						1,300	14,000
Foaming agents (measured as methylene blue active substances)						500**	
Guthion		0.01		0.01			
Heptachlor ^c	0.52	0.0038	0.053	0.0036		0.0021	0.0021
Hexachlorocyclohexane (Lindane)	2.0	0.080	0.16	0.01		7	25
Hydrogen Sulfide		2.0		2.0			
Indeno(1,2,3-cd)pyrene ^c						0.044	0.49
Iron						300**	
Isophorone						6,900	490,000
Kepone		zero		zero			
Lead ¹	120 (See Note 9)	14 (See Note 9)	240	9.3		15	
Malathion		0.1		0.1			

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Manganese					50**	
Mercury ^{1,6,7}	2.4	0.012	2.1	0.025	0.052	0.053
Methoxychlor		0.03		0.03	40	
Mirex		zero		zero		
Monochlorobenzene					680	21,000
Nickel ¹	180 (See Note 9)	20 (See Note 9)	75	8.3	610	4,600
Nitrate (as N)					10,000	
Nitrobenzene					17	1,900
Parathion	0.065	0.013				
PCB-1242 ^c		0.014		0.030	0.00044	0.00045
PCB-1254 ^c		0.014		0.030	0.00044	0.00045
PCB-1221 ^c		0.014		0.030	0.00044	0.00045
PCB-1232 ^c		0.014		0.030	0.00044	0.00045
PCB-1248 ^c		0.014		0.030	0.00044	0.00045
PCB-1260 ^c		0.014		0.030	0.00044	0.00045
PCB-1016 ^c		0.014		0.030	0.00044	0.00045
Pentachlorophenol ^c	_e (1.005(pH) -4.830)	_e (1.005(pH) -5.290)	13	7.9	2.8	82
pH See 9 VAC 25-260-50						
Phenol					21,000	4,600,000
Phosphorus (Elemental)				0.10		
Pyrene					960	11,000
Radionuclides						
Gross Alpha Particle Activity					15 pCi/l	15 pCi/l
Beta Particle and Photon Activity (formerly manmade radionuclides)					4 mrem	4 mrem
Strontium-90					8 pCi/l	8 pCi/l
Tritium					20,000pCi/l	20,000pCi/l
Selenium ¹	20	5.0	300	71	170	11,000
Silver ¹	4.1 (See Note 9)		2.3			
Sulfate					250,000**	
Temperature See 9 VAC 25-260-50						
Tetrachloroethylene					320	3,500
Toluene					6,800	200,000
Total dissolved solids					500,000**	
Toxaphene ^{6,c}	0.73	0.0002	0.21	0.0002	0.0073	0.0075
1,2,4 Trichlorobenzene					260	950
Trichloroethylene ^c					27	810
2,4,6-Trichlorophenol ^c					21	65
2-(2,4,5-Trichlorophenoxy) propionic acid (Silvex)					50	
Tributyltin	0.46	0.026	0.36	0.001		
Vinyl Chloride ^c					20	5,300
Zinc ¹	120 (See Note 9)	110 (See Note 9)	95	86	5,000**	

NOTES:

* = Hardness as calcium carbonate mg/l CaCO₃. The minimum hardness allowed for use in this equation shall not be less than 25 mg/l, as calcium carbonate, even if the actual ambient hardness is less than 25 mg/l as calcium carbonate. The maximum hardness value for use in this equation shall not exceed 400 mg/l as calcium carbonate, even if the actual ambient hardness is greater than 400 mg/l as calcium carbonate.

** = To maintain acceptable taste, odor or aesthetic quality of drinking water.

^c = Known or suspected carcinogen, human health standards are for a risk level of 10⁻⁵.

¹ = All metals shall be measured as dissolved. All aquatic life criteria for metals apply to the biologically available form of the metal. Metals measured as dissolved shall be considered to be biologically available, or, because local receiving water characteristics may otherwise affect the biological availability

of the metal, the biologically available equivalent measurement of the metal can be further defined by determining a Water Effect Ratio (WER) and multiplying the numerical value shown in 9 VAC 25-260-140 B by the WER. Refer to 9 VAC 25-260-140 F.

² = One hour average concentration not to be exceeded more than once every three years on the average.

³ = Four day average concentration not to be exceeded more than once every three years on the average except for ammonia. Ammonia is a 30 day average not to be exceeded more than once every three years on the average.

⁴ = Unless otherwise noted, these criteria have been calculated to protect human health from toxic effects through drinking water and fish consumption.

⁵ = Unless otherwise noted, these criteria have been calculated to protect human health from toxic effects through fish consumption.

⁶ = Chronic aquatic life values have been calculated to protect wildlife from harmful effects through ingestion of contaminated tissue. However, the criteria will also protect aquatic life from toxic effects.

⁷ = Chronic aquatic life criteria applies to methyl mercury. This criteria will protect the marketability of natural resources, e.g., fish and shellfish.

⁸ = See 9 VAC 25-260-310 for additional standards or effluent limits which are site-specific.

⁹ = Freshwater aquatic life criteria for these metals are expressed as a function of total hardness as CaCO sub3 (mg/l), and as a function of the pollutant's water effect ratio (WER) as defined in 9 VAC 25-260-140 F. The equations are provided in the matrix below. To maintain consistency when using these equations to calculate criteria, intermediate calculations should be rounded to four significant digits and the final criterion's value should be rounded to two significant digits. Values displayed above in the table are examples and correspond to a total hardness of 100 mg/l and a water effect ratio of 1.0.

Acute criterion=WER exp(m_A [ln(hardness*)]+b_A)

Chronic criterion=WER exp(m_C [ln(hardness*)]+b_C)

	m _A	b _A	m _C	b _C
Cadmium	1.128	-3.828	0.7852	-3.490
Chromium (III)	0.8190	3.688	0.8190	1.561
Copper	0.9422	-1.464	0.8545	-1.465
Lead	1.273	-1.084	1.273	-3.259
Nickel	0.8460	1.312	0.8460	-0.8840
Silver	1.72	-6.52
Zinc	0.8473	0.8604	0.8473	0.7614

Note: The term exp represents the base e exponential function.

¹⁰ = The flows listed below are default design flows for calculating steady state waste load allocations unless statistically valid methods are employed which demonstrate compliance with the duration and return frequency of the water quality criteria.

Aquatic Life:

Acute criteria	1Q10
Chronic criteria	7Q10
Chronic criteria (ammonia)	30Q10

Human Health:

Non-carcinogens	30Q5
Carcinogens	Harmonic mean (An exception to this is for the carcinogen dioxin. The applicable stream flow for dioxin is listed in 9 VAC 25-260-150 B.)

The following are defined for this section:

"1Q10" means the lowest flow averaged over a period of one day which on a statistical basis can be expected to occur once every 10 climatic years.

"7Q10" means the lowest flow averaged over a period of seven consecutive days that can be statistically expected to occur once every 10 climatic years.

"30Q5" means the lowest flow averaged over a period of 30 consecutive days that can be statistically expected to occur once every five climatic years.

"30Q10" means the lowest flow averaged over a period of 30 consecutive days that can be statistically expected to occur once every 10 climatic years.

"Averaged" means an arithmetic mean.

"Climatic year" means a year beginning on April 1 and ending on March 31.

TABLE 1***

Acute Ammonia Criteria for Freshwater

pH	Total Ammonia (mg/liter)****						
	Temperature (°C)						
	0-C	5-C	10-C	15-C	20-C	25-C	30-C
6.50	35	33	31	30	29	29	29
6.75	32	30	28	27	27	26	26
7.00	28	26	25	24	23	23	23
7.25	23	22	20	19.7	19.2	19.0	19
7.50	17.4	16.3	15.5	14.9	14.6	14.5	14.5
7.75	12.2	11.4	10.9	10.5	10.3	10.2	10.3
8.00	8.0	7.5	7.1	6.9	6.8	6.8	7.0
8.25	4.5	4.2	4.1	4.0	3.9	4.0	4.1
8.50	2.6	2.4	2.3	2.3	2.3	2.4	2.6
8.75	1.47	1.40	1.37	1.38	1.42	1.52	1.66
9.00	0.86	0.83	0.83	0.86	0.91	1.01	1.16

TABLE 2***

Chronic Ammonia Criteria for Freshwater

pH	Total Ammonia (mg/liter)****						
	Temperature (°C)						
	0-C	5-C	10-C	15-C	20-C	25-C	30-C
6.50	3.02	2.82	2.66	2.59	2.53	2.5	2.5
6.75	3.02	2.82	2.66	2.59	2.53	2.5	2.5
7.00	3.02	2.82	2.66	2.59	2.53	2.5	2.5
7.25	3.02	2.82	2.66	2.59	2.53	2.5	2.5
7.50	3.02	2.82	2.66	2.59	2.53	2.5	2.5
7.75	2.80	2.60	2.47	2.38	2.35	2.3	2.4
8.00	1.82	1.71	1.62	1.57	1.55	1.56	1.59
8.25	1.03	0.97	0.93	0.91	0.90	0.91	0.95
8.50	0.58	0.55	0.53	0.53	0.53	0.55	0.58
8.75	0.34	0.32	0.31	0.31	0.32	0.35	0.38
9.00	0.20	0.19	0.19	0.20	0.21	0.23	0.27

TABLE 3

Acute Ammonia Criteria for Saltwater

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Total Ammonia (mg/liter)****									Total Ammonia (mg/l)****								
Temperature (°C)									Temperature (°C)								
pH	0-C	5-C	10-C	15-C	20-C	25-C	30-C	35-C	pH	0-C	5-C	10-C	15-C	20-C	25-C	30-C	35-C
Salinity = 10-g/kg									Salinity = 10-g/kg								
7.0	270	191	131	92	62	44	29	21	7.0	41	29	20	14	9.4	6.6	4.4	3.1
7.2	175	121	83	58	40	27	19	13	7.2	26	18	12	8.7	5.9	4.1	2.8	2.0
7.4	110	77	52	35	25	17	12	8.3	7.4	17	12	7.8	5.3	3.7	2.6	1.8	1.2
7.6	69	48	33	23	16	11	7.7	5.6	7.6	10	7.2	5.0	3.4	2.4	1.7	1.2	0.84
7.8	44	31	21	15	10	7.1	5.0	3.5	7.8	6.6	4.7	3.1	2.2	1.5	1.1	0.75	0.53
8.0	27	19	13	9.4	6.4	4.6	3.1	2.3	8.0	4.1	2.9	2.0	1.4	0.97	0.69	0.47	0.34
8.2	18	12	8.5	5.8	4.2	2.9	2.1	1.5	8.2	2.7	1.8	1.3	0.87	0.62	0.44	0.31	0.23
8.4	11	7.9	5.4	3.7	2.7	1.9	1.4	1.0	8.4	1.7	1.2	0.81	0.56	0.41	0.29	0.21	0.16
8.6	7.3	5.0	3.5	2.5	1.8	1.3	0.98	0.75	8.6	1.1	0.75	0.53	0.37	0.27	0.20	0.15	0.11
8.8	4.6	3.3	2.3	1.7	1.2	0.92	0.71	0.56	8.8	0.69	0.50	0.34	0.25	0.18	0.14	0.11	0.08
9.0	2.9	2.1	1.5	1.1	0.85	0.67	0.52	0.44	9.0	0.44	0.31	0.23	0.17	0.13	0.10	0.08	0.07

Acute Ammonia Criteria for Saltwater

Total Ammonia (mg/l)****								
Temperature (°C)								
pH	0-C	5-C	10-C	15-C	20-C	25-C	30-C	35-C
Salinity = 20-g/kg								
7.0	291	200	137	96	64	44	31	21
7.2	183	125	87	60	42	29	20	14
7.4	116	79	54	37	27	18	12	8.7
7.6	73	50	35	23	17	11	7.9	5.6
7.8	46	31	23	15	11	7.5	5.2	3.5
8.0	29	20	14	9.8	6.7	4.8	3.3	2.3
8.2	19	13	8.9	6.2	4.4	3.1	2.1	1.6
8.4	12	8.1	5.6	4.0	2.9	2.0	1.5	1.1
8.6	7.5	5.2	3.7	2.7	1.9	1.4	1.0	0.77
8.8	4.8	3.3	2.5	1.7	1.3	0.94	0.73	0.56
9.0	3.1	2.3	1.6	1.2	0.87	0.69	0.54	0.44

Chronic Ammonia Criteria for Saltwater

Total Ammonia (mg/l)****								
Temperature (°C)								
pH	0-C	5-C	10-C	15-C	20-C	25-C	30-C	35-C
Salinity = 20-g/kg								
7.0	44	30	21	14	9.7	6.6	4.7	3.1
7.2	27	19	13	9.0	6.2	4.4	3.0	2.1
7.4	18	12	8.1	5.6	4.1	2.7	1.9	1.3
7.6	11	7.5	5.3	3.4	2.5	1.7	1.2	0.84
7.8	6.9	4.7	3.4	2.3	1.6	1.1	0.78	0.53
8.0	4.4	3.0	2.1	1.5	1.0	0.72	0.50	0.34
8.2	2.8	1.9	1.3	0.94	0.66	0.47	0.31	0.24
8.4	1.8	1.2	0.84	0.59	0.44	0.30	0.22	0.16
8.6	1.1	0.78	0.56	0.41	0.28	0.20	0.15	0.12
8.8	0.72	0.50	0.37	0.26	0.19	0.14	0.11	0.08
9.0	0.47	0.34	0.24	0.18	0.13	0.10	0.08	0.07

Acute Ammonia Criteria for Saltwater

Total Ammonia (mg/l)****								
Temperature (°C)								
pH	0-C	5-C	10-C	15-C	20-C	25-C	30-C	35-C
Salinity = 30-g/kg								
7.0	312	208	148	102	71	48	33	23
7.2	196	135	94	64	44	31	21	15
7.4	125	85	58	40	27	19	13	9.4
7.6	79	54	37	25	21	12	8.5	6.0
7.8	50	33	23	16	11	7.9	5.4	3.7
8.0	31	21	15	10	7.3	5.0	3.5	2.5
8.2	20	14	9.6	6.7	4.6	3.3	2.3	1.7
8.4	12.7	8.7	6.0	4.2	2.9	2.1	1.6	1.1
8.6	8.1	5.6	4.0	2.7	2.0	1.4	1.1	0.81
8.8	5.2	3.5	2.5	1.8	1.3	1.0	0.75	0.58
9.0	3.3	2.3	1.7	1.2	0.94	0.71	0.56	0.46

Chronic Ammonia Criteria for Saltwater

Total Ammonia (mg/l)****								
Temperature (°C)								
pH	0-C	5-C	10-C	15-C	20-C	25-C	30-C	35-C
Salinity = 30-g/kg								
7.0	47	31	22	15	11	7.2	5.0	3.4
7.2	29	20	14	9.7	6.6	4.7	3.1	2.2
7.4	19	13	8.7	5.9	4.1	2.9	2.0	1.4
7.6	12	8.1	5.6	3.7	3.1	1.8	1.3	0.90
7.8	7.5	5.0	3.4	2.4	1.7	1.2	0.81	0.56
8.0	4.7	3.1	2.2	1.6	1.1	0.75	0.53	0.37
8.2	3.0	2.1	1.4	1.0	0.69	0.50	0.34	0.25
8.4	1.9	1.3	0.90	0.62	0.44	0.31	0.23	0.17
8.6	1.2	0.84	0.59	0.41	0.30	0.22	0.16	0.12
8.8	0.78	0.53	0.37	0.27	0.20	0.15	0.11	0.09
9.0	0.50	0.34	0.26	0.19	0.14	0.11	0.08	0.07

TABLE 4

Chronic Ammonia Criteria for Saltwater

*** To calculate total ammonia values at different pH's and temperature values than listed in Tables 1 and 2 use the following formulas:

Formulas Used In The Calculation of Acute Criteria Values for Ammonia In Freshwater

The one-hour average concentration of ammonia (in mg/l as un-ionized NH₃) can be calculated by using the following formulas:

$$0.52/FT/FPH/2 = \text{acute criteria concentration}$$

where; FT = final temperature

$$= 10^{0.03(20-T)}$$

FPH = final pH

$$= 1; 8.0 < \text{pH} < 9.0$$

$$= (1 + 10^{7.4-\text{pH}})/1.25; 6.5 < \text{pH} < 8.0$$

Conversions from un-ionized to total ammonia should be performed using the following formulas;

Total ammonia criteria = calculated un-ionized ammonia criteria divided by fraction of un-ionized ammonia

Where:

$$\text{Fraction of un-ionized ammonia} = 1/(10^{\text{pKa-pH}} + 1)$$

$$\text{pKa} = 0.09018 + (2729.92/(273.2 + \text{temperature } ^\circ\text{C})).$$

Formulas Used In The Calculation of Chronic Criteria Values for Ammonia In Freshwater

The 30-day average concentration of ammonia (in mg/l as un-ionized NH₃) can be calculated by using the following formulas:

$$0.80/FT/FPH/RATIO = \text{chronic criteria concentration}$$

where;

FT = final temperature

$$= 10^{0.03(20-T)}$$

FPH = final pH

$$= 1; 8.0 < \text{pH} < 9.0$$

$$= (1 + 10^{7.4-\text{pH}})/1.25; 6.5 < \text{pH} < 8.0$$

RATIO = 13.5; 7.7 < pH < 9.0

$$= 20.25 \times (10^{7.7-\text{pH}})/(1 + 10^{7.4-\text{pH}}); 6.5 < \text{pH} < 7.7$$

Conversions from un-ionized to total ammonia should be performed using the following formulas:

Total ammonia criteria = calculated un-ionized ammonia criteria divided by fraction of un-ionized ammonia

Where:

$$\text{Fraction of un-ionized ammonia} = 1/(10^{\text{pKa-pH}} + 1)$$

Where pKa = 0.09018 + (2729.92/(273.2 + temperature °C)).

**** To convert these values to mg/liter N, multiply by 0.822.

C. Application of freshwater and saltwater numerical criteria. The numerical water quality criteria listed in subsection B of this section (excluding dissolved oxygen, pH, temperature)

shall be applied according to the following classes of waters (see 9 VAC 25-260-50) and boundary designations:

CLASS OF WATERS	NUMERICAL CRITERIA
I and II (Estuarine Waters)	Saltwater criteria apply
II (Transition Zone)	More stringent of either the freshwater or saltwater criteria apply
II (Tidal Freshwater), III, IV, V and VI	Freshwater criteria apply

The following describes the boundary designations for Class II, (estuarine, transition zone and tidal freshwater waters) by river basin:

1. Rappahannock Basin. Tidal freshwater is from the fall line of the Rappahannock River to Buoy 37 near Tappahannock, Virginia, including all tidal tributaries that enter the tidal freshwater Rappahannock River.

Transition zone is from Buoy 37 to Buoy 11 near Morattico, Virginia, including all tidal tributaries that enter the transition zone of the Rappahannock River.

Estuarine waters are from Buoy 11 to the mouth of the Rappahannock River (Buoy 6), including all tidal tributaries that enter the estuarine waters of the Rappahannock River.

2. York Basin. Tidal freshwater is from the fall line of the Mattaponi River to Clifton, Virginia, and from the fall line of the Pamunkey River to Sweet Hall Landing, Virginia, including all tidal tributaries that enter the tidal freshwaters of the Mattaponi and Pamunkey Rivers.

Transition zone of the Mattaponi River is from Clifton, Virginia to the York River and the transition zone of the Pamunkey River is from Sweet Hall Landing, Virginia, to the York River. The transition zone for the York River is from West Point, Virginia, to Buoy 13 near Poropotank Bay. All tidal tributaries that enter the transition zones of the Mattaponi, Pamunkey, and York Rivers are themselves in the transition zone.

Estuarine waters are from Buoy 13 to the mouth of the York River (Tue Marsh Light) including all tidal tributaries that enter the estuarine waters of the York River.

3. James Basin. Tidal Freshwater is from the fall line of the James River to the confluence of the Chickahominy River (Buoy 70), including all tidal tributaries that enter the tidal freshwater James River.

Transition zone is from Buoy 70 to Buoy 47 near Jamestown Island including all tidal tributaries that enter the transition zone of the James River.

Estuarine waters are from Buoy 47 to the mouth of the James River (Buoy 25) including all tidal tributaries that enter the estuarine waters of the James River.

4. Potomac Basin. Tidal Freshwater includes all tidal tributaries that enter the Potomac River from its fall line to Buoy 43 near Quantico, Virginia.

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Transition zone includes all tidal tributaries that enter the Potomac River from Buoy 43 to Buoy 33 near Dahlgren, Virginia.

Estuarine waters includes all tidal tributaries that enter the Potomac River from Buoy 33 to the mouth of the Potomac River (Buoy 44B).

5. Chesapeake Bay, Atlantic Ocean, and small coastal basins. Estuarine waters include the Atlantic Ocean tidal tributaries, and the Chesapeake Bay and its small coastal basins from the Virginia state line to the mouth of the bay (a line from Cape Henry drawn through Buoys 3 and 8 to Fishermans Island), and its tidal tributaries, excluding the Potomac tributaries and those tributaries listed above.

6. Chowan River Basin. Tidal freshwater includes the Northwest River and its tidal tributaries from the Virginia-North Carolina state line to the free flowing portion, the Blackwater River and its tidal tributaries from the Virginia-North Carolina state line to the end of tidal waters at approximately state route 611 at river mile 20.90, the Nottoway River and its tidal tributaries from the Virginia-North Carolina state line to the end of tidal waters at approximately Route 674, and the North Landing River and its tidal tributaries from the Virginia-North Carolina state line to the Great Bridge Lock.

Transition zone includes Back Bay and its tributaries in the City of Virginia Beach to the Virginia-North Carolina state line.

D. Site-specific modifications to numerical water quality criteria.

1. The board may consider site-specific modifications to numerical water quality criteria in subsection B of this section where the applicant or permittee demonstrates that the alternate numerical water quality criteria are sufficient to protect all designated uses (see 9 VAC 25-260-10) of that particular surface water segment or body.

2. Any demonstration for site-specific human health criteria shall be restricted to a reevaluation of the bioconcentration or bioaccumulation properties of the pollutant. The exceptions to this restriction are for site-specific criteria for taste, odor, and aesthetic compounds noted by double asterisks in subsection B of this section and nitrates.

3. Site-specific temperature requirements are found in 9 VAC 25-260-90.

4. Procedures for promulgation and review of site-specific modifications to numerical water quality criteria resulting from subdivisions 1 and 2 of this subsection.

a. Proposals describing the details of the site-specific study shall be submitted to the board's staff for approval prior to commencing the study.

b. Any site-specific modification shall be promulgated as a regulation in accordance with the Administrative Process Act. All site-specific modifications shall be listed in 9 VAC 25-260-310 (Special standards and requirements).

E. Variances to water quality standards.

1. A variance from numeric criteria may be granted to a discharger if it can be demonstrated that one or more of the conditions in 9 VAC 25-260-10 G limit the attainment of one or more specific water quality criteria.

a. Variances shall apply only to the discharger to whom they are granted and shall be reevaluated and either continued, modified or revoked at the time of permit issuance. At that time the permittee shall make a showing that the conditions for granting the variance still apply.

b. Variances shall be described in the public notice published for the permit. The decision to approve a variance shall be subject to the public participation requirements of the Virginia Pollutant Discharge Elimination System (VPDES) Permit Regulation, 9 VAC 25-31-10 et seq. (Permit Regulation).

c. Variances shall not prevent the maintenance and protection of existing uses or exempt the discharger or regulated activity from compliance with other appropriate technology or water quality-based limits or best management practices.

d. Variances granted under this section shall not apply to new discharges.

e. Variances shall be submitted by the department's Division of Scientific Research or its successors to the Environmental Protection Agency for review and approval/disapproval.

f. A list of variances granted shall be maintained by the department's Division of Scientific Research or its successors.

2. None of the variances in this subsection shall apply to the halogen ban section (9 VAC 25-260-110) or temperature criteria in 9 VAC 25-260-50 if superseded by § 316(a) of the Clean Water Act requirements. No variances in this subsection shall apply to the criteria that are designed to protect human health from carcinogenic and noncarcinogenic toxic effects (subsection B of this section) with the exception of the metals, and the taste, odor, and aesthetic compounds noted by double asterisks and nitrates, listed in subsection B of this section.

F. Water effect ratio.

1. A water effects ratio (WER) shall be determined by measuring the effect of receiving water (as it is or will be affected by any discharges) on the bioavailability or toxicity of a metal by using standard test organisms and a metal to conduct toxicity tests simultaneously in receiving water and laboratory water. The ratio of toxicities of the metal(s) in the two waters is the WER (toxicity in receiving water divided by toxicity in laboratory water = WER). Once an acceptable WER for a metal is established, the numerical value for the metal in subsection B of this section is multiplied by the WER to produce an instream concentration that will protect designated uses. This instream concentration shall be utilized in permitting decisions.

2. The WER shall be assigned a value of 1.0 unless the applicant or permittee demonstrates to the department's

satisfaction in a permit proceeding that another value is appropriate, or unless available data allow the department to compute a WER for the receiving waters. The applicant or permittee is responsible for proposing and conducting the study to develop a WER. The study may require multiple testing over several seasons. The applicant or permittee shall obtain the department's Division of Scientific Research or its successor approval of the study protocol and the final WER.

3. The Permit Regulation at 9 VAC 25-31-230 C requires that permit limits for metals be expressed as total recoverable measurements. To that end, the study used to establish the WER may be based on total recoverable measurements of the metals.

4. The Environmental Protection Agency views the WER in any particular case as a site-specific criterion. Therefore, the department's Division of Scientific Research or its successor shall submit the results of the study to the Environmental Protection Agency for review and approval/disapproval within 30 days of the receipt of certification from the state's Office of the Attorney General. Nonetheless, the WER is established in a permit proceeding, shall be described in the public notice associated with the permit proceeding, and applies only to the applicant or permittee in that proceeding. The department's action to approve or disapprove a WER is a case decision, not an amendment to the present regulation.

The decision to approve or disapprove a WER shall be subject to the public participation requirements of the Permit Regulation, 9 VAC 25-31-260 et seq. A list of final WERs will be maintained by the department's Division of Scientific Research or its successor.

5. A WER shall not be used for the freshwater and saltwater chronic mercury criteria or the freshwater acute and chronic selenium criteria.

9 VAC 25-260-155. Ammonia surface water quality criteria.

A. The one-hour average concentration of total ammonia nitrogen (in mg N/L) in freshwater shall not exceed, more than once every three years on the average¹, the acute criteria below:

*Acute Ammonia Freshwater Criteria
Total Ammonia Nitrogen (mg N/L)*

<i>pH</i>	<i>Trout Present</i>	<i>Trout Absent</i>
6.5	32.6	48.8
6.6	31.3	46.8
6.7	29.8	44.6
6.8	28.1	42.0
6.9	26.2	39.1
7.0	24.1	36.1
7.1	22.0	32.8
7.2	19.7	29.5
7.3	17.5	26.2
7.4	15.4	23.0
7.5	13.3	19.9
7.6	11.4	17.0
7.7	9.65	14.4
7.8	8.11	12.1
7.9	6.77	10.1
8.0	5.62	8.40
8.1	4.64	6.95
8.2	3.83	5.72
8.3	3.15	4.71
8.4	2.59	3.88
8.5	2.14	3.20
8.6	1.77	2.65
8.7	1.47	2.20
8.8	1.23	1.84
8.9	1.04	1.56
9.0	0.885	1.32

The acute criteria for trout present shall apply to all Class V-Stockable Trout Waters and Class VI-Natural Trout Waters as listed in 9 VAC 25-260-390 through 9 VAC 25-260-540.

To calculate total ammonia nitrogen acute criteria values in freshwater at different pH values than those listed in this subsection, use the following formulas:

Where trout are present: Acute Criterion Concentration (mg N/L) = $0.275/(1 + 10^{7.204-pH}) + 39.0/(1 + 10^{pH-7.204})$

Or where trout are absent: Acute Criterion Concentration (mg N/L) = $0.411/(1 + 10^{7.204-pH}) + 58.4/(1 + 10^{pH-7.204})$

¹The default design flow for calculating steady state waste load allocations for the acute ammonia criterion is the 1Q10 (see 9 VAC 25-260-140 B footnote 10) unless statistically valid methods are employed which demonstrate compliance with the duration and return frequency of the water quality criteria.

B. The 30-day average concentration of total ammonia nitrogen (in mg N/L) where early life stages of fish are present in freshwater shall not exceed, more than once every three years on the average², the chronic criteria below:

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Chronic Ammonia Freshwater Criteria
Early Life Stages of Fish Present
Total Ammonia Nitrogen (mg N/L)

pH	Temperature (°C)									
	0	14	16	18	20	22	24	26	28	30
6.5	6.67	6.67	6.06	5.33	4.68	4.12	3.62	3.18	2.80	2.46
6.6	6.57	6.57	5.97	5.25	4.61	4.05	3.56	3.13	2.75	2.42
6.7	6.44	6.44	5.86	5.15	4.52	3.98	3.50	3.07	2.70	2.37
6.8	6.29	6.29	5.72	5.03	4.42	3.89	3.42	3.00	2.64	2.32
6.9	6.12	6.12	5.56	4.89	4.30	3.78	3.32	2.92	2.57	2.25
7.0	5.91	5.91	5.37	4.72	4.15	3.65	3.21	2.82	2.48	2.18
7.1	5.67	5.67	5.15	4.53	3.98	3.50	3.08	2.70	2.38	2.09
7.2	5.39	5.39	4.90	4.31	3.78	3.33	2.92	2.57	2.26	1.99
7.3	5.08	5.08	4.61	4.06	3.57	3.13	2.76	2.42	2.13	1.87
7.4	4.73	4.73	4.30	3.78	3.32	2.92	2.57	2.26	1.98	1.74
7.5	4.36	4.36	3.97	3.49	3.06	2.69	2.37	2.08	1.83	1.61
7.6	3.98	3.98	3.61	3.18	2.79	2.45	2.16	1.90	1.67	1.47
7.7	3.58	3.58	3.25	2.86	2.51	2.21	1.94	1.71	1.50	1.32
7.8	3.18	3.18	2.89	2.54	2.23	1.96	1.73	1.52	1.33	1.17
7.9	2.80	2.80	2.54	2.24	1.96	1.73	1.52	1.33	1.17	1.03
8.0	2.43	2.43	2.21	1.94	1.71	1.50	1.32	1.16	1.02	0.897
8.1	2.10	2.10	1.91	1.68	1.47	1.29	1.14	1.00	0.879	0.773
8.2	1.79	1.79	1.63	1.43	1.26	1.11	0.973	0.855	0.752	0.661
8.3	1.52	1.52	1.39	1.22	1.07	0.941	0.827	0.727	0.639	0.562
8.4	1.29	1.29	1.17	1.03	0.906	0.796	0.700	0.615	0.541	0.475
8.5	1.09	1.09	0.990	0.870	0.765	0.672	0.591	0.520	0.457	0.401
8.6	0.920	0.920	0.836	0.735	0.646	0.568	0.499	0.439	0.386	0.339
8.7	0.778	0.778	0.707	0.622	0.547	0.480	0.422	0.371	0.326	0.287
8.8	0.661	0.661	0.601	0.528	0.464	0.408	0.359	0.315	0.277	0.244
8.9	0.565	0.565	0.513	0.451	0.397	0.349	0.306	0.269	0.237	0.208
9.0	0.486	0.486	0.442	0.389	0.342	0.300	0.264	0.232	0.204	0.179

To calculate total ammonia nitrogen chronic criteria values in freshwater when fish early life stages are present at different pH and temperature values than those listed in this subsection, use the following formulas:

$$\text{Chronic Criteria Concentration} = (0.0577 / (1 + 10^{7.688 - \text{pH}}) + 2.487 / (1 + 10^{\text{pH} - 7.688})) \times \text{MIN}$$

Where MIN = 2.85 or $1.45 \times 10^{0.028(25-T)}$, whichever is less.

² The default design flow for calculating steady state waste load allocations for the chronic ammonia criterion where early life stages of fish are present is the 30Q10 (see 9 VAC 25-260-140 B footnote 10) unless statistically valid methods are employed which demonstrate compliance with the duration and return frequency of the water quality criteria.

C. The 30-day average concentration of total ammonia nitrogen (in mg N/L) where early life stages of fish are absent (procedures for making this determination are in subdivisions 1 through 4 of this subsection), in freshwater shall not exceed, more than once every three years on the average³, the chronic criteria below:

Chronic Ammonia Freshwater Criteria
Early Life Stages of Fish Absent
Total Ammonia Nitrogen (mg N/L)

pH	Temperature (°C)									
	0-7	8	9	10	11	12	13	14	15	16
6.5	10.8	10.1	9.51	8.92	8.36	7.84	7.35	6.89	6.46	6.06
6.6	10.7	9.99	9.37	8.79	8.24	7.72	7.24	6.79	6.36	5.97
6.7	10.5	9.81	9.20	8.62	8.08	7.58	7.11	6.66	6.25	5.86
6.8	10.2	9.58	8.98	8.42	7.90	7.40	6.94	6.51	6.10	5.72
6.9	9.93	9.31	8.73	8.19	7.68	7.20	6.75	6.33	5.93	5.56
7.0	9.60	9.00	8.43	7.91	7.41	6.95	6.52	6.11	5.73	5.37
7.1	9.20	8.63	8.09	7.58	7.11	6.67	6.25	5.86	5.49	5.15
7.2	8.75	8.20	7.69	7.21	6.76	6.34	5.94	5.57	5.22	4.90
7.3	8.24	7.73	7.25	6.79	6.37	5.97	5.60	5.25	4.92	4.61

7.4	7.69	7.21	6.76	6.33	5.94	5.57	5.22	4.89	4.59	4.30
7.5	7.09	6.64	6.23	5.84	5.48	5.13	4.81	4.51	4.23	3.97
7.6	6.46	6.05	5.67	5.32	4.99	4.68	4.38	4.11	3.85	3.61
7.7	5.81	5.45	5.11	4.79	4.49	4.21	3.95	3.70	3.47	3.25
7.8	5.17	4.84	4.54	4.26	3.99	3.74	3.51	3.29	3.09	2.89
7.9	4.54	4.26	3.99	3.74	3.51	3.29	3.09	2.89	2.71	2.54
8.0	3.95	3.70	3.47	3.26	3.05	2.86	2.68	2.52	2.36	2.21
8.1	3.41	3.19	2.99	2.81	2.63	2.47	2.31	2.17	2.03	1.91
8.2	2.91	2.73	2.56	2.40	2.25	2.11	1.98	1.85	1.74	1.63
8.3	2.47	2.32	2.18	2.04	1.91	1.79	1.68	1.58	1.48	1.39
8.4	2.09	1.96	1.84	1.73	1.62	1.52	1.42	1.33	1.25	1.17
8.5	1.77	1.66	1.55	1.46	1.37	1.28	1.20	1.13	1.06	0.990
8.6	1.49	1.40	1.31	1.23	1.15	1.08	1.01	0.951	0.892	0.836
8.7	1.26	1.18	1.11	1.04	0.976	0.915	0.858	0.805	0.754	0.707
8.8	1.07	1.01	0.944	0.885	0.829	0.778	0.729	0.684	0.641	0.601
8.9	0.917	0.860	0.806	0.756	0.709	0.664	0.623	0.584	0.548	0.513
9.0	0.790	0.740	0.694	0.651	0.610	0.572	0.536	0.503	0.471	0.442

At 15°C and above, the criterion for fish early life stages absent is the same as the criterion for fish early life stages present.

To calculate total ammonia nitrogen chronic criteria values in freshwater when fish early life stages are absent at different pH and temperature values than those listed in this subsection, use the following formulas:

$$\text{Chronic Criteria Concentration} = (0.0577 / (1 + 10^{7.688 - \text{pH}}) + 2.487 / (1 + 10^{\text{pH} - 7.688})) \times 1.45(10^{0.028(25 - \text{MAX})})$$

MAX = temperature in °C or 7, whichever is greater.

³The default design flow for calculating steady state waste load allocations for the chronic ammonia criterion where early life stages of fish are absent is the 30Q10 (see 9 VAC 25-260-140 B footnote 10), unless statistically valid methods are employed which demonstrate compliance with the duration and return frequency of the water quality criteria.

1. Site-specific modifications to the ambient water quality criteria for ammonia to account for the absence of early life stages of fish shall be conducted in accordance with the procedures contained in this subdivision. Because the department presumes that most state waterbodies have early life stages of fish present during most times of the year, the criteria shall be calculated assuming early life stages of fish are present using subsection B of this section unless the following demonstration that early life stages are absent is successfully completed. Early life stages of fish are defined in subdivision 2 of this subsection. Modifications to the ambient water quality criteria for ammonia based on the presence or absence of early life stages of fish shall only apply at temperatures below 15°C.

a. During the review of any new or existing activity that has a potential to discharge ammonia in amounts that may cause or contribute to a violation of the ammonia criteria contained in subsection B of this section, the department may examine data from the following approved sources in subdivisions 1 a (1) through (5) of this subsection or may require the gathering of data in accordance with subdivisions 1 a (1) through (5) on the

presence or absence of early life stages of fish in the affected waterbody.

(1) Species and distribution data contained in the Virginia Department of Game and Inland Fisheries Wildlife Information System database.

(2) Species and distribution data contained in Freshwater Fishes of Virginia, 1994.

(3) Data and fish species distribution maps contained in Handbook for Fishery Biology, Volume 3, 1997.

(4) Field data collected in accordance with U.S. EPA's Rapid Bioassessment Protocols for Use in Streams and Wadeable Rivers, Second Edition, EPA 841-B-99-002. Field data must comply with all quality assurance/quality control criteria.

(5) The American Society for Testing and Materials (ASTM) Standard E-1241-88, Standard Guide for Conducting Early Life-Stage Toxicity Tests with Fishes.

b. If data or information from sources other than subdivisions 1 a (1) through (5) of this subsection are considered, then any resulting site-specific criteria modifications shall be reviewed and adopted in accordance with the site-specific criteria provisions in 9 VAC 25-260-140 D, and submitted to EPA for review and approval.

c. If the department determines that the data and information obtained from subdivisions 1 a (1) through (5) of this subsection demonstrate that there are periods of each year when no early life stages are expected to be present for any species of fish that occur at the site, the department shall issue a notice to the public and make available for public comment the supporting data and analysis along with the department's preliminary decision to authorize the site-specific modification to the ammonia criteria. Such information shall include, at a minimum:

(1) Sources of data and information.

(2) List of fish species that occur at the site as defined by subdivision 3 of this subsection.

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(3) Definition of the site. Definition of a "site" can vary in geographic size from a stream segment to a watershed to an entire eco-region.

(4) Duration of early life stage for each species in subdivision 1 c (2) of this subsection.

(5) Dates when early life stages of fish are expected to be present for each species in subdivision 1 c (2) of this subsection.

(6) Based on subdivision 1 c (5) of this subsection, identify the dates (beginning date, ending date), if any, where no early life stages are expected to be present for any of the species identified in subdivision 1 c (2) of this subsection.

d. If, after reviewing the public comments received in subdivision 1 c of this subsection and supporting data and information, the department determines that there are times of the year where no early life stages are expected to be present for any fish species that occur at the site, then the applicable ambient water quality criteria for ammonia for those time periods shall be calculated using the table in this subsection, or the formula for calculating the chronic criterion concentration for ammonia when fish early life stages are absent.

e. The department shall maintain a comprehensive list of all sites where the department has determined that early life stages of fish are absent. For each site the list will identify the waterbodies affected and the corresponding times of the year that early life stages are absent. This list is available either upon request from the Office of Water Quality Programs at 629 E. Main Street, Richmond, VA, 23219 or from the department website <http://deq.state.va.us/wqs/>.

2. The duration of the "early life stages" extends from the beginning of spawning through the end of the early life stages. The early life stages include the prehatch embryonic period, the post-hatch free embryo or yolk-sac fry, and the larval period, during which the organism feeds. Juvenile fish, which are anatomically similar to adults, are not considered an early life stage. The duration of early life stages can vary according to fish species. The department considers the sources of information in subdivisions 1 a (1) through (5) of this subsection to be the only acceptable sources of information for determining the duration of early life stages of fish under this procedure.

3. "Occur at the site" includes the species, genera, families, orders, classes, and phyla that: are usually present at the site; are present at the site only seasonally due to migration; are present intermittently because they periodically return to or extend their ranges into the site; were present at the site in the past or are present in nearby bodies of water, but are not currently present at the site due to degraded conditions, and are expected to return to the site when conditions improve. "Occur at the site" does not include taxa that were once present at the site but cannot exist at the site now due to permanent physical alteration of the habitat at the site.

4. Any modifications to ambient water quality criteria for ammonia in subdivision 1 of this subsection shall not likely jeopardize the continued existence of any federally listed, threatened or endangered species or result in the destruction or adverse modification of such species' critical habitat.

D. The one-hour average concentration of total ammonia nitrogen (in mg N/L) in saltwater shall not exceed, more than once every three years on the average, the acute criteria below:

Acute Ammonia Saltwater Criteria

Total Ammonia Nitrogen (mg N/L)

Salinity = 10 g/kg

Temperature °C

pH	0	5	10	15	20	25	30	35
7.00	231.9	159.8	110.1	75.88	52.31	36.08	24.91	17.21
7.20	146.4	100.9	69.54	47.95	33.08	22.84	15.79	10.93
7.40	92.45	63.73	43.94	30.32	20.94	14.48	10.03	6.97
7.60	58.40	40.28	27.80	19.20	13.28	9.21	6.40	4.47
7.80	36.92	25.48	17.61	12.19	8.45	5.88	4.11	2.89
8.00	23.37	16.15	11.18	7.76	5.40	3.78	2.66	1.89
8.20	14.81	10.26	7.13	4.97	3.48	2.46	1.75	1.27
8.40	9.42	6.54	4.57	3.20	2.27	1.62	1.18	0.87
8.60	6.01	4.20	2.95	2.09	1.50	1.09	0.81	0.62
8.80	3.86	2.72	1.93	1.39	1.02	0.76	0.58	0.46
9.00	2.51	1.79	1.29	0.95	0.71	0.55	0.44	0.36

Salinity = 20 g/kg

Temperature °C

pH	0	5	10	15	20	25	30	35
7.00	247.6	170.5	117.5	80.98	55.83	38.51	26.58	18.36
7.20	156.3	107.7	74.21	51.17	35.30	24.37	16.84	11.66

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7.40	98.67	68.01	46.90	32.35	22.34	15.44	10.70	7.43
7.60	62.33	42.98	29.66	20.48	14.17	9.82	6.82	4.76
7.80	39.40	27.19	18.78	13.00	9.01	6.26	4.37	3.07
8.00	24.93	17.23	11.92	8.27	5.76	4.02	2.83	2.01
8.20	15.80	10.94	7.59	5.29	3.70	2.61	1.86	1.34
8.40	10.04	6.97	4.86	3.41	2.41	1.72	1.24	0.91
8.60	6.41	4.47	3.14	2.22	1.59	1.15	0.85	0.65
8.80	4.11	2.89	2.05	1.47	1.07	0.80	0.61	0.48
9.00	2.67	1.90	1.36	1.00	0.75	0.57	0.46	0.37

Salinity = 30 g/kg

pH	Temperature °C							
	0	5	10	15	20	25	30	35
7.00	264.6	182.3	125.6	86.55	59.66	41.15	28.39	19.61
7.20	167.0	115.1	79.31	54.68	37.71	26.03	17.99	12.45
7.40	105.5	72.68	50.11	34.57	23.87	16.50	11.42	7.92
7.60	66.61	45.93	31.69	21.88	15.13	10.48	7.28	5.07
7.80	42.10	29.05	20.07	13.88	9.62	6.68	4.66	3.27
8.00	26.63	18.40	12.73	8.83	6.14	4.29	3.01	2.13
8.20	16.88	11.68	8.10	5.64	3.94	2.78	1.97	1.42
8.40	10.72	7.44	5.18	3.63	2.56	1.82	1.31	0.96
8.60	6.83	4.77	3.34	2.36	1.69	1.22	0.90	0.68
8.80	4.38	3.08	2.18	1.56	1.13	0.84	0.64	0.50
9.00	2.84	2.01	1.45	1.06	0.79	0.60	0.47	0.39

To calculate total ammonia nitrogen acute criteria values in saltwater at different pH and temperature values than those listed in this subsection, use the following formulas:

$$I = 19.0273S / (1000 - 1.005109S)$$

Where I = molal ionic strength of water

$$S = \text{Salinity ppt (g/kg)}$$

The regression model used to relate I to pKa (negative log of the ionization constant) is

$$pKa = 9.245 + .138I$$

pKa as defined by these equations is at 298 degrees Kelvin (25°C). To correct for other temperatures:

$$pKa^S_T = pKa^S_{298} + .0324(298 - T \text{ Kelvin})$$

$$T \text{ Kelvin} = \text{°C} + 273.15$$

The unionized ammonia fraction (UIA) is given by:

$$UIA = \frac{1}{1 + 10^{(pKa^S_T - pH)}}$$

The acute ammonia criterion in saltwater is given by:

$$\text{Acute} = \frac{.233}{UIA}$$

Multiply the above value by .822 to get the ammonia-N acute criterion.

E. The 30-day average concentration of total ammonia nitrogen (in mg N/L) in saltwater shall not exceed, more than once every three years on the average, the chronic criteria below:

Chronic Ammonia Saltwater Criteria

Total Ammonia Nitrogen (mg N/L)

Salinity = 10 g/kg

pH	Temperature °C							
	0	5	10	15	20	25	30	35
7.00	34.84	24.00	16.54	11.40	7.86	5.42	3.74	2.59
7.20	21.99	15.15	10.45	7.20	4.97	3.43	2.37	1.64
7.40	13.89	9.57	6.60	4.55	3.15	2.18	1.51	1.05
7.60	8.77	6.05	4.18	2.88	2.00	1.38	0.96	0.67
7.80	5.55	3.83	2.65	1.83	1.27	0.88	0.62	0.43
8.00	3.51	2.43	1.68	1.17	0.81	0.57	0.40	0.28
8.20	2.23	1.54	1.07	0.75	0.52	0.37	0.26	0.19
8.40	1.41	0.98	0.69	0.48	0.34	0.24	0.18	0.13

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8.60	0.90	0.63	0.44	0.31	0.23	0.16	0.12	0.09
8.80	0.58	0.41	0.29	0.21	0.15	0.11	0.09	0.07
9.00	0.38	0.27	0.19	0.14	0.11	0.08	0.07	0.05

Salinity = 20 g/kg

pH	Temperature °C							
	0	5	10	15	20	25	30	35
7.00	37.19	25.62	17.65	12.16	8.39	5.78	3.99	2.76
7.20	23.47	16.17	11.15	7.69	5.30	3.66	2.53	1.75
7.40	14.82	10.22	7.04	4.86	3.36	2.32	1.61	1.12
7.60	9.36	6.46	4.46	3.08	2.13	1.47	1.02	0.71
7.80	5.92	4.08	2.82	1.95	1.35	0.94	0.66	0.46
8.00	3.74	2.59	1.79	1.24	0.86	0.60	0.43	0.30
8.20	2.37	1.64	1.14	0.79	0.56	0.39	0.28	0.20
8.40	1.51	1.05	0.73	0.51	0.36	0.26	0.19	0.14
8.60	0.96	0.67	0.47	0.33	0.24	0.17	0.13	0.10
8.80	0.62	0.43	0.31	0.22	0.16	0.12	0.09	0.07
9.00	0.40	0.28	0.20	0.15	0.11	0.09	0.07	0.06

Salinity = 30 g/kg

pH	Temperature °C							
	0	5	10	15	20	25	30	35
7.00	39.75	27.38	18.87	13.00	8.96	6.18	4.27	2.95
7.20	25.09	17.29	11.91	8.21	5.67	3.91	2.70	1.87
7.40	15.84	10.92	7.53	5.19	3.59	2.48	1.72	1.19
7.60	10.01	6.90	4.76	3.29	2.27	1.57	1.09	0.76
7.80	6.32	4.36	3.01	2.08	1.44	1.00	0.70	0.49
8.00	4.00	2.76	1.91	1.33	0.92	0.64	0.45	0.32
8.20	2.53	1.75	1.22	0.85	0.59	0.42	0.30	0.21
8.40	1.61	1.12	0.78	0.55	0.38	0.27	0.20	0.14
8.60	1.03	0.72	0.50	0.35	0.25	0.18	0.14	0.10
8.80	0.66	0.46	0.33	0.23	0.17	0.13	0.10	0.08
9.00	0.43	0.30	0.22	0.16	0.12	0.09	0.07	0.06

To calculate total ammonia nitrogen acute criteria values in saltwater at different pH and temperature values than those listed in this subsection, use the following formulas:

$$\text{Chronic} = \frac{.035}{\text{UIA}}$$

$$I = 19.0273S / (1000 - 1.005109S)$$

Where I = molal ionic strength of water

$$S = \text{Salinity ppt (g/kg)}$$

The regression model used to relate I to pKa (negative log of the ionization constant) is

$$pKa = 9.245 + .138I$$

pKa as defined by these equations is at 298 degrees Kelvin (25°C). To correct for other temperatures:

$$pKa^S_T = pKa^S_{298} + .0324(298 - T \text{ °Kelvin})$$

$$T \text{ °Kelvin} = \text{°C} + 273.15$$

The unionized ammonia fraction (UIA) is given by:

$$\text{UIA} = \frac{1}{1 + 10^{(pKa^S_T - pH)}}$$

The chronic ammonia criterion in saltwater is given by:

Multiply the above value by .822 to get the ammonia-N chronic criterion.

9 VAC 25-260-160. Fecal coliform bacteria; shellfish waters.

In all open ocean or estuarine waters capable of propagating shellfish or in specific areas where public or leased private shellfish beds are present, and including those waters on which condemnation or restriction classifications are established by the State Department of Health, the following criteria for fecal coliform bacteria shall apply:

The median geometric mean fecal coliform value for a sampling station shall not exceed an MPN (most probable number) of 14 per 100 milliliters. ~~Not more than 10% of samples~~ The 90th percentile shall not exceed an MPN of 43 for a 5-tube, 3-dilution test or 49 for a 3-tube, 3-dilution test.

9 VAC 25-260-170. Fecal coliform Bacteria; other waters.

~~A. General requirements.~~ In all surface waters, except shellfish waters and certain waters addressed identified in

subsection B of this section, the following criteria shall apply to protect primary contact recreational uses:

1. Fecal coliform bacteria shall not exceed a geometric mean of 200 fecal coliform bacteria per 100 ml of water for two or more samples over a 30-day period, or a fecal coliform bacteria level of 1,000 per 100 ml at any time calendar month nor shall more than 10% of the total samples taken during any calendar month exceed 400 fecal coliform bacteria per 100 ml of water. This criterion shall not apply for a sampling station after the bacterial indicators described in subdivision 2 of this subsection have a minimum of 12 data points or after June 30, 2008, whichever comes first.

2. *E. coli* and enterococci bacteria per 100 ml of water shall not exceed the following:

	Geometric Mean ¹	Single Sample Maximum ²
<i>Fresh and Transition Zone Waters</i> ³		
enterococci	33	61
<i>E. coli</i>	126	235
<i>Saltwater</i>		
enterococci	35	104

¹ Calendar month average for two or more samples.

² No single sample maximum for enterococci and *E. coli* shall exceed a 75% upper one-sided confidence limit based on a site-specific log standard deviation. If site data are insufficient to establish a site-specific log standard deviation, then 0.4 shall be used as the log standard deviation in fresh and transition zone waters and 0.7 shall be as the log standard deviation in saltwater. Values shown are based on a log standard deviation of 0.4 in freshwater and 0.7 in saltwater.

³ See 9 VAC 25-260-140 C for fresh and transition zone waters delineation.

~~B. Disinfection policy. In waters that receive Notwithstanding the above, all sewage discharges, all the designated uses in these waters shall be protected disinfected to achieve the applicable bacteria concentrations in subsection A of this section prior to discharge. The board's disinfection policy applies to these waters.~~

~~1. Sewage discharges in relation to water supply intakes. Discharges located within 15 miles upstream or one tidal cycle downstream of a water supply intake shall be disinfected in order to achieve a fecal coliform geometric mean value in the effluent equal to or less than 200 per 100 milliliters.~~

~~2. Sewage discharges into shellfish waters. When sewage discharges are permitted to or within five miles upstream of shellfish waters, they shall be disinfected in order to achieve a fecal coliform geometric mean value in the effluent equal to or less than 200 per 100 milliliters.~~

~~3. Sewage discharges into other waters. Sewage discharges into other waters shall be adequately treated and disinfected as necessary to protect all the designated uses in these waters. Generally, these discharges shall~~

~~achieve a fecal coliform geometric mean value in the effluent equal to or less than 200 per 100 milliliters.~~

However, the board, with the advice of the State Department of Health, may determine that reduced or no disinfection of a discharge is appropriate on a seasonal or year-round basis. In making such a determination, the board shall consider the designated uses of these waters and the seasonal nature of those uses. Such determinations will be made during the process of approving, issuing, or reissuing the discharge permit and shall be in conformance with a board approved site-specific use-attainability analysis performed by the permittee. When making a case-by-case determination concerning the appropriate level of disinfection for sewage discharges into these waters, the board shall provide a 45-day public notice period and opportunity for a public hearing.

9 VAC 25-260-310. Special standards and requirements.

The special standards are shown in small letters to correspond to lettering in the basin tables. The special standards are as follows:

a. Shellfish waters. In all open ocean or estuarine waters capable of propagating shellfish or in specific areas where public or leased private shellfish beds are present, including those waters on which condemnation or restriction classifications are established by the State Department of Health, the following criteria for fecal coliform bacteria will apply:

The median fecal coliform value for a sampling station shall not exceed an MPN of 14 per 100 ml of sample and not more than 10% of samples shall exceed 43 for a 5-tube, 3-dilution test or 49 for a 3-tube, 3-dilution test.

The shellfish area is not to be so contaminated by radionuclides, pesticides, herbicides, or fecal material that the consumption of shellfish might be hazardous.

b. Policy for the Potomac Embayments. At its meeting on September 12, 1996, the board adopted a policy (9 VAC 25-415-40 et seq. Policy for the Potomac Embayments) to control point source discharges of conventional pollutants into the Virginia embayment waters of the Potomac River, and their tributaries, from the fall line at Chain Bridge in Arlington County to the Route 301 bridge in King George County. The policy sets effluent limits for BOD₅, total suspended solids, phosphorus, and ammonia, to protect the water quality of these high profile waterbodies.

c. Cancelled.

d. Aquia Creek. No proposal resulting in the discharge of treated wastes to Aquia Creek will be approved unless the following is provided:

- (1) At least 100 days' storage to allow complete elimination of discharges during the low-flow summer months; or
- (2) Other treatment, based on sound engineering concepts (preferably with experimental data to show their feasibility), for nutrient removal prior to discharge.

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e. Cancelled.

f. Cancelled.

g. Occoquan watershed policy. At its meeting on July 26, 1971 (Minute 10), the board adopted a comprehensive pollution abatement and water quality management policy for the Occoquan watershed. The policy set stringent treatment and discharge requirements in order to improve and protect water quality, particularly since the waters are an important water supply for Northern Virginia. Following a public hearing on November 20, 1980, the board, at its December 10-12, 1980, meeting, adopted as of February 1, 1981, revisions to this policy (Minute 20). These revisions became effective March 4, 1981. Additional amendments were made following a public hearing on August 22, 1990, and adopted by the board at its September 24, 1990, meeting (Minute 24) and became effective on December 5, 1990. Copies are available upon request from the Department of Environmental Quality.

h. Cancelled.

i. Cancelled.

j. Cancelled.

k. Cancelled.

l. Cancelled.

m. The following effluent standards apply to the entire Chickahominy watershed above Walker's Dam:

CONSTITUENT	CONCENTRATION
1. Biochemical Oxygen demand 5-day at 20	6.0 mg/l monthly average, with not more than 5.0% of individual samples to exceed 8.0 mg/l
2. Settleable Solids	Not to exceed 0.1 ml/l
3. Suspended Solids	5.0 mg/l monthly average, with not more than 5.0% of individual samples to exceed 7.5 mg/l
4. Ammonia Nitrogen	Not to exceed 2.0 mg/l as N
5. Total Phosphorus	Not to exceed 0.1 mg/l monthly average for all discharges with the exception of Holly Farms Poultry Industries, Inc., which shall meet 0.3 mg/l monthly average and 0.5 mg/l daily maximum.
6. Other Physical and Chemical Constituents	Other physical or chemical constituents not specifically mentioned will be covered by additional specifications as conditions detrimental to the stream arise. The specific mention of items 1 through 5 does not necessarily mean that the addition of other physical or chemical constituents will be condoned.

n. No sewage discharges, regardless of degree of treatment, should be allowed into the James River between Bosher and Williams Island Dams.

o. The concentration and total amount of impurities in Tuckahoe Creek and its tributaries of sewage origin shall be limited to those amounts from sewage, industrial wastes, and other wastes which are now present in the stream from natural sources and from existing discharges in the watershed.

p. Cancelled.

q. Rappahannock River Basin.

The following effluent standards (adopted in Minute 17 from the proceedings of the board at its meeting on September 17-18, 1972) apply to all waste discharges to the Rappahannock River Basin above the proposed Salem Church Dam in accordance with subdivisions (1) and (2) below:

CONSTITUENT	FINAL EFFLUENT REQUIREMENTS (WEEKLY AVERAGE)
BOD - mg/l	1
COD - mg/l	10
Suspended solids - mg/l	0 (unmeasurable)
MBAS - mg/l	0.1
Turbidity (Jackson Units)	0.4
Fecal Coliform Bacteria per 100 ml sample	Less than 2
Nitrogen - mg/l	1
Phosphorus - mg/l	0.1

(1) After the date of Congressional authorization for actual construction of the dam has been given, all new proposals shall comply fully with the adopted standards of the paragraph above and all existing owners shall immediately commence the necessary planning, financing and design to ensure that facilities are completed prior to final completion of the construction of the dam; and

(2) Any new proposals for waste discharges to the area encompassed by the standards shall provide such conventional treatment that in the opinion of the State Department of Health, the staff and the board, satisfactory advanced waste treatment units can readily be added when funds for construction of the Salem Church Dam have been authorized.

r. Cancelled.

s. Chlorides not to exceed 40 mg/l at any time.

t. Cancelled.

u. Maximum temperature for the New River Basin from West Virginia state line upstream to the Giles--Montgomery County line:

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The maximum temperature shall be 27°C (81°F) unless caused by natural conditions; the maximum rise above natural temperatures shall not exceed 2.8°C (5°F).

This maximum temperature limit of 81°F was established in the 1970 water quality standards amendments so that Virginia temperature criteria for the New River would be consistent with those of West Virginia, since the stream flows into that state.

v. The maximum temperature of the New River and its tributaries (except trout waters) from the Montgomery-Giles County line upstream to the Virginia-North Carolina state line shall be 29°C (84°F).

w. Cancelled.

x. Clinch River from the confluence of Dumps Creek at river mile 268 at Carbo downstream to river mile 255.4. The special water quality criteria for copper (measured as total recoverable) in this section of the Clinch River are 12.4 µg/l for protection from chronic effects and 19.5 µg/l for protection from acute effects. These site-specific criteria are needed to provide protection to several endangered species of freshwater mussels.

y. *Tidal freshwater Potomac River and tributaries that enter the tidal freshwater Potomac River from Cockpit Point (below Occoquan Bay) to the fall line at Chain Bridge. During November 1 through February 14 of each year the chronic ammonia criterion for early life stage of fish absent shall apply (see 9 VAC 25-260-155 C). This special standard is adopted in accordance with 9 VAC 5-260-155 C 1 b.*

9 VAC 25-260-390. Potomac River Basin (Potomac River Subbasin).

Potomac River Subbasin				
SEC.	CLASS	SP. STDS.	SECTION DESCRIPTION	
1	II	a	Tidal tributaries of the Potomac River from Smith Point to Upper Machodoc Creek (Baber Point).	2 II a, NEW-14
1a	III		All free-flowing portions of tributaries to the Potomac River from Smith Point to the Route 301 Bridge in King George County unless otherwise designated in this chapter.	2a III NEW-14
1b	III	b, NEW-12	All free-flowing portions of tributaries to the Potomac River from the Route 301 Bridge in King George County to, and including, Potomac Creek, unless otherwise designated in this chapter.	3 II b, NEW-12
1c	III	PWS, b, NEW-12	Potomac Creek and its tributaries from the Stafford County water supply dam (Able Lake Reservoir) to their headwaters.	4 II b, d, NEW-6
				4a III b, d, NEW-6
				4b III PWS, b, d, NEW-6
				5 II b
				5a III b
				5b III PWS, b
				6 II b, y, NEW-7, 8, 9, 10, 11, 13
				7 III b, NEW-7, 8, 9, 10, 11, 13

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			chapter.				impoundment.
7a	III	g	Occoquan River and its tributaries to their headwaters above Fairfax County Water Authority's water supply impoundment, unless otherwise designated in this chapter.	8	III	PWS	Tributaries to the Potomac River in Virginia between Chain Bridge and the Monacacy River from their confluence with the Potomac upstream 5 miles, to include Goose Creek to the City of Fairfax's raw water intake, unless otherwise designated in this chapter.
7b	III	PWS, g	The impounded waters of Occoquan River above the water supply dam of the Fairfax County Water Authority to backwater of the impoundment on Bull Run and Occoquan River, and the tributaries of Occoquan above the dam to a point 5 miles above the dam.	8a	VI	PWS	Big Spring Creek and its tributaries in Loudoun County, from its confluence with the Potomac River upstream to their headwaters. (The temperature standard for natural trout water may be exceeded in the area above Big Spring and Little Spring at Routes 15 and 740 due to natural conditions). This section was given a PWS designation due to the Town of Leesburg's intake on the Potomac as referenced in Section 8b below.
7c	III	PWS, g	Broad Run and its tributaries above the water supply dam of the City of Manassas upstream to a point 5 miles above the dam.				
7d	III	PWS, g	The impounded waters of Lake Jackson, Broad Run, and Cedar Run.				
7e	III	PWS, g	Cedar Run from the Town of Warrenton's raw water intake (just upstream of Route 672) to a point 5 miles upstream of the proposed multiple purpose structure near Airlie (Fauquier County).	8b	III	PWS	Those portions of Virginia tributaries into the Potomac River that are within a 5 mile distance upstream of the Town of Leesburg's intake on the Potomac River, unless otherwise designated in this chapter.*
7f	III	PWS, g	The Quantico Marine Base Camp Upshur and its tributaries' raw water intake on Cedar Run (located approximately 0.2 mile above its confluence with Lucky Run) to a point 5 miles upstream.	8c	III	PWS	Those portions of Virginia tributaries into the Potomac River that are within a 5 mile distance upstream of the County of Fairfax's intake on the Potomac River.*
7g	III	PWS, g	The proposed impounded waters of Licking Run above the multiple purpose impoundment structure in Licking Run near Midland (Fauquier County) upstream to a point 5 miles above the proposed impoundment.	9	III		Broad Run, Sugarland Run, Difficult Run, Tuscarora Creek, Sycoline Creek, and other streams tributary to streams in Section 8 from a point 5 miles above their confluence with the Potomac River to their headwaters, unless otherwise designated in this chapter.
7h	III	PWS, g	The proposed impounded waters of Cedar Run above the proposed multiple purpose impoundment structure on the main stem of Cedar Run near Auburn (Fauquier County), to a point 5 miles above the	9a	III	PWS	All the impounded water of Goose Creek from the City of Fairfax's water supply dam upstream to backwater, and its tributaries above the dam to a point 5 miles above the dam.

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9b	III	PWS	The Town of Round Hill's raw water intake at the Round Hill Reservoir, and including the two spring impoundments located northwest of the town on the eastern slope of the Blue Ridge Mountains.	VI	pH-6.5-9.5	Natural Trout Waters in Section 11	
				ii		Bear Garden Run from its confluence with Sleepy Creek 3.1 miles upstream.	
				iii		Redbud Run from its confluence with Opequon Creek 4.4 miles upstream.	
9c	III	PWS	Unnamed tributary to Goose Creek, from Camp Highroad's raw water intake (Loudoun County) located in an old quarry (at latitude 39°02'02"; longitude 77°40'49') to its headwaters.	11a	IV	pH-6.5-9.5	Hot Run and its tributaries from its confluence with Opequon Creek to its headwaters.
10	III		Tributaries of the Potomac River from the Monacacy River to the West Virginia-Virginia state line in Loudoun County, from their confluence with the Potomac River upstream to their headwaters, unless otherwise designated in this chapter.		V	pH-6.5-9.5	Stockable Trout Waters in Section 11a
					vi		Clearbrook Run from its confluence with Hot Run 2.1 miles upstream.
				12	IV	pH-6.5-9.5	South Branch Potomac River and its tributaries, such as Strait Creek, and the North Fork River and its tributaries from the Virginia-West Virginia state line to their headwaters.
10a	III	PWS	North Fork Catoctin Creek from Purcellville's raw water intake to its headwaters.				
10b	III		South Fork Catoctin Creek and its tributaries from its confluence with the North Fork Catoctin Creek to its headwaters.		V		Stockable Trout Waters in Section 12
					vi		Frank Run from its confluence with the South Branch Potomac River 0.8 mile upstream.
11	IV	pH-6.5-9.5	Tributaries of the Potomac River in Frederick and Clarke Counties, Virginia, unless otherwise designated in this chapter.		vii		South Branch Potomac River (in Highland County) from 69.2 miles above its confluence with the Potomac River 4.9 miles upstream.
		V	Stockable Trout Waters in Section 11		vi		Strait Creek (Highland County) from its confluence with the South Branch Potomac River 3.9 miles upstream.
		***	Back Creek (upper) from Rock Enon 4 miles upstream.				
		***	Back Creek (lower) from Route 600 to the mouth of Hogue Creek - 2 miles.		VI		Natural Trout Waters in Section 12
		***	Hogue Creek from Route 679 upstream 6 miles to the Forks below Route 612.		ii		Blight's Run from its confluence with Laurel Fork (Highland County) upstream including all named and unnamed tributaries.
		vi	Opequon Creek (in Frederick County) from its confluence with Hoge Run upstream to the point at which Route 620 first crosses the stream.		ii		Buck Run (Highland County) from its confluence with Laurel Fork upstream including all named and unnamed tributaries.
		vi	Turkey Run (Frederick County) from its confluence with Opequon Creek 3.6 miles upstream.		ii		Collins Run from its

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confluence with Laurel Fork upstream including all named and unnamed tributaries.

- ii Laurel Fork (Highland County) from 1.9 miles above its confluence with the North Fork South Branch Potomac River upstream including all named and unnamed tributaries.
- ii Locust Spring Run from its confluence with Laurel Fork upstream including all named and unnamed tributaries.
- ii Lost Run from its confluence with Laurel Fork upstream including all named and unnamed tributaries.
- ii Mullenax Run from its confluence with Laurel Fork upstream including all named and unnamed tributaries.
- ii Newman Run from its confluence with Laurel Fork upstream including all named and unnamed tributaries.
- ii Slabcamp Run from its confluence with Laurel Fork upstream including all named and unnamed tributaries.

See 9 VAC 25-260-360 B.

FORMS

Site-Specific for Sewage Discharges Equal to or less than 1000 GPD Chlorine Standard Exception Form for Streams with Intermittent Flows (eff. 1/89).

Site-Specific Chlorine Standard Exception Form for Streams with ~~Intermittent~~ Intermittent Flows.

Modified Disinfection Requirements Protocol.

DOCUMENTS INCORPORATED BY REFERENCE

Water Quality Criteria 1972: A report of the Committee on Water Quality Criteria and Quality Criteria for Water, U.S. EPA.

Handbook of Freshwater Fishery Biology, Volume Three, First Edition, 1997, Kenneth D. Carlander, Iowa State University Press.

Freshwater Fishes of Virginia, 1993, R.E. Jenkins and N.M. Burkhead, American Fisheries Society, Bethesda, MD.

ASTM Standard Guide for Conducting Early Life-Stage Toxicity Tests with Fishes, E 1241 - 88, American Society for Testing and Materials, Philadelphia, PA.

Rapid Bioassessment Protocols for Use in Streams and Wadeable Rivers: Periphyton, Benthic Macroinvertebrates

and Fish, Second Edition, EPA 81-B-99-002, U.S. Environmental Protection Agency, Office of Water, Washington, DC.

VA.R. Doc. No. R01-13; Filed October 11, 2001, 4:58 p.m.

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Title of Regulation: **9 VAC 25-420. James River 3(C) Wastewater Management Plan Peninsula Area (REPEALING).**

Title of Regulation: **9 VAC 25-430. Roanoke River Basin Water Quality Management Plan (REPEALING).**

Title of Regulation: **9 VAC 25-440. Upper Roanoke River Subarea Water Quality Management Plan (REPEALING).**

Title of Regulation: **9 VAC 25-450. Upper James River Basin Water Quality Management Plan (REPEALING).**

Title of Regulation: **9 VAC 25-452. Upper James-Jackson River Subarea Water Quality Management Plan (REPEALING).**

Title of Regulation: **9 VAC 25-460. Metropolitan/Regional Water Quality Management Plan for Northern Neck Planning District (No. 17) (REPEALING).**

Title of Regulation: **9 VAC 25-470. York River Basin Water Quality Management Plan. (REPEALING).**

Title of Regulation: **9 VAC 25-480. Tennessee and Big Sandy River Basins Water Quality Management Plan (REPEALING).**

Title of Regulation: **9 VAC 25-490. Rappahannock Area Development Commission (RADCO) 208 Areawide Waste Treatment Management Plan and Potomac-Shenandoah River Basin 303(E) Water Quality Management Plan (REPEALING).**

Title of Regulation: **9 VAC 25-500. State Water Quality Management Plan for the Fifth Planning District (REPEALING).**

Title of Regulation: **9 VAC 25-510. Water Quality Management Plan for the Southwest Virginia 208 Planning Area (REPEALING).**

Title of Regulation: **9 VAC 25-520. Water Quality Management Plan for the First Tennessee-Virginia Development District (REPEALING).**

Title of Regulation: **9 VAC 25-530. Water Quality Management Plan for the Hampton Roads Planning Area (Planning Districts 20 & 21) (REPEALING).**

Title of Regulation: **9 VAC 25-540. Water Quality Management Plan for the New River Basin (REPEALING).**

Title of Regulation: **9 VAC 25-550. Small Coastal River Basins and Chesapeake Bay Virginia Eastern Shore Portion Water Quality Management Plan (REPEALING).**

Title of Regulation: **9 VAC 25-560. Potomac-Shenandoah River Basin Water Quality Management Plan (REPEALING).**

Title of Regulation: 9 VAC 25-570. Richmond-Crater Interim Water Quality Management Plan (REPEALING).

Title of Regulation: 9 VAC 25-572. Water Quality Management Plans (REPEALING).

Title of Regulation: 9 VAC 25-720. Virginia Water Quality Management Planning Public Participation Guidelines Regulation.

Statutory Authority: § 62.1-44.15 of the Code of Virginia and 33 USC § 1313(e) of the Clean Water Act.

Public Hearing Date: December 10, 2001 - 2 p.m.

Public comments may be submitted until 5 p.m. on January 11, 2002.

(See Calendar of Events section for additional information)

Agency Contact: Charles Martin, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4462, FAX (804) 698-4136 or e-mail chmartin@deq.state.va.us.

Basis: The Clean Water Act, § 303(d)(1)(c) and (2), as implemented by the Federal Water Quality Management Regulation, 40 CFR Part 130, authorizes the states to develop Total Maximum Daily Loads (TMDLs). Sections 62.1-44.15(10), 62.1-44.15(13), and 62.1-44.19:7 of the Code of Virginia give the State Water Control Board the duty and authority to develop and adopt TMDLs and establish programs for effective areawide and basinwide water quality control and management. The Code of Virginia also authorizes the board to develop pollution abatement and water quality control plans.

Water Quality Management Plans are required by § 303(e) of the Clean Water Act (33 USC § 1313(e)) as implemented by 40 CFR Part 130. Federal law does not require that water quality management plans be adopted as regulation.

Purpose: The proposed primary action is to adopt a Water Quality Management Planning Public Participation Guidelines (WQMPPPG) regulation. This regulation sets forth the public participation procedures that the board shall follow in connection with development of Total Maximum Daily Loads (TMDLs), certain wasteload allocation studies, § 303(d) lists of impaired waters, and the Water Quality Management Plans (WQMPs). Since most of the pollutant reductions quantified in the TMDLs are to be achieved through voluntary strategies, public participation in the TMDL process and related water quality management program is essential for the attainment of water quality standards. This regulation is needed to provide the public and stakeholders with an adequate opportunity to participate in the development and implementation of these water quality management planning programs.

The secondary proposed action is the repeal of the existing WQMPs as state regulations. These plans are basinwide or areawide 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 Part 130. These plans serve as repositories for TMDLs, water quality based effluent limits, and the recommended pollution control measures needed to attain or maintain water quality standards.

There are currently 18 WQMPs that have been adopted as regulations by the board during the 1970s and through the early 1990s. These plans no longer reflect current conditions and need to be updated. There are no federal or state statutory or regulatory requirements for the plans to be regulations, but they continue to be carried on the books of the Virginia Registrar of Regulations. The repeal of these plans as regulations will allow for a more dynamic WQMP update process; reduce potential for conflicts between TMDLs, VPDES permits and the existing WQMPs; and eliminate unnecessary and outdated regulations.

The proposed regulatory actions are necessary to protect the health, safety or welfare of the citizens of the Commonwealth because they ensure opportunity for the public to become involved in water quality management planning activities and allow for a more dynamic planning process thereby improving the planning process.

Substance: The proposed primary action, Water Quality Management Planning Public Participation Guidelines (WQMPPPG) regulation, sets forth the public participation procedures that the board shall follow in connection with development of Total Maximum Daily Loads (TMDLs), certain wasteload allocation studies, § 303(d) lists of impaired waters, and the Water Quality Management Plans (WQMPs). The proposed secondary action is the repeal of the existing WQMPs as state regulations.

Issues: The advantages of the primary proposal, the WQMPPPG regulation, are providing the public with adequate opportunity to participate in water quality management planning programs, especially TMDLs. The proposed WQMPPPG regulation provides more opportunity for public involvement in water quality management programs than existing state or federal regulations. For example, the federal public participation requirements for TMDLs are a single public notice in the Virginia Register. The minimum public participation requirements for a TMDL in the proposed WQMPPPG regulation are two public notices in the Virginia Register and two public meetings.

Much of the pollutant reductions identified and quantified in the TMDLs are to be achieved through voluntary programs and strategies. Public understanding and support is essential for the TMDL pollutant reductions to be implemented. The proposed WQMPPPG regulation provides assurance that adequate public participation will be provided.

The advantages of the repeal of the 18 existing WQMPs as regulations are allowing for a more dynamic WQMP development/update process; reducing potential for conflicts between TMDLs, VPDES permits and the existing WQMPs; and eliminating unnecessary and outdated regulations.

There are no federal or state requirements that WQMPs be adopted as regulations.

There is no potential disadvantage to the public, agency, or the Commonwealth resulting from the adoption of the WQMPPPG regulation or the repeal of the 18 WQMPs as state regulations.

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Locality Particularly Affected: These proposed actions are statewide in application and will not affect one locality more than another.

Public Participation: In addition to any other comments, the board is seeking comments on the costs and benefits of the proposal, the impacts on point and nonpoint source stakeholders that are subject to the TMDL process and the impacts of the regulation on farm or forest lands. Anyone wishing to submit written comments for the public comment file may do so at the public meeting, by mail, or by email to Charles H. Martin, Department of Environmental Quality, P.O. Box 10009, Richmond, Virginia 23240, telephone (804) 698-4462, FAX (804) 698-4032 or e-mail chmartin@leg.state.va.us. Written comments must include the name and address of the commenter. In order to be considered comments must be received by the close of the comment period.

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 § 2.2-4007 G of the Administrative Process Act and Executive Order Number 25 (98). Section 2.2-4007 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 amendments establish procedures for notifying the public concerning opportunities for participation in the development of total maximum daily loads, wasteload allocations, the list of impaired waters, and water quality implementation plans. The proposed changes will also repeal existing water quality management plans which are adopted as state regulations and serve as repositories for total maximum daily loads (TMDLs), water quality based effluent limits, and recommended pollution control measures.

Estimated economic impact. Currently, there are 18 water quality management plans that have been adopted as regulations.¹ Any amendments to these regulations have to go through the regulatory process, which takes about 18 months and provides an opportunity for the public to comment. The requirements of the regulatory process make it difficult to incorporate the most recent changes into water quality management plans on a regular basis. According to the Department of Environmental Quality (the agency), water quality management plans in the regulations no longer reflect current conditions including wasteload allocations, new dischargers, the list of impaired waters, and locations of monitoring stations. The most recent conditions are incorporated into the point source permits. However, the

discrepancy between the conditions in the water quality management plans as regulations and the permits may potentially cause enforcement and litigation problems.

The proposed action will remove the water quality management plans from the Virginia Administrative Code and establish public participation guidelines in their development. The public and stakeholders will be provided an opportunity to participate in the TMDL development, wasteload allocations, defining impaired waters, and implementation plans. The economic value of public participation is difficult to measure. However, the decision making process is improved if individuals, especially those who will be affected by the decision, are allowed to have input. The voluntary nature of participation in the plans to achieve pollutant reductions adds to the value of public participation. The opportunity for the public to participate on substantive matters that will be provided under the proposed regulations is more than what is provided in the current process. For example, the proposed regulations will require at least two public notices and two public meetings for TMDLs while currently only a single public notice is required. This may increase the costs by a small amount. However, the additional benefits from the improved decision-making process should outweigh the additional cost of providing the forum for public participation.

There are no federal or state statutory requirements for the plans to be regulations. Consistent with this fact, the Commonwealth is the only state in region III² that includes water quality plans in the regulations.³

Overall, the proposed amendments are expected to enable the plans to be updated more frequently and to be more consistent with changes in TMDLs and permits, increase public participation, and eliminate unnecessary and outdated regulations.

Businesses and entities affected. The proposed regulations could potentially affect any individual interested in the development of water quality management plans. According to the agency, those most likely to be affected are the agency itself and at least 28 Virginia pollution discharge elimination permit holders that discharge into impaired and non-impaired waters where a multiple discharger wasteload allocation study is expected to be prepared.

Localities particularly affected. The proposed regulations apply throughout the Commonwealth.

Projected impact on employment. No significant impact on employment is expected.

Effects on the use and value of private property. The proposed changes are not expected to have a significant impact on the use and value of private property.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The department has reviewed the economic impact analysis prepared by the Department of Planning and Budget and has no comment.

¹ These are 9 VAC 25-420, 430,440, 450, 452, 460, 470, 480, 490, 500, 510, 520, 530, 540, 550, 560, 570, and 572.

² The Environmental Protection Agency region III includes Virginia, Maryland, Pennsylvania, West Virginia, District of Columbia, and Delaware.

³ Source: The Department of Environmental Quality.

Summary:

The proposed primary action is to adopt a Water Quality Management Planning Public Participation Guidelines (WQMPPPG) regulation. This regulation sets forth the public participation procedures that the board shall follow in connection with development of Total Maximum Daily Loads (TMDLs), certain wasteload allocation studies, § 303(d) Lists of impaired waters, and the Water Quality Management Plans (WQMPs). This regulation will provide the public and stakeholders with an adequate opportunity to participate in the development and implementation of these water quality management planning programs.

The proposed secondary action is the repeal of the existing WQMPs as state regulations. These plans are basinwide or areawide 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 Part 130. These plans serve as repositories for TMDLs, water quality based effluent limits, and the recommended pollution control measures needed to attain or maintain water quality standards.

CHAPTER 720.

VIRGINIA WATER QUALITY MANAGEMENT PLANNING PUBLIC PARTICIPATION GUIDELINES REGULATION.

9 VAC 25-720-10. Definitions.

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

"Board" means the Commonwealth of Virginia State Water Control Board or State Water Control Board.

"Department" means the Virginia Department of Environmental Quality.

"Director" means the Director of the Virginia Department of Environmental Quality.

"CWA" means the Clean Water Act, as amended, 33 USC § 1251 et seq.

"EPA" means the United States Environmental Protection Agency.

"Impaired waters" means those water bodies or water body segments that are not fully supporting or are partially supporting of the fishable and swimmable goals of the Clean Water Act and include those waters identified as impaired according to subdivision C 1 of § 62.1-44.19:5 of the Code of Virginia.

"Nonpoint source" means a source of pollution that is not collected or discharged as a point source.

"Point source" means any discernible, defined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, vessel or other floating craft, from which pollutants are or may be discharged. This term does not include return flows from irrigated agricultural land.

"303(d) list" means the list, pursuant to the federal Clean Water Act (33 USC § 1313 et seq.) and § 62.1-44.19:5 C and

D of the Code of Virginia, identifying all waters or stream segments that fail to attain the quality required by the water quality standards or that fail to attain the assigned beneficial uses.

"303(d) report" means the 303(d) list and other items pursuant to § 62.1-44.19:5 C of the Code of Virginia.

"305(b) report" means the biennial report describing the status of water quality for all navigable waters that each state must develop and submit to EPA pursuant to the federal Clean Water Act (33 USC § 1315 et seq.).

"Total maximum daily load (TMDL)" means the amount of a pollutant that a particular water or stream segment can assimilate and still meet all the requirements of the water quality standards and attain all the assigned beneficial uses.

"Virginia Pollutant Discharge Elimination System (VPDES) Permit" means a document issued by the board, pursuant to state regulation 9 VAC 25-31, authorizing under prescribed conditions the potential or actual discharge of pollutants from a point source to surface waters and the use or disposal of sewage sludge. Under the approved state program, a VPDES permit is equivalent to a NPDES permit.

"Wasteload allocation" means the portion of a receiving water's loading capacity that is allocated to one or more existing or future point sources of pollution.

"Wasteload allocation study" means the development or modification of a wasteload allocation for one discharger in a nonimpaired water that may modify or limit the allocations assigned to other dischargers to the same water or stream segment.

"Water quality management plans (WQMPs)" means watershed plans prepared under the federal Clean Water Act (33 USC § 1313 et seq.) containing in part the following elements: TMDLs, water quality based effluent limits, schedules for compliance of effluent limits, nonpoint source management and control strategies, provisions for intergovernmental cooperation, and implementation measures.

"Water Quality Monitoring, Information, and Restoration Act (WQMIRA)" means §§ 62.1-44.19:4 through 62.1-44.19:8 of the Code of Virginia.

"Water quality standards (WQS)" mean provisions of state or federal law that consist of designated use or uses for the waters of the Commonwealth and water quality criteria for such waters based upon such uses. Water quality standards are to protect the public health or welfare, enhance the quality of water and serve the purposes of the State Water Control Law (§ 62.1-44.2 et seq. of the Code of Virginia) and the federal Clean Water Act (33 USC § 1251 et seq.).

9 VAC 25-720-20. Purpose.

This regulation sets forth the public participation procedures that the board shall follow in connection with development of TMDLs, certain wasteload allocation studies, § 303(d) lists, and WQMPs in order to provide the public and stakeholders with an adequate opportunity to participate in their development and implementation.

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9 VAC 25-720-30. Public notice of TMDL actions.

A. The board shall give public notice of the following actions:

1. A TMDL development process is beginning under § 62.1-44.19:7 of the Code of Virginia;
2. A draft TMDL has been prepared and is ready for public review and comment;
3. A TMDL implementation plan development process is beginning under § 62.1-44.19:7 of the Code of Virginia;
4. A draft TMDL implementation plan has been prepared and is ready for public review and comment; and
5. A two-year priority schedule for TMDL development has been prepared pursuant to § 62.1-44.19:7 C of the Code of Virginia and is ready for public review and comment.

B. Public notices may describe more than one TMDL or TMDL actions.

9 VAC 25-720-40. Public notice of wasteload allocation study.

A. For wasteloads that affect only one discharger in a nonimpaired water, opportunity for public participation shall be limited to that provided during the permit issuance procedures in accordance with 9 VAC 25-31.

B. The board shall give public notice when a wasteload allocation study in a nonimpaired water is to be prepared that may result in the modification or limitation of the allocation assigned to more than one discharger to the same water or stream segment.

C. Wasteload allocation studies are guidance only with no legally binding effect.

D. Wasteload allocation decisions will be made in accordance with 9 VAC 25-31.

E. Public notices may describe more than one wasteload allocation study.

9 VAC 25-720-50. Public notice of 303(d) report actions.

A. The board shall give public notice of the following actions:

1. The draft procedure for developing the 305(b) report and 303(d) report for defining impaired waters has been prepared under § 62.1-44.19:5 C of the Code of Virginia and is available for public review and comment;
2. The draft 303(d) report has been prepared under § 62.1-44.19:5 C of the Code of Virginia and is available for public review and comment; and
3. An impaired water has attained water quality standards and is to be removed from the EPA approved 303(d) list.

B. Public notices may describe more than one 303(d) report action.

9 VAC 25-720-60. Public notice of WQMP actions.

A. The board shall give public notice of the following actions:

1. A WQMP revision is beginning under 9 VAC 25-720-70 C;

2. WQMP advisory committee is to meet; and

3. A revised WQMP has been prepared and is ready for public review and comment.

B. Public notices may describe more than one WQMP action.

9 VAC 25-720-70. Conditions applicable to WQMPs.

A. WQMPs shall comply with the conditions set forth in § 303(e) of the CWA.

B. WQMPs serve as repositories for TMDLs, wasteload allocations, TMDL implementation plans, and other information pursuant to § 303(e) of the Clean Water Act and § 62.1-44.19:7 of the Code of Virginia.

C. Every five years all WQMPs shall be reviewed and the director shall determine if revisions are needed to reflect new requirements or changing water quality conditions.

D. Advisory committees shall be established to assist the board in the revision of the WQMP. WQMP advisory committees shall include, but not be limited to, representatives in the watershed from local governments, environmental groups, agriculture, silviculture, manufacturing, and mining.

9 VAC 25-720-80. Public notice methods.

A. Virginia Register. Public notices described under 9 VAC 25-720-30 A, 9 VAC 25-720-40 B, 9 VAC 25-720-50, and 9 VAC 25-720-60 shall be given by publication in the Virginia Register.

B. Mailings. Public notice described in 9 VAC 25-720-30 A 1 through 4, 9 VAC 25-720-40 B, and 9 VAC 25-720-60 shall be given by mailing or e-mailing a copy of a notice to the following:

1. Any VPDES permittee within the watershed that may have their wasteload allocation modified or limited by the TMDL or wasteload allocation study;
2. Any planning district commission that may have jurisdiction over the areas included in the action;
3. Persons on the mailing list maintained by the board including those who request to be on the list;
4. Federal and state agencies having jurisdiction that may be affected by the action;
5. Soil and water conservation districts having jurisdiction over areas included in the action;
6. Chief administrative officer or designee and chair of governing body or designee of any unit of local government having jurisdiction over the areas included in the action; and
7. Any adjacent state that may be affected by the results of the action.

C. Newspaper. The public notice described in 9 VAC 25-720-30 A 1 through 4, 9 VAC 25-720-40 B, and 9 VAC 25-720-60 shall be published in a newspaper of general circulation in the area.

D. Other methods. The public notice described in 9 VAC 25-720-30 A 1 through 4, 9 VAC 25-720-40 B, 9 VAC 25-720-50 A, and 9 VAC 25-720-60 shall be given by any other method reasonably calculated to give actual notice to persons potentially affected, including press releases, or any other forum or medium to elicit public participation, such as posting on the Internet.

E. Timing. Public notices described in 9 VAC 25-720-30, 9 VAC 25-720-40 B, 9 VAC 25-720-50, and 9 VAC 25-720-60 shall allow at least 30 days for public comment after publication.

F. Contents.

1. All public notices issued under this regulation shall contain the following minimum information:

- a. Description of the action being taken;
b. The name of the water or stream segment, location description, and watershed for which the action is being taken;
c. A brief description of the procedures for submitting comments and the time and location of any public meeting that may be held;
d. Name and address of the department's offices responsible for the action for which public notice is being given. If the study or action will involve multiple regions, each regional office affected shall be listed; and
e. Name, address, telephone number and e-mail address of a person or persons from whom interested persons may obtain fact sheets and additional information.

2. In addition to the general public notice described in subdivision 1 of this subsection, the public notice of a public meeting shall contain the following additional information:

- a. Reference to the date of previous public notices relating to the study;
b. Date, time, and place of public meetings; and
c. A brief description of the nature and purpose of the public meeting, including the applicable rules and procedures.

9 VAC 25-720-90. Public meetings.

A. The board shall hold a public meeting for actions described under 9 VAC 25-720-30 A 1 through 4, 9 VAC 25-720-40 B, 9 VAC 25-720-50 A 2, and 9 VAC 25-720-60.

B. Public notice of the public meetings shall be given as specified in 9 VAC 25-720-80.

C. Any public meeting convened pursuant to this section shall be held in the geographic area of the proposed action.

9 VAC 25-720-100. Public comments and agency response.

During the public comment period, any interested person may submit written comments on the actions being public noticed. All relevant comments shall be considered by the board when taking actions under 9 VAC 25-720-110. A summary

response to comments shall be prepared and made available to the public.

9 VAC 25-720-110. Board actions.

Board actions shall be required for:

- 1. Approval of TMDLs for submittal to EPA ;
2. Adoption of EPA-approved TMDLs under § 2.2-4006 A 4 c of the Code of Virginia;
3. Authorization to include adopted TMDLs in the appropriate WQMP; and
4. Approval of WQMPs developed under 9 VAC 25-720-70 C.

9 VAC 25-720-120. Delegation section.

The director or his designee may perform any action contained in this regulation except those prohibited by § 62.1-44.14 of the State Water Control Law.

VA.R. Doc. No. R01-27; Filed October 17, 2001, 8:55 a.m.

TITLE 12. HEALTH

STATE BOARD OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES

Title of Regulation: 12 VAC 35-102. Rules and Regulations for the Licensure of Facilities and Providers of Mental Health, Mental Retardation and Substance Abuse Services (REPEALING).

Title of Regulation: 12 VAC 35-105. Rules and Regulations for the Licensing of Providers of Mental Health, Mental Retardation and Substance Abuse Services (adding 12 VAC 35-105-10 through 12 VAC 35-105-1440).

Title of Regulation: 12 VAC 35-170. Regulations for the Certification of Case Management (REPEALING).

Statutory Authority: §§ 37.1-179.1 and 37.1-182 of the Code of Virginia.

Public Hearing Dates:

- December 4, 2001 - 4 p.m. (Abingdon)
December 4, 2001 - 5 p.m. (Chesapeake)
December 5, 2001 - 6 p.m. (Fairfax)
December 5, 2001 - 4 p.m. (Verona)
December 6, 2001 - 5 p.m. (Roanoke)
December 11, 2001 - 6 p.m. (Richmond)

Public comments may be submitted until 5 p.m. on January 5, 2002.

(See Calendar of Events section for additional information)

Agency Contact: William J. Lessard, Jr., Regional Manager/Office of Licensing, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23218-1797, telephone (804) 786-3475,

Proposed Regulations

FAX (804) 692-0066 or e-mail:
wlessard@dmhmrsas.state.va.us.

Basis: There are several Virginia Code sections that authorize the promulgation of these regulations. Section 37.1-179.1 of the Code of Virginia grants permissive authority to the Mental Health, Mental Retardation and Substance Abuse Services Board to promulgate regulations authorizing the commissioner to issue licenses to "any suitable provider to establish, maintain and operate, or to have charge of any service for persons with mental illness, mental retardation or substance addiction or abuse." In addition, § 37.1-182 of the Code of Virginia indicates that "all services provided or delivered under any such license shall be subject to review or inspection at any reasonable time by any authorized inspector or agent of the Department" and grants the board permissive authority to promulgate regulations to carry out such inspections.

There are also several sections of the Code that mandate promulgation of regulations that pertain to the licensing of mental health, mental retardation and substance abuse services and providers. Section 37.1-182.1 of the Code of Virginia requires adoption of regulations to "ensure that providers licensed to offer substance abuse treatment develop policies and procedures which provide for the timely and appropriate treatment for pregnant substance abusing women." Section 37.1-185.1 of the Code of Virginia requires the board to promulgate regulations for imposing civil penalties on licensed providers that violate certain legislative mandates regarding human rights and licensing requirements. Violations of these regulations can result in the imposition of civil penalties. Section 37.1-188.1 of the Code of Virginia requires the board to promulgate regulations to govern advertising practices of any license provider to ensure that advertisements are not false or misleading.

Section 37.1-219 of the Code also requires the board to "...adopt reasonable regulations prescribing standards for substance abuse treatment programs to ensure proper attention, service and treatment to persons treated in such programs." Section 37.1-221 requires the board to "...adopt regulations for acceptance of persons into approved substance abuse treatment programs."

Purpose: The Department of Mental Health, Mental Retardation and Substance Abuse Services is proposing to replace the current licensing regulations for the following reasons:

- To reorganize and clarify the regulations consistent with current practice and terminology;
- To include the process for licensing in the text of the regulations, including provisions for variances and sanctions. Such provisions are not included in current regulations;
- To provide greater specificity in the providers' responsibilities, especially for qualifications of employees and supervisors, requirements for assessments and service planning, and requirements for responding to the medical needs of individuals receiving services;

- To incorporate the recent changes in licensing laws, including requirements for staff background checks;
- To ensure that provisions for licensing comply with the board's regulations for human rights. Recent changes to the law require compliance with human rights regulations as a prerequisite for licensing providers; and
- To incorporate provisions for licensing additional services (i.e., case management, community gero-psychiatric residential services) consistent with amendments to the law that were enacted in 2001.

These changes and updates are necessary to conform the regulations to recent changes in the law, to ensure the protection of individuals receiving services, to increase the accountability of providers, and to provide greater flexibility in tailoring programs and services to meet individual needs.

With the proposed changes and updates, the regulations will provide the basis for the department to issue licenses, as required by § 37.1-183.1 of the Code of Virginia, to persons who establish services "...for the care or treatment of mentally ill or mentally retarded persons, or persons addicted to the intemperate use of narcotic drugs, alcohol or other stimulants..."

Substance: The proposed regulations include new sections that explain the authority and applicability of the regulations and the licensing process that are not included in the current regulations. Specific requirements for sponsored residential home services, case management services, community gero-psychiatric residential services and intensive community treatment and programs of assertive community treatment services have also been included in the proposed regulations.

The regulations require all residential and inpatient locations to be in compliance with specific residential physical environment requirements. The current practice of the Office of Licensing is to apply these regulations through a separate facility license that applies only to residential locations with five or more beds. Under the new proposed regulations, the department will not issue separate facility licenses but will specify the number of licensed beds on the license addendum and regularly review compliance of all residential locations, regardless of the number of beds, with the residential physical environment requirements.

New definitions have been added including "corrective action plan," "crisis," "individual," "medication error," "neglect," "provider," "restriction," and "serious injury," and many definitions have been updated and revised. Documentation requirements are added and policies are required to be implemented.

The regulations have been reorganized, especially Part III "Services and Supports," and provisions have been strengthened. Supervision requirements have been added to the provider staffing plan. The admission process must include a preliminary assessment to determine eligibility for services and to develop a preliminary individualized services plan. The preliminary individualized services plan must be developed and implemented within 24 hours of admission and the complete individualized services plan must be developed

and implemented within 30 days. Health care policy regulations are also strengthened.

Issues: The new regulations will build on the current regulations by clarifying and reorganizing the requirements. This should facilitate compliance by reducing ambiguity and providing more detailed guidance to providers regarding the specific requirements. This clarification should also improve the agency's ability to monitor the provider's compliance with the standards.

The revisions should also provide greater protection for individuals receiving services and their families in response to individual needs. The agency has generally found that individuals receiving services in licensed programs have more complex disabilities and needs than those that have been served in the past. The proposed amendments are needed to effectively safeguard this population. The new regulations strengthen the requirements in areas such as physical environment, staff supervision, and individualized service planning.

There are no disadvantages to the public or the Commonwealth associated with the promulgation of the proposed regulations.

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 § 2.2-4007 G of the Administrative Process Act and Executive Order Number 25 (98). Section 2.2-4007 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 Mental Health, Mental Retardation, and Substance Abuse Services (department) proposes to replace its existing licensure regulation (12 VAC 35-102) and case management certification regulation (12 VAC 35-170) with the proposed regulation (12 VAC 35-105). The new regulation:

1. Incorporates the process for licensing, including the issuance of variances and sanctions, into the text of the regulation,
2. Reflects recent changes in statute (background checks on staff, compliance with human rights regulations, licensing of case management and gero-psychiatric residential services),
3. Raises program director and supervisor qualifications and more clearly states requirements for orientation and retraining of employees,
4. Establishes requirements for earlier assessments and service planning and sets more specific requirements to fulfill the current expectation that programs be able to

adequately respond and care for the medical needs of individuals receiving services,

5. Provides more specific requirements concerning physical environment standards (quantifies "acceptable" room and water temperatures) and eliminates the separate facility license,

6. Requires physical separation for children and adults in residential and inpatient programs,

7. Sets a maximum limit of 20 beds for licensing as an intermediate care facility for the mentally retarded (ICF/MR),

8. Addresses additional types of services offered by providers (sponsored residential home services, intensive community treatment programs, programs of assertive community treatment services), and

9. Updates the opioid treatment and detoxification services sections to reflect new federal regulations and conform to current practice standards.

Estimated economic impact. Many of the proposed changes to this regulation are intended to reduce ambiguity, provide more detailed guidance to providers regarding specific requirements, and improve the agency's ability to monitor providers' compliance with these standards. Several of the changes in the proposed regulation address requirements and standards the agency is currently enforcing through other means, such as internal policies or citing violations of more general requirements ("client safety"). Putting these requirements into regulation will make these standards easier to enforce in a court of law but not result in any economic impact, except for the few providers who are not complying with current intentions. In these cases, the additional compliance costs are not likely to outweigh the benefits of having these providers meet what the agency has determined to be minimum standards required for quality care. Significant changes, and those that have not already been incorporated into current practice by the agency, are discussed below.

Statutory Requirements. The Code of Virginia has required background checks for employees of licensed providers since 1999. Licensing of providers has been contingent on satisfactory human rights performance as determined by a human rights review performed by the department since 1999 as well. Since these changes in the regulation reflect current practice, no economic impact is expected.

Licensing of case management and gero-psychiatric residential services will begin at the effective date of these regulations. All of the 40 local community service boards (CSBs) are expected to apply for licensure as case management providers. Currently these CSB programs are certified under 12 VAC 345-170, although the certification process is minimal and does not contain a substantial review. Licensure will require more administrative documentation and reporting but is not likely to have any effect on quality or quantity of services provided. Although, as a licensed service, DMHMRSAS will now have the authority to investigate complaints by case management clients, which are a large majority of the individuals served by CSBs. In addition to the public CSBs, private entities may also provide case

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management services. However, there is not sufficient data available to estimate how many may choose to apply for this license.

Few, if any, programs are expected to apply for licenses to provide gero-psychiatric residential services since this type of service is relatively new and is not yet fully developed in the profession or provider community and not reimbursed by third-party payers at this time.

Employee Qualifications. The current regulation requires that "any person who assumes the responsibilities of any staff position meet the minimum qualifications of that position." The proposed regulation specifies the minimum qualifications for program directors and supervisors for mental health or mental retardation services. The department based the proposed minimum qualifications on national guidelines and regulatory requirements of other state agencies that interact with these types of providers. The department does not believe that these new requirements will substantially reduce the supply of program directors or supervisors. If the requirements prevent or remove any individual who is not adequately qualified to direct or supervise the services provided in the program, there may be some increase in the quality of patient care provided in those programs.

Service Requirements. According to the department, the trend in deinstitutionalization and the promotion of community-based treatment has resulted in individuals receiving services in licensed programs having more complex disabilities and needs than those that have been served in the past. Several of the proposed requirements are intended to address this and ensure that programs have the facilities, staff, and capabilities to appropriately care for the individuals they serve. This is an expectation in the current regulations. By clarifying and emphasizing this expectation, these changes can be expected to increase compliance and may result in improved quality of care provided for certain individuals.

Physical Environment Standards. Appropriate room and water temperatures are required in the current regulations. The new regulations quantify acceptable room temperatures at 65 to 80 degrees and hot water temperatures between 100 and 120 degrees. These temperatures are based upon requirements in similar regulations, input from advocates and other experts in the care of individuals with disabilities, and generally accepted standards. Room temperatures have an impact on the health of the elderly and individuals who use medications that adversely affect their ability to tolerate warmer temperatures. Specificity in water temperatures is also intended to address recent instances where individual living in group homes have been scalded while bathing. Significant compliance costs associated with meeting these new requirements (such as installing air conditioners or upgrading existing plumbing) can be expected for some facilities. There is no information available on how many licensed residential programs are not currently able to comply with the proposed requirements. However, the potential benefits in increased safety for residents is likely to outweigh any additional compliance costs incurred.

The new regulation also eliminates the separate facility license, which is currently required for any residential programs with more than five beds. Under the new regulation,

all residential programs will now have to comply with facility physical environment requirements, regardless of the number of beds. This reflects the belief by the department that the physical environmental standards (i.e., bedroom size, conditions of beds, privacy, hot and cold water) are appropriate and applicable to residents of all residential programs, not just those with a certain number of beds. The department does not expect this new policy to significantly impact the affected residential programs (those with four or less beds) since most of the providers already meet a majority of the new standards. For those providers that do not meet the proposed standards, it is not possible to determine whether the compliance costs incurred will outweigh the potential benefits without knowing how much value residents put on these conditions.

Separation of Children and Adults. The proposed regulation requires that children and adults be housed separately in residential and inpatient programs and that there be separate group programming for children and adults. This requirement is intended to minimize the potential for physical and sexual abuse of children by adults and the exposure of children and adolescents to behavior by adults that are mentally ill or mentally retarded that may be inappropriate, distressing, or even traumatizing. The difficulty in providing appropriate treatment and staffing to a mixed population is another reason for this requirement. DMHMRSAS reports that four currently licensed residential facilities are currently combining adult and children populations.

Maximum Beds for an ICF/MR. The proposed regulation includes a maximum limit of 20 beds for a facility to be licensed as ICF/MR. The agency selected the limit of 20 beds in order to strike a balance between providing a high quality of care for clients that includes the homelike atmosphere that should characterize an ICF/MR and the need to make such programs economically viable. According to the agency, zoning requirements and preferences in program implementation are likely to lead providers to develop smaller group homes, which would minimize the potential economic effects of this requirement.

Additional Licensure Programs. The new regulation includes three new licensure categories: sponsored residential home services, intensive community treatment programs, and programs of assertive community treatment services. Sponsored residential home service providers are organizations that coordinate, supervise, and provide support to families or individuals (sponsors) providing care or treatment in their own homes. These providers are currently licensed as group home, which does not accurately represent their organizational structure. New requirements for these providers will include background checks for other people in the home and unannounced visits to sponsors' homes. The maximum number of beds for individuals receiving services in a sponsored residential home is two. Homes with more than two beds would continue to be licensed as a group home. By more appropriately addressing the structure of sponsored residential home services, this change is likely to make the regulations clearer for providers and may increase compliance.

The existing regulations do not include specific provisions for licensing intensive community treatment programs or programs of assertive community treatment services. These services are now licensed as outpatient and supported residential services. The proposed licensure categories combine these two licenses into a single, more appropriate license specific to the types of services these programs provide. This change is unlikely to have any negative economic effects since providers who are not able or do not wish to comply with the requirements can remain licensed as outpatient and supported residential service providers.

Opioid Treatment and Detoxification Services. Most of the changes to the opioid treatment and detoxification services sections mirror changes in federal regulations. Some additional requirements are included that reflect current practice standards are not expected to exceed current practice by the providers.

Businesses and entities affected. There are approximately 350 licensed providers offering more than 1,000 licensed services at more than 2,000 locations around Virginia.

Localities particularly affected. The proposed changes to this regulation will not uniquely affect any particular localities.

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

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

Summary:

The proposed regulatory action repeals the existing licensure regulation (12 VAC 35-102) and case management certification regulation (12 VAC 35-170) and replaces them with the proposed regulation (12 VAC 35-105). The new regulation:

- 1. Incorporates the process for licensing, including the issuance of variances and sanctions, into the text of this chapter;*
- 2. Reflects recent changes in statute (background checks on staff, compliance with human rights regulations, licensing of case management and gero-psychiatric residential services);*
- 3. Raises program director and supervisor qualifications and more clearly states requirements for orientation and retraining of employees;*
- 4. Establishes requirements for earlier assessments and service planning and sets more specific requirements to fulfill the current expectation that programs be able to adequately respond and care for the medical needs of individuals receiving services;*

5. Provides more specific requirements concerning physical environment standards (quantifies "acceptable" room and water temperatures) and eliminates the separate facility license;

6. Requires physical separation for children and adults in residential and inpatient programs;

7. Sets a maximum limit of 20 beds for licensing as an intermediate care facility for the mentally retarded (ICF/MR);

8. Addresses additional types of services offered by providers (sponsored residential home services, intensive community treatment programs, programs of assertive community treatment services); and

9. Updates the opioid treatment and detoxification services sections to reflect new federal regulations and conform to current practice standards.

CHAPTER 105.

RULES AND REGULATIONS FOR THE LICENSING OF PROVIDERS OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES.

PART I.

GENERAL PROVISIONS.

Article 1.

Authority and Applicability.

12 VAC 35-105-10. Authority and applicability.

A. Section 37.1-179.1 of the Code of Virginia authorizes the commissioner to license providers subject to rules and regulations promulgated by the State Mental Health, Mental Retardation and Substance Abuse Services Board.

B. No person or organization, except as provided for in subsection C of this section, may provide care or treatment for persons with mental illness or mental retardation or persons addicted to the intemperate use of narcotic drugs, alcohol or other stimulants including the detoxification, treatment or rehabilitation of drug addicts through the use of opioid treatment without first receiving a license from the commissioner.

C. The following persons or organizations are not required to be licensed:

- 1. An organization operated by the federal government;*
- 2. An organization operated by the Department of Mental Health, Mental Retardation and Substance Services;*
- 3. An organization operated or funded by the Department of Rehabilitative Services;*
- 4. An organization licensed by the Department of Health that does not provide inpatient psychiatric or substance abuse services in a special unit in a hospital as defined in § 32.1-123 of the Code of Virginia;*
- 5. An organization operated by the Department of Education, licensed by the Department of Education, or operated by a local school division;*

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6. An organization licensed by the Department of Social Services;

7. An organization licensed under the Standards for Interdepartmental Regulation of Children's Residential Facilities (22 VAC 42-10) by the Department of Social Services, the Department of Juvenile Justice, or the Department of Education;

8. An individual practitioner who is licensed or certified under Title 54.1 of the Code of Virginia or who is otherwise legally authorized to render professional services within this Commonwealth and who is providing services within the scope and limits of his license or certification;

9. A private practice group as defined in these regulations; and

10. An organization practicing the religious tenets of any church in the ministrations to the sick and suffering by mental or spiritual means without the use of any drug or material remedy, whether gratuitously or for compensation.

Article 2. Definitions.

12 VAC 35-105-20. Definitions.

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

"Abuse" (§ 37.1-1 of the Code of Virginia) means any act or failure to act, by an employee or other person responsible for the care of an individual receiving services that was performed or was failed to be performed knowingly, recklessly, or intentionally, and that caused or might have caused physical or psychological harm, injury, or death to an individual receiving services. Examples of abuse include, but are not limited to, the following:

1. Rape, sexual assault, or other criminal sexual behavior;
2. Assault or battery;
3. Use of language that demeans, threatens, intimidates or humiliates the person;
4. Misuse or misappropriation of the person's assets, goods or property;
5. Use of excessive force when placing a person in physical or mechanical restraint;
6. Use of physical or mechanical restraints on a person that is not in compliance with federal and state laws, regulations, and policies, professional accepted standards of practice or the person's individual service plan;
7. Use of more restrictive or intensive services or denial of services to punish the person or that is not consistent with his individual service plan.

"Admission" means the process of acceptance into a service that includes orientation to service goals, rules and requirements, and assignment to appropriate employees.

"Behavior management" means those principles and methods employed by a provider to help an individual receiving

services to achieve a positive outcome and to address and correct inappropriate behavior in a constructive and safe manner. Behavior management principles and methods must be employed in accordance with the individualized service plan and written policies and procedures governing service expectations, treatment goals, safety and security.

"Behavioral treatment program" means any set of documented procedures that are an integral part of the interdisciplinary treatment plan and are developed on the basis of a systemic data collection such as a functional assessment for the purpose of assisting an individual receiving services to achieve any or all of the following: (i) improved behavioral functioning and effectiveness; (ii) alleviation of the symptoms of psychopathology; or (iii) reduction of serious behaviors. A behavioral treatment program can also be referred to as a behavioral treatment plan or behavioral support plan.

"Care" or "treatment" means a set of individually planned interventions, training, habilitation, or supports that help an individual obtain or maintain an optimal level of functioning, reduce the effects of disability or discomfort, or ameliorate symptoms, undesirable changes or conditions specific to physical, mental, behavioral, or social functioning.

"Case management service" means assisting individuals and their families to access services and supports that are essential to meeting their basic needs identified in their individualized service plan, which include not only accessing needed mental health, mental retardation and substance abuse services, but also any medical, nutritional, social, educational, vocational and employment, housing, economic assistance, transportation, leisure and recreational, legal, and advocacy services and supports that the individual needs to function in a community setting.

"Clubhouse service" means the provision of recovery-oriented psychosocial rehabilitation services in a nonresidential setting on a regular basis not less than two hours per day, five days per week, in which clubhouse members and employees work together in the development and implementation of structured activities involved in the day-to-day operation of the clubhouse facilities and in other social and employment opportunities through skills training, peer support, vocational rehabilitation, and community resource development.

"Commissioner" means the Commissioner of the Department of Mental Health, Mental Retardation and Substance Abuse Services or his authorized agent.

"Community gero-psychiatric residential services" means 24-hour nonacute care in conjunction with treatment in a setting that provides less intensive services than a hospital, but more intensive mental health services than a nursing home or group home. Individuals with mental illness, behavioral problems, and concomitant health problems (usually age 65 and older), appropriately treated in a geriatric setting, are provided intense supervision, psychiatric care, behavioral treatment planning, nursing, and other health related services. An Interdisciplinary Services Team assesses the individual and develops the services plan.

"Community intermediate care facility/mental retardation (ICF/MR)" means a service licensed by the Department of

Mental Health, Mental Retardation, and Substance Abuse Services in which care is provided to individuals who are mentally retarded who are not in need of nursing care, but who need more intensive training and supervision than may be available in an assisted living facility or group home. Such facilities must comply with Title XIX of the Social Security Act standards, provide health or rehabilitative services, and provide active treatment to individuals receiving services toward the achievement of a more independent level of functioning or an improved quality of life.

"Complaint" means an allegation brought to the attention of the department that a licensed provider violated these regulations.

"Corrective action plan" means the provider's pledged corrective action in response to noncompliances documented by the regulatory authority. A corrective action plan must be completed within a specified time.

"Correctional facility" means a facility operated under the management and control of the Virginia Department of Corrections.

"Corporal punishment" means punishment administered through the intentional inflicting of pain or discomfort to the body (i) through actions such as, but not limited to, striking or hitting with any part of the body or with an implement; (ii) through pinching, pulling or shaking; or (iii) through any similar action that normally inflicts pain or discomfort.

"Crisis" means a situation in which an individual presents an immediate danger to self or others or is at risk of serious mental or physical health deterioration.

"Day support service" means the provision of individualized planned activities, supports, training, supervision, and transportation to individuals with mental retardation to improve functioning or maintain an optimal level of functioning. Services may enhance the following skills: self-care and hygiene, eating, toileting, task learning, community resource utilization, environmental and behavioral skills, medication management, and transportation. Services may be provided in a facility (center based) or provided out in the community (noncenter based). Services are provided for two or more consecutive hours per day. The term "day support service" does not include services in which the primary function is to provide extended sheltered or competitive employment, supported or transitional employment services, general education services, general recreational services, or outpatient services licensed pursuant to this chapter.

"Day treatment services" means the provision of coordinated, intensive, comprehensive, and multidisciplinary treatment to individuals through a combination of diagnostic, medical, psychiatric, case management, psychosocial rehabilitation, prevocational and educational services. Services are provided for two or more consecutive hours per day.

"Department" means the Virginia Department of Mental Health, Mental Retardation and Substance Abuse Services.

"Discharge" means the process by which the individual's active involvement with a provider is terminated by the provider.

"Discharge plan" means the written plan that establishes the criteria for an individual's discharge from a service and coordinates planning for aftercare services.

"Dispense" means to deliver a drug to an ultimate user by or pursuant to the lawful order of a practitioner, including the prescribing and administering, packaging, labeling or compounding necessary to prepare the substance for that delivery. (§ 54.1-3400 et seq. of the Code of Virginia.)

"Emergency service" means mental health, mental retardation or substance abuse services available 24 hours a day and seven days per week that provide crisis intervention, stabilization, and referral assistance over the telephone or face-to-face for individuals seeking services for themselves or others. Emergency services may include walk-ins, home visits, jail interventions, pre-admission screenings, and other activities designed to stabilize an individual within the setting most appropriate to the individual's current condition.

"Group home residential service" means a residential service providing 24-hour supervision in a community-based, home-like dwelling, other than the private home of the operator. These services are provided for individuals needing assistance and training in activities of daily living or whose service plan identifies the need for the specific type of supervision available in this setting.

"Home and noncenter based" means that a service is provided in the home or other noncenter-based setting. This includes but is not limited to noncenter-based day support, supportive residential, and intensive in-home services.

"Individual" or "individual receiving services" means a person receiving care or treatment or other services from a provider licensed under this chapter whether that person is referred to as a patient, client, resident, student, individual, recipient, family member, relative, or other term. When the term is used, the requirement applies to every individual receiving services of the provider.

"Individualized services plan" or "ISP," means a comprehensive and regularly updated written plan of action to meet the needs and preferences of an individual.

"Inpatient psychiatric service" means a 24-hour intensive medical, nursing care and treatment provided for individuals with mental illness or problems with substance abuse in a hospital as defined in § 32.1-123 of the Code of Virginia or in a special unit of such a hospital.

"Intensive Community Treatment (ICT) service" means a comprehensive combination of outpatient and mental health community support services provided by a self-contained community-based services team composed of clinical employees, including at least one nurse, mental health professionals, and one or more psychiatrists. The ICT Team provides needed treatment, rehabilitation, and support services to people with serious and persistent mental illness. Most ICT services are delivered one-on-one to the individual in the community.

"Intensive in-home service" means time-limited family preservation interventions for children and adolescents who have or are at-risk of serious emotional disturbance, including such individuals who also have a diagnosis of mental

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retardation. Services are provided typically in the residence of an individual who is at risk of being moved to out-of-home placement or who is being transitioned back home from an out-of-home placement. These services include crisis treatment; individual and family counseling; life, parenting, and communication skills; case management activities and coordination with other services; and emergency response.

"Intensive outpatient service" means treatment provided in a concentrated manner (several hours per day per week) over a limited period of time for individuals requiring stabilization. These services usually include multiple group therapy sessions during the week, individual and family therapy, individual monitoring, and case management.

"Investigation" means a detailed inquiry or systematic examination of the operations of a provider or its services regarding a violation of regulations or law. An investigation may be undertaken as a result of a complaint, an incident report or other information that comes to the attention of the department.

"Legally authorized representative" means a person permitted by law or this chapter to give informed consent for disclosure of information and give informed consent to treatment, including medical treatment, and participation in human research for an individual who lacks the mental capacity to make these decisions.

"Licensed mental health professional (LMHP)" means a physician, licensed clinical psychologist, licensed professional counselor, licensed clinical social worker, licensed substance abuse treatment provider, or licensed psychiatric clinical nurse specialist.

"Location" means a place where services are or could be provided.

"Medical detoxification" means a service provided in a hospital or other 24-hour care facility, under the supervision of medical personnel using medication to systematically eliminate or reduce effects of alcohol or other drugs in the body.

"Medical evaluation" means the process of assessing an individual's health status that includes a medical history and a physical examination of the individual conducted by a licensed medical practitioner operating within the scope of his license.

"Medication" means prescribed or over-the-counter drugs or both.

"Medication administration" means the direct application of medications by injection, inhalation, or ingestion or any other means to an individual receiving services by (i) persons legally permitted to administer medications or (ii) the individual at the direction and in the presence of persons legally permitted to administer medications (§ 54.1-3401 of the Code of Virginia).

"Medication error" means that an error has been made in administering a medication to an individual when any of the following occur: (i) the wrong medication is given to an individual, (ii) the wrong individual is given the medication, (iii) the wrong dosage is given to an individual, (iv) medication is

given to an individual at the wrong time or not at all, or (v) the proper method is not used to give the medication to the individual.

"Mental Health Community Support Service (MHCSS)" means a comprehensive combination of case management services and psychosocial rehabilitation that is provided in accordance with a psychosocial rehabilitation service plan. MHCSS Services are provided in any setting in which the individual's needs can be addressed, skills training applied, and recovery experienced.

"Mental illness" means mental disorder or functioning classifiable under the current edition of the Diagnostic and Statistical Manual of the American Psychiatric Association that affects the well-being or behavior of an individual to such an extent that for his own welfare or the welfare of others, he requires care and treatment.

"Mental retardation" means substantial subaverage general intellectual functioning that originates during the development period, existing concurrently with related limitations in two or more of the following applicable adaptive skill areas: communication, self-care, home living, social skills, community use, self-direction, health and safety, functional academics, leisure, and work.

"Neglect" means the failure by an individual or provider responsible for providing services to provide nourishment, treatment, care, goods, or services necessary to the health, safety or welfare of a person receiving care or treatment for mental illness, mental retardation or substance abuse (§ 37.1-1 of the Code of Virginia).

"Opioid treatment service" means an intervention strategy that combines outpatient treatment with the administering or dispensing of opioid agonist treatment medication. An individual-specific, physician-ordered dose of medication is administered or dispensed either for detoxification or maintenance treatment.

"Outpatient service" means a variety of treatment interventions generally provided to individuals, groups or families on an hourly schedule in a clinic or similar facility or in another location. Outpatient services include, but are not limited to, emergency services, crisis intervention services, diagnosis and evaluation, intake and screening, counseling, psychotherapy, behavior management, psychological testing and assessment, chemotherapy and medication management services, and jail based services. "Outpatient service" specifically includes:

1. Services operated by a community services board established pursuant to Chapter 10 (§ 37.1-194 et seq.) of Title 37.1 of the Code of Virginia;
2. Services funded wholly or in part, directly or indirectly, by a community services board established pursuant to Chapter 10 (§ 37.1-194 et seq.) of Title 37.1 of the Code of Virginia; or
3. Services that are owned, operated, or controlled by a corporation organized pursuant to the provisions of either Chapter 9 (§ 13.1-601 et seq.) or Chapter 10 (§ 13.1-801 et seq.) of Title 13.1 of the Code of Virginia.

"Partial hospitalization service" means the provision within a medically supervised setting of day treatment services that are time-limited active treatment interventions, more intensive than outpatient services, designed to stabilize and ameliorate acute symptoms, and serve as an alternative to inpatient hospitalization or to reduce the length of a hospital stay.

"Program of Assertive Community Treatment (PACT) service" means an intensive community treatment service provided with more enriched staffing levels than are provided through an ICT.

"Private practice group" means one or more practitioners who are individually licensed or certified under the provisions of Title 54.1 of the Code of Virginia and their employees who are individually licensed or certified under the provisions of Title 54.1 of the Code of Virginia or who are otherwise legally authorized to render professional services within this Commonwealth, who have for purposes of convenience or efficiency associated or grouped themselves through the use of shared office space or administrative support in order to provide professional services within the scope and limits of their individual and respective professional licenses or certifications, whether the association is informal or has been formalized through a legally established organization such as a professional corporation organized pursuant to the provisions of Chapter 7 (§ 13.1-542 et seq.) of Title 13.1 of the Code of Virginia, or a general partnership organized under the provisions of Chapter 1 (50-1 et seq.) of Title 50 of the Code of Virginia.

"Provider" means any person, entity or organization, excluding an agency of the federal government by whatever name or designation, that provides services to individuals with mental illness, mental retardation or substance addiction or abuse including the detoxification, treatment or rehabilitation of drug addicts through the use of the controlled drug methadone or other opioid replacements. Such person, entity or organization shall include a hospital as defined in § 32.1-123 of the Code of Virginia, community services board as defined in § 37.1-194.1 of the Code of Virginia, behavioral health authority as defined in § 37.1-243 of the Code of Virginia, private provider, and any other similar or related person, entity or organization. It shall not include any individual practitioner who holds a license issued by a health regulatory board of the Department of Health Professions or who is exempt from licensing pursuant to §§ 54.1-2901, 54.1-3001, 54.1-3501, 54.1-3601 and 54.1-3701 of the Code of Virginia. It does not include any person providing uncompensated services to a family member.

"Psychosocial rehabilitation service" means care or treatment for individuals with long-term, severe psychiatric disabilities, which is designed to improve their quality of life by assisting them to assume responsibility over their lives and to function as actively and independently in society as possible, through the strengthening of individual skills and the development of environmental supports necessary to sustain community living. Psychosocial rehabilitation includes skills training, peer support, vocational rehabilitation, and community resource development oriented toward empowerment, recovery, and competency.

"Qualified Mental Health Professional (QMHP)" means a clinician in the health professions who is trained and experienced in providing psychiatric or mental health services to individuals who have a psychiatric diagnosis; including a (i) physician: a doctor of medicine or osteopathy; (ii) psychiatrist: a doctor of medicine or osteopathy, specializing in psychiatry and licensed in Virginia; (iii) psychologist: an individual with a master's degree in psychology from an college or university with at least one year of clinical experience; (iv) social worker: an individual with at least a bachelor's degree in human services or related field (social work, psychology, psychiatric rehabilitation, sociology, counseling, vocational rehabilitation, human services counseling or other degree deemed equivalent to those described) from an accredited college and with at least one year of clinical experience providing direct services to persons with a diagnosis of mental illness; (v) Registered Psychiatric Rehabilitation Provider (RPRP) registered with the International Association of Psychosocial Rehabilitation Services (IAPRS); or (vi) registered nurse licensed in the Commonwealth of Virginia with at least one year of clinical experience.

"Qualified Mental Retardation Professional (QMRP)" means an individual possessing at least one year of documented experience working directly with individuals who have mental retardation or other developmental disabilities and is one of the following: a doctor of medicine or osteopathy, a registered nurse, or holds at least a bachelor's degree in a human services field including, but not limited to, sociology, social work, special education, rehabilitation counseling, and psychology.

"Qualified Paraprofessional in Mental Health (QPPMH)" means an individual who must, at a minimum, meet one of the following criteria: (i) registered with the International Association of Psychosocial Rehabilitation Services (IAPRS) as an Associate Psychiatric Rehabilitation Provider (APRP); (ii) an Associate's Degree in a related field (social work, psychology, psychiatric rehabilitation, sociology, counseling, vocational rehabilitation, human services counseling) and at least one year of experience providing direct services to persons with a diagnosis of mental illness; or (iii) a minimum of 90 hours classroom training and 12 weeks of experience under the direct personal supervision of a QMHP providing services to persons with mental illness and at least one year of experience (including the 12 weeks of supervised experience).

"Referral" means the process of directing an applicant or an individual to a provider or service that is designed to provide the assistance needed.

"Residential crisis stabilization service" means providing short-term, intensive treatment to individuals who require multidisciplinary treatment in order to stabilize acute psychiatric symptoms and prevent admission to a psychiatric inpatient unit.

"Residential service" means a type of service providing 24-hour care in conjunction with care and treatment or a training program in a setting other than a hospital. Residential services provide a range of living arrangements from highly structured and intensively supervised to relatively independent requiring a modest amount of staff support and

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monitoring. Residential services include, but are not limited to: residential treatment, group homes, supervised living, residential crisis stabilization, community gero-psychiatric residential, community intermediate care facility-MR, sponsored residential homes, medical and social detox, sobering-up, and substance abuse residential treatment for women and children.

"Residential treatment service" means providing an intensive and highly structured mental health or substance abuse treatment service in a residential setting, other than an inpatient service.

"Respite care service" means providing or arranging for a short-term, time limited period of care of an individual for the purpose of providing relief to the individual's family, guardian, or regular care giver. Individuals providing respite care are recruited, trained, and supervised by a licensed provider. These services may be provided in a variety of settings including residential, day support, in-home, or in a sponsored residential home.

"Restraint" means the use of an approved mechanical device, physical intervention or hands-on hold, or pharmacologic agent to involuntarily prevent an individual receiving services from moving his body to engage in a behavior that places him or others at risk. This term includes restraints used for behavioral, medical, or protective purposes.

1. A restraint used for "behavioral" purposes means the use of an approved physical hold, a psychotropic medication, or a mechanical device that is used for the purpose of controlling behavior or involuntarily restricting the freedom of movement of the individual in an instance in which there is an imminent risk of an individual harming himself or others, including staff; when nonphysical interventions are not viable; and safety issues require an immediate response.

2. A restraint used for "medical" purposes means the use of an approved mechanical or physical hold to limit the mobility of the individual for medical, diagnostic, or surgical purposes and the related post-procedure care processes, when the use of such a device is not a standard practice for the individual's condition.

3. A restraint used for "protective" purposes means the use of a mechanical device to compensate for a physical deficit, when the individual does not have the option to remove the device. The device may limit an individual's movement and prevent possible harm to the individual (e.g., bed rail or gerichair) or it may create a passive barrier to protect the individual (e.g., helmet).

4. A "mechanical restraint" means the use of an approved mechanical device that involuntarily restricts the freedom of movement or voluntary functioning of a limb or a portion of a person's body as a means to control his physical activities, and the individual receiving services does not have the ability to remove the device.

5. A "pharmacological restraint" means a drug that is given involuntarily for the emergency control of behavior when it is not standard treatment for the individual's medical or psychiatric condition.

6. A "physical restraint" (also referred to "manual hold") means the use of approved physical interventions or "hands-on" holds to prevent an individual from moving his body to engage in a behavior that places him or others at risk of physical harm. Physical restraint does not include the use of "hands-on" approaches that occur for extremely brief periods of time and never exceed more than a few seconds duration and are used for the following purposes: (i) to intervene in or redirect a potentially dangerous encounter in which the individual may voluntarily move away from the situation or hands-on approach or (ii) to quickly de-escalate a dangerous situation that could cause harm to the individual or others.

"Restriction" means anything that limits or prevents an individual from freely exercising his rights and privileges.

"Screening" means the preliminary assessment of an individual's appropriateness for admission or readmission to a service.

"Seclusion" means the involuntary placement of an individual receiving services alone, in a locked room or secured area from which he is physically prevented from leaving.

"Serious injury" means any injury resulting in bodily hurt, damage, harm or loss that requires medical attention by a licensed physician.

"Service" or "services" means individually planned interventions intended to reduce or ameliorate mental illness, mental retardation or substance addiction or abuse through care and treatment, training, habilitation or other supports that are delivered by a provider to individuals with mental illness, mental retardation, or substance addiction or abuse.

"Shall" means an obligation to act is imposed.

"Shall not" means an obligation not to act is imposed.

"Skills training" means systematic skill building through curriculum-based psychoeducational and cognitive-behavioral interventions. These interventions break down complex objectives for role performance into simpler components, including basic cognitive skills such as attention, to facilitate learning and competency.

"Sobering-up service" means a residential service for the diversion of public inebriates from jail for the purpose of monitoring withdrawal from excessive use of alcohol.

"Social detoxification service" means providing nonmedical supervised care for the natural process of withdrawal from excessive use of alcohol or other drugs.

"Sponsored residential home" means a service where providers arrange for, supervise and provide programmatic, financial, and service support to families or individuals (sponsors) providing care or treatment in their own homes.

"State authority" means the Virginia Department of Mental Health, Mental Retardation and Substance Abuse Services. This is the agency designated by the Governor to exercise the responsibility and authority for governing the treatment of opiate addiction with an opioid drug.

"Substance abuse" means the use, without compelling medical reason, of any substance which results in psychological or physiological dependency or danger to self or others as a function of continued use in such a manner as to induce mental, emotional or physical impairment and cause socially dysfunctional or socially disordering behavior (§ 37.1-203 of the Code of Virginia).

"Substance abuse residential treatment for women with children service" means a 24-hour residential service providing an intensive and highly structured substance abuse service for women with children who live in the same facility.

"Supervised living residential service" means the provision of significant direct supervision up to 24 hours a day and community support services in an apartment or other residential setting. Services would be provided based on the needs of the individual in areas such as food preparation, house keeping, medication administration, personal hygiene, and budgeting.

"Supportive residential service" means the provision of community support services and other structured services to assist individuals. Services strengthen individual skills and provide environmental supports necessary to attain and sustain independent community residential living. They include, but are not limited to, drop-in or friendly-visitor support and counseling to more intensive support, monitoring, training, in-home support, in-home respite care and family support services. Services are based on the needs of the individual and include training and assistance. These services normally do not involve overnight care by the provider; however, due to the flexible nature of these services, overnight care may be provided on an occasional basis.

"Time out" means assisting an individual to regain emotional control by removing the individual from his immediate environment to a different, open location until he is calm or the problem behavior has subsided.

"Volunteer" means a person who, without financial remuneration, provides services to individuals on behalf of the provider.

PART II.
LICENSING PROCESS.

12 VAC 35-105-30. Licenses.

A. Licenses are issued to providers who offer services to one or a combination of the three disability groups: persons with mental illness, persons with mental retardation, and persons with substance addiction or abuse problems.

B. Providers shall be licensed to provide specific services as defined in this chapter or as determined by the commissioner. These services include:

1. Case management;
2. Clubhouse;
3. Community gero-psychiatric residential;
4. Community intermediate care facility-MR;
5. Day treatment;

6. Emergency;
7. Group home residential;
8. Inpatient psychiatric;
9. Intensive Community Treatment (ICT);
10. Intensive in-home;
11. Intensive outpatient;
12. Medical detox;
13. Mental health community support service;
14. Mental retardation day support;
15. Opioid treatment;
16. Outpatient;
17. Partial hospitalization;
18. Program of assertive community treatment (PACT);
19. Psychosocial rehabilitation;
20. Residential crisis stabilization;
21. Residential treatment;
22. Respite;
23. Sobering up;
24. Social detox;
25. Sponsored residential home;
26. Substance abuse residential treatment for women with children;
27. Supervised living; and
28. Supportive residential.

C. A license addendum describes the services licensed, the population served, specific locations where services are provided or organized and the terms, and conditions for each service offered by a licensed provider. For residential and inpatient services, the license identifies the number of beds each location may serve.

12 VAC 35-105-40. Application requirements.

A. All providers that are not currently licensed shall be required to apply for a license using application designated by the commissioner. Providers applying for a license must submit:

1. A working budget showing projected revenue and expenses for the first year of operation, including a revenue plan.
2. Documentation of working capital:
 - a. Funds or a line of credit sufficient to cover at least 90 days of operating expenses if the provider is a corporation, unincorporated organization or association, a sole proprietor or a partnership.
 - b. Appropriated revenue if the provider is a state or local government agency, board or commission.

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3. Documentation of authority to conduct business in the Commonwealth of Virginia.

B. New or existing providers must submit an application for each service and submit:

1. A staffing plan;
2. Employee credentials or job descriptions containing all the elements outlined in 12 VAC 35-105-410 A;
3. A service description containing all the elements outlined in 12 VAC 35-105-580 C;
4. Records management policy containing all the elements outlined in 12 VAC 35-105-390 and 12 VAC 35-105-870 A; and
5. A certificate of occupancy, floor plan (with dimensions), and any required inspections for all service locations.

C. A completed application for renewal shall be submitted prior to the expiration of any full (including annual or triennial) or provisional license.

12 VAC 35-105-50. Issuance of licenses.

A. The commissioner issues licenses.

B. A conditional license shall be issued to a new provider or service that demonstrates compliance with administrative and policy regulations but has not demonstrated compliance with all the regulations.

1. A conditional license shall not exceed six months.
2. A conditional license may be renewed if the provider is not able to demonstrate compliance with all the regulations at the end of the license period. A conditional license and any renewals shall not exceed 12 successive months for all conditional licenses and renewals combined.
3. A provider or service holding a conditional license shall demonstrate progress toward compliance.

C. A provisional license may be issued to a provider or service that has demonstrated an inability to maintain compliance with regulations, has a serious violation of human rights or licensing regulations, has multiple violations of human rights or licensing regulations, or has failed to comply with a previous corrective action plan.

1. A provisional license may be issued at any time.
2. The term of a provisional license may not exceed six months.
3. A provisional license may be renewed; but a provisional license and any renewals shall not exceed 12 successive months for all provisional licenses and renewals combined.
4. A provider or service holding a provisional license shall demonstrate progress toward compliance.
5. A provisional license for a service shall be noted as a stipulation on the provider license. The stipulation shall also indicate the violations to be corrected and the expiration date of the provisional license.

D. A full license shall be issued after a provider or service demonstrates compliance with all the applicable regulations.

1. A full license may be granted for up to three years. The length of the license shall be in the sole discretion of the commissioner.

2. If a full license is granted for three years, it shall be referred to as a triennial license. A triennial license shall be granted to providers who have had no noncompliances or only minor violations during the previous license period. The commissioner may waive this limitation if the provider has demonstrated consistent compliance for more than a year or that sufficient provider oversight is in place.

3. If a full license is granted for one year, it shall be referred to as an annual license.

4. The term of the first full renewal license after the expiration of a conditional or provisional license may not exceed one year.

E. The license may bear stipulations. Stipulations may be limitations on the provider or may impose additional requirements. Terms of any such stipulations on licenses issued to the provider shall be specified on the provider license.

F. A license shall not be transferred or assigned to another provider. A new application shall be made and a new license issued when there is a change in ownership.

G. A license shall not be issued or renewed unless the provider is affiliated with a local human rights committee.

H. No service may be issued a license with an expiration date after the expiration date of the provider license.

I. A license continues in effect after the expiration date if the provider has submitted a renewal application before the date of expiration and there are no grounds to deny the application.

12 VAC 35-105-60. Modification.

A. Upon written request by the provider, the license may be modified during the term of the license with respect to the populations served (disability, age, and gender), the services offered, the locations where services are provided, stipulations and the maximum number of beds. Approval of such request shall be at the sole discretion of the commissioner.

B. A change requiring a modification of the license shall not be implemented prior to approval by the commissioner. The department may give approval to implement a modification pending the issuance of the modified license based on guidelines determined by the commissioner.

12 VAC 35-105-70. Onsite reviews.

A. The department shall conduct an announced or unannounced onsite review of all new providers and services to determine compliance with these regulations.

B. The department shall conduct unannounced onsite reviews of licensed providers and each of its services at any time and at least annually to determine compliance with these

regulations. The annual unannounced onsite reviews shall be focused on preventing specific risks to individuals, including an evaluation of the physical facilities in which the services are provided.

C. The department may conduct announced and unannounced onsite reviews at any time as part of the investigations of complaints or incidents to determine if there is a violation of these regulations.

12 VAC 35-105-80. Complaint investigations.

The department shall investigate all complaints regarding potential violations of licensing regulations. Complaint investigations may be based on onsite reviews, a review of records, a review of provider reports or telephone interviews.

12 VAC 35-105-90. Compliance.

A. The department shall determine the level of compliance with each regulation as follows:

1. "Compliance" (C) means the provider is clearly in compliance with a regulation.
2. "Noncompliance" (NC) means the provider is clearly in noncompliance with part or all of a regulation.
3. "Not Determined" (ND) means that the provider must provide additional information to determine compliance with a regulation.
4. "Not Applicable" (NA) means the provider is not required to demonstrate compliance with the provisions of a regulation at the time.

B. The provider, including its employees, contract service providers, student interns and volunteers, shall comply with all applicable regulations.

12 VAC 35-105-100. Sanctions.

A. The commissioner may invoke the sanctions enumerated in § 37.1-185.1 of the Code of Virginia upon receipt of information that a licensed provider is:

1. In violation of the provisions of §§ 37.1-84.1 and 37.1-179 through 37.1-189.1 of the Code of Virginia, these regulations, or the provisions of the Rules and Regulations to Assure the Rights of Individuals Receiving Services from Providers of Mental Health, Mental Retardation and Substance Abuse Services (12 VAC 35-115); and
2. Such violation adversely impacts the human rights of individuals, or poses an imminent and substantial threat to the health, safety or welfare of individuals.

The commissioner shall notify the provider in writing of the specific violations found, and of his intention to convene an informal conference pursuant to § 2.2-4019 of the Code of Virginia at which the presiding officer will be asked to recommend issuance of a special order.

B. The sanctions contained in the special order shall remain in effect during the pendency of any appeal of the special order.

12 VAC 35-105-110. Denial, revocation or suspension of a license.

A. An application for a license or license renewal may be denied and a full, conditional, or provisional license may be revoked or suspended for one or more of the following reasons:

1. The provider has violated any provisions of Chapter 8 (§ 37.1-179 et seq.) of Title 37.1 of the Code of Virginia or these licensing regulations;
2. The provider's conduct or practices are detrimental to the welfare of any individual or in violation of human rights identified in § 37.1-84.1 of the Code of Virginia or the human rights regulations (12 VAC 35-115);
3. The provider permits, aids, or abets the commission of an illegal act;
4. The provider fails or refuses to submit reports or to make records available as requested by the department;
5. The provider refuses to admit a representative of the department to the premises; or
6. The provider fails to submit an adequate corrective action plan.

B. A provider shall be notified in writing of the department's intent to deny, revoke or suspend a License; the reasons for the action; the right to appeal; and the appeal process. The provider has the right to appeal the department's decision under the provisions of the Administrative Process Act (§ 2.2-4000 et seq.) of the Code of Virginia.

12 VAC 35-105-120. Variances.

The commissioner may grant a variance to a specific regulation if he determines that such a variance will not jeopardize the health, safety or welfare of individuals and upon demonstration by the provider requesting such variance that complying with the regulation would be a hardship unique to the provider. A provider shall submit a request for a variance in writing to the commissioner. A variance may be time limited or have other conditions attached to it. The department must approve a variance prior to implementation.

12 VAC 35-105-130. Confidentiality of records.

Records that are confidential under federal or state law shall be maintained as confidential by the department and shall not be further disclosed except as permitted by law.

PART III.
ADMINISTRATIVE SERVICES.

Article 1.
Management and Administration.

12 VAC 35-105-140. License availability.

The current license or a copy shall be prominently displayed for public inspection in all locations.

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12 VAC 35-105-150. Compliance with applicable laws, regulations and policies.

The provider including its employees, contractors, students, and volunteers shall comply with:

1. These regulations;
2. Terms of the license;
3. All applicable federal, state or local laws, and regulations including but not limited to:
 - a. Laws regarding employment practices including Equal Employment Opportunity Act;
 - b. Americans with Disabilities Act;
 - c. Occupational Safety and Health Administration regulations;
 - d. Virginia Department of Health regulations;
 - e. Laws or regulations of the Department of Health Professions;
 - f. Uniform Statewide Building Code; and
 - g. Uniform Statewide Fire Prevention Code.
4. Section 37.1-84.1 of the Code of Virginia on the human rights of individuals receiving services and related human rights regulations;
5. Section 37.1-197.1 of the Code of Virginia regarding prescreening and predischarge planning. Providers responsible for complying with § 37.1-197.1 are required to develop and implement policies and procedures that include:
 - a. Identification of employees or services responsible for prescreening and predischarge planning services for all disability groups; and
 - b. Completion of predischarge plans prior to an individual's discharge in consultation with the state facility which:
 - (1) Involve the individual or his legally authorized representative and reflect the individual's preferences to the greatest extent possible consistent with the individual's needs.
 - (2) Include the mental health, mental retardation, substance abuse, social, educational, medical, employment, housing, legal, advocacy, transportation, and other services that the individual will need upon discharge into the community and identify the public or private agencies or persons that have agreed to provide them.
6. The provider's own policies.

12 VAC 35-105-160. Reviews by the department; requests for information.

- A. The provider shall permit representatives from the department to conduct reviews to:
1. Verify application information;

2. Assure compliance with these regulations; and
3. Investigate complaints.

B. The provider shall cooperate fully with inspections and provide all information requested to assist representatives from the department who conduct inspections.

C. The provider shall collect, maintain and report:

1. Each allegation of abuse or neglect to the assigned human rights advocate within 24 hours from the receipt of the initial allegation and the investigating authority shall provide a written report of the results of the investigation of abuse or neglect to the provider and the human rights advocate within 10 working days, unless an exemption has been granted, from the date the investigation began. The report shall include but not be limited to the following: whether abuse, neglect or exploitation occurred; type of abuse; and whether the act resulted in physical or psychological injury.

2. Deaths and serious injuries in writing to the department within 24 hours of discovery and by phone to the legally authorized representative as applicable within 24 hours to include but not be limited to the following: the date and place of death or serious injury; nature of injuries and treatment required; and circumstances of death or serious injury.

3. Each instance of seclusion or restraint that does not comply with the human rights regulations or approved variances, or that results in injury to an individual, shall be reported to the legally authorized representative and the assigned human rights advocate within 24 hours.

D. The provider shall submit, or make available, reports and information that the department requires to establish compliance with these regulations and applicable statutes.

E. Records that are confidential under federal or state law shall be maintained as confidential by the department and shall not be further disclosed except as permitted by law; however, there shall be no right of access to communications that are privileged pursuant to § 8.01-581.17 of the Code of Virginia.

F. If compliance with a regulation cannot be determined, the department shall issue a licensing report requesting additional information. Additional information must be submitted within 10 business days of the issuance of the licensing report. Extensions may be granted by the department when requested prior to the due date, but extensions shall not exceed an additional 10 business days.

12 VAC 35-105-170. Corrective action plan.

A. If there is noncompliance with any of these regulations during an initial or ongoing review or investigation, the department shall issue a licensing report describing the noncompliance and requesting the provider to submit a corrective action plan.

B. The provider shall submit to the department and implement a written corrective action plan for each regulation found to be in noncompliance with these regulations identified on the licensing report.

C. The plan corrective action plan shall include a:

1. Description of the corrective actions to be taken;
2. Date of completion for each action; and
3. Signature of the person responsible for the service.

D. The provider shall submit corrective action plans to the department within 10 business days of the issuance of the licensing report. Extensions may be granted by the department when requested prior to the due date, but extensions shall not exceed an additional 10 business days. An immediate corrective action shall be required if the department determines that the violations pose a danger to individuals.

E. A corrective action plan shall be approved by the department. The provider has an additional 10 business days to submit a revised corrective action plan after receiving a notice that the plan submitted has not been approved.

F. The provider shall monitor implementation of pledged corrective action and include a plan for such monitoring in its quality assurance activities specified in 12 VAC 30-105-620.

12 VAC 35-105-180. Notification of changes.

A. The provider shall notify the department in writing prior to implementing changes that affect:

1. Organizational or administrative structure, including the name of the provider;
2. Geographic location of the provider or its services;
3. Service description as defined in these regulations;
4. Significant changes in employee or contractor qualifications; or
5. Bed capacity for services providing residential or inpatient services.

B. The provider shall not implement the specified changes without the approval of the department.

C. The provider shall provide any documentation necessary for the department to determine continued compliance with these regulations after any of these specified changes are implemented.

12 VAC 35-105-190. Operating authority, governing body and organizational structure.

A. The provider shall provide evidence of its operating authority.

1. A public organization shall provide documents describing the administrative framework of the governmental department of which it is a component.
2. All private organizations except sole proprietorships shall provide a certification from the State Corporation Commission.

B. The provider's governing body and organizational structure shall be clearly identified by providing an organizational chart.

C. The provider shall document the role and actions of the governing body, which shall be consistent with its operating

authority. The provider shall identify its operating elements and services, the internal relationship among these elements and services, and the management or leadership structure.

12 VAC 35-105-200. Appointment of administrator.

The provider shall appoint qualified persons to whom it delegates, in writing, the authority and responsibility for the administrative direction and day-to-day operation of the provider and its services.

12 VAC 35-105-210. Fiscal accountability.

A. The provider shall document financial resources to operate its services or facilities or shall have a line of credit sufficient to cover 90 days of operating expense, based on a working budget showing projected revenue and expenses.

B. At the end of each fiscal year, the provider shall prepare, according to generally accepted accounting principles (GAAP) or those standards promulgated by the Governmental Accounting Standards Board (GASB) and the State Auditor of Public Accounts:

1. An operating statement showing revenue and expenses for the fiscal year just ended.
2. A balance sheet showing assets and liabilities for the fiscal year just ended. At least once every three years, all financial records shall be audited by an independent Certified Public Accountant (CPA) or audited as otherwise provided by law.

C. The provider shall have written internal controls to minimize the risk of theft or embezzlement of provider funds.

D. At a minimum, the person who has the authority and responsibility for the fiscal management of the provider shall be bonded or otherwise indemnified.

12 VAC 35-105-220. Indemnity coverage.

To protect the interests of individuals, employees, and the provider from risks of liability, there shall be indemnity coverage to include:

1. General liability;
2. Professional liability;
3. Vehicular liability; and
4. Property damage.

12 VAC 35-105-230. Written fee schedule.

If the provider charges for services, the written schedule of rates and charges shall be available upon request.

12 VAC 35-105-240. Policy on funds of individuals receiving services.

A. The provider shall establish and implement a written policy for handling funds of individuals receiving services, including providing for separate accounting of individual funds.

B. The provider shall have documented financial controls to minimize the risk of theft or embezzlement of funds of individuals receiving services.

Proposed Regulations

C. The provider shall purchase a surety bond or otherwise provide assurance for the security of all funds of individuals receiving services deposited with the provider.

12 VAC 35-105-250. Deceptive or false advertising.

A. The provider shall not use any advertising that contains false, misleading or deceptive statements or claims, or false or misleading disclosure of fees and payment for services.

B. The provider's name and service names shall not imply the provider is offering services for which it is not licensed.

Article 2.
Physical Environment.

12 VAC 35-105-260. Building inspection and classification.

All locations shall be inspected and approved as required by the appropriate building regulatory entity. Approval shall be a Certificate of Use and Occupancy indicating the building is classified for its proposed licensed purpose. This section does not apply to correctional facilities or home and noncenter-based services. Sponsored residential services shall certify compliance of sponsored residential homes with this regulation.

12 VAC 35-105-270. Building modifications.

A. Building plans and specifications for new construction of locations, change in use of existing locations, and any structural modifications or additions to existing locations where services are provided shall be submitted for review by the department and shall be approved by appropriate regulatory authorities. This section does not apply to correctional facilities, jails, or home and noncenter-based services.

B. An interim plan addressing safety and continued service delivery shall be required for new construction or for conversion, structural modifications or additions to existing buildings.

12 VAC 35-105-280. Physical environment.

A. The physical environment shall be appropriate to the population served and the services provided.

B. The physical environment and furnishings shall be clean, dry, free of foul odors, safe, and well-maintained.

C. The design, structure, furnishing, and lighting shall promote the ability of employees and individuals to have clear visual perception of the physical environment.

D. Floor surfaces and floor covering shall promote mobility in areas used by individuals and shall promote maintenance of sanitary conditions.

E. The physical environment shall be well ventilated. Temperatures shall be maintained between 65°F and 80°F.

F. Adequate hot and cold running water of a safe and appropriate temperature shall be available. Hot water accessible to residents shall be maintained within a range of 100-120°F.

G. Lighting shall be sufficient for the activities being performed and all areas within buildings and outside entrances and parking areas shall be lighted for safety.

H. Recycling, composting, and garbage disposal shall not create a nuisance, permit transmission of disease, or create a breeding place for insects or rodents.

I. If smoking is permitted, the provider shall make provisions for alternate smoking areas separate from the service environment. This regulation does not apply to home-based services.

J. For all program areas added after [the effective date of these regulations], minimum room height shall be 7-1/2 feet.

K. This section does not apply to home and noncenter-based services. Sponsored residential services shall certify compliance of sponsored residential homes with this regulation.

12 VAC 35-105-290. Food service inspections.

Any location where the provider is responsible for preparing or serving food shall request inspection and approval by state or local health authorities regarding food service and general sanitation at the time of the original application and annually thereafter. Documentation of the most recent three inspections and approval shall be kept on file.

12 VAC 35-105-300. Sewer and water inspections.

A location shall either be on city or county water and sewage systems or the location's water and sewage system shall be inspected and approved by state or local health authorities at the time of its original application and annually thereafter. Documentation of the three most recent inspections and approval shall be kept on file. Sponsored residential home services shall certify compliance of sponsored residential homes with this regulation.

12 VAC 35-105-310. Weapons.

To the extent permitted by law, weapons shall be prohibited, except when carried by licensed security personnel. Sponsored residential home services shall certify compliance of sponsored residential homes with this regulation. This section does not apply to correctional facilities or to individuals, family members or friends of individuals receiving services in their own home.

12 VAC 35-105-320. Fire inspections.

The provider shall document at the time of its original application and annually thereafter that buildings and equipment in locations with more than eight beds are maintained in accordance with the Virginia Statewide Fire Prevention Code (13 VAC 5-51). This section does not apply to correctional facilities or home and noncenter-based or sponsored residential home services.

Article 3.

Physical Environment of Residential/Inpatient Service Locations.

12 VAC 35-105-330. Beds.

A. The provider shall not operate more beds than the number for which its service location or locations are licensed.

B. A community intermediate care facility for the mentally retarded may not have more than 20 beds at any one location. This applies to new applications for services after [the effective date of these regulations].

12 VAC 35-105-340. Bedrooms.

A. Size of bedrooms.

1. Single occupancy bedrooms shall have no less than 80 square feet of floor space.

2. Multiple occupancy bedrooms shall have no less than 60 square feet of floor space per individual.

3. This subsection does not apply to community geropsychiatric residential services.

B. No more than four individuals shall share a bedroom.

C. Each individual shall be assigned adequate storage space accessible to the bedroom for clothing and personal belongings.

D. This section does not apply to correctional facilities, jails and sobering-up centers. Sponsored residential home services shall certify compliance of sponsored residential homes with this regulation.

12 VAC 35-105-350. Condition of beds.

Beds shall be clean, comfortable and equipped with a mattress, pillow, blankets, and bed linens. Bed linens shall be changed every seven days or more often as needed. Providers shall give individuals a partial bath, clean clothing, and linens each time their clothing or bed linen is soiled. Sponsored residential home services shall certify compliance of sponsored residential homes with this regulation.

12 VAC 35-105-360. Privacy.

A. Bedroom and bathroom windows and doors shall provide privacy.

B. Bathrooms not intended for individual use shall provide privacy for showers and toilets.

C. No required path of travel to the bathroom shall be through another bedroom.

D. This section does not apply to correctional facilities and jails. Sponsored residential home services shall certify compliance of sponsored residential homes with this regulation.

12 VAC 35-105-370. Ratios of toilets, basins and showers or baths.

For all residential and inpatient locations established, constructed or reconstructed after January 13, 1995, there shall be at least one toilet, one hand basin, and shower or

bath for every four individuals. Sponsored residential home services shall certify compliance of sponsored residential homes with this regulation. This section does not apply to correctional facilities or jails.

12 VAC 35-105-380. Lighting.

Each location shall have adequate lighting in halls and bathrooms at night. Sponsored residential home services shall certify compliance of sponsored residential homes with this regulation.

Article 4.

Human Resources.

12 VAC 35-105-390. Confidentiality and security of personnel records.

A. The provider shall maintain an organized system to manage and protect the confidentiality of personnel files and records.

B. Physical and data security controls shall exist for electronic records.

C. Providers shall comply with requirements of the American with Disabilities Act regarding retention of employee health-related information in a file separate from personnel files.

12 VAC 35-105-400. Criminal background checks.

A. After July 1, 1999, providers shall not hire as employees or contractors in any direct care position persons who have been convicted of crimes outlined in § 37.1-183.3 of the Code of Virginia.

1. Prior to a new employee or contractor beginning duties, the provider shall obtain a disclosure statement concerning whether he has ever been convicted of or is the subject of pending charges for any offense and the provider shall submit all information required by the department to complete the background checks.

2. The provider shall maintain the following documentation in the employee or contractor's confidential personnel record:

a. The employee's disclosure statement;

b. Documentation that the provider submitted all information required by the department to complete the background checks or memoranda from the department transmitting the results to the provider.

B. Prior to a new employee or contractor beginning duties, the provider shall obtain the employee's or contractor's written consent and personal information necessary to obtain a search of the registry of founded complaints of child abuse and neglect maintained by the Department of Social Services. Results of the search of the registry shall be maintained in the employee's or contractor's personnel record.

12 VAC 35-105-410. Job description.

A. Each employee or contractor shall have a written job description that includes:

1. Job title;

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2. Duties and responsibilities required of the position;
3. Job title of the immediate supervisor; and
4. Minimum knowledge, skills, and abilities, experience or professional qualifications required for entry level as specified in 12 VAC 35-105-420.

B. Employees or contractors shall have access to their current job description. There shall be a mechanism for advising employees or contractors of changes to their job responsibilities.

12 VAC 35-105-420. Qualifications of employees or contractors.

A. Any person who assumes the responsibilities of any employee position shall meet the minimum qualifications of that position as determined by job descriptions.

B. Employees and contractors shall comply, as required, with the regulations of the Department of Health Professions. The provider shall design and implement a mechanism to verify professional credentials.

C. Program directors shall have experience in working with the population served and in providing the services outlined in the service description.

D. Job descriptions shall include minimum knowledge, skills and abilities, professional qualification and experience appropriate to the duties and responsibilities required of the position.

12 VAC 35-105-430. Employee or contractor personnel records.

A. Employee or contractor personnel record, whether hard-copy or electronic, shall include:

1. Identifying information;
2. Education and training history;
3. Employment history;
4. Results of the provider credentialing process including methods of verification of applicable professional licenses or certificates;
5. Results of reasonable efforts to secure job-related references and reasonable verification of employment history;
6. Results of criminal background checks and a search of the registry of founded complaints of child abuse and neglect, if any;
7. Results of performance evaluations;
8. A record of disciplinary action taken by the provider, if any;
9. A record of adverse action by any licensing bodies and organizations and state human rights regulations, if any; and
10. A record of participation in employee development activities, including orientation.

B. Each employee or contractor personnel record shall be retained in its entirety for a minimum of three years after termination of employment.

12 VAC 35-105-440. Orientation of new employees, contractors, volunteers, and students.

New employees, contractors, volunteers, and students shall be oriented commensurate with their function or job-specific responsibilities within 14 calendar days. Orientation to each of the following policies shall be documented. Orientation shall include:

1. Objectives and philosophy of the provider;
2. Practices of confidentiality including access, duplication, and dissemination of any portion of an individual's record;
3. Practices that assure an individual's rights including orientation to human rights regulations;
4. Applicable personnel policies;
5. Emergency preparedness procedures;
6. Infection control practices and measures; and
7. Other policies and procedures that apply to specific positions and specific duties and responsibilities.

12 VAC 35-105-450. Employee training and development.

The provider shall provide training and development opportunities for employees to enable them to perform the responsibilities of their job. The policy must address retraining on medication administration, behavior management, and emergency preparedness. Training and development shall be documented in the employee personnel records.

12 VAC 35-105-460. Emergency medical or first aid training.

There shall be at least one employee or contractor on duty at each location who holds a current certificate, issued by a recognized authority, in standard first aid and cardiopulmonary resuscitation, or emergency medical training. A nurse or physician who holds a current professional license shall be deemed to hold a current certificate in first aid, but not in CPR.

12 VAC 35-105-470. Notification of policy changes.

All employees or contractors shall be kept informed of policy changes that affect performance of duties.

12 VAC 35-105-480. Employee or contractor performance evaluation.

- A. The provider shall develop and implement a policy for evaluating employee or contractor performance.
- B. Employee development needs and plans shall be a part of the performance evaluation.
- C. The provider shall evaluate employee or contractor performance at least annually.

12 VAC 35-105-490. Written grievance policy.

The provider shall have a written grievance policy and a mechanism to inform employees of grievance procedures.

12 VAC 35-105-500. Students and volunteers.

A. The provider shall have and implement a written policy that clearly defines and communicates the requirements for the use and responsibilities of students and volunteers including selection and supervision.

B. The provider shall not rely on students or volunteers for the provision of direct care services.

12 VAC 35-105-510. Tuberculosis screening.

A. Each new employee, contractor, student or volunteer who will have direct contact with individuals being served shall obtain an evaluation indicating the absence of tuberculosis in a communicable form within 30 days of employment or contact with individuals. A statement signed by a qualified, licensed practitioner documenting absence of tuberculosis in a communicable form includes the types of tests administered, dates of the tests, and the results of those tests. An evaluation shall not be required for an employee who has separated from service with another licensed provider with a break in service of six months or less or is currently working for another licensed provider. The employee must submit a copy of the original screening to the provider.

B. All employees, contractors, students or volunteers in substance abuse outpatient or substance abuse residential treatment services shall be certified as tuberculosis free on an annual basis.

C. An employee, contractor, student or volunteer who comes in contact with a known case of infectious tuberculosis or who develops chronic respiratory symptoms of three weeks duration shall be screened as determined appropriate based on consultation with the local health department.

D. An employee, contractor, student or volunteer suspected of having infectious tuberculosis shall not be permitted to return to work or have contact with employees, contractors, students, volunteers or individuals receiving services until a physician has determined that the person is free of infectious tuberculosis.

Article 5. Health and Safety Management.

12 VAC 35-105-520. Risk management.

A. The provider shall designate a person responsible for risk management.

B. The provider shall document and implement a plan to identify, monitor, reduce and minimize risks associated with personal injury, property damage or loss and other sources of potential liability.

C. As part of the plan, the provider shall conduct and document at least annually its own safety inspections of all service locations owned, rented or leased. Recommendations for safety improvement shall be documented and implemented.

D. The provider shall document serious injuries to employees, contractors, students, volunteers and visitors. Documentation shall be kept on file for three years. The provider shall

evaluate injuries at least annually. Recommendations for improvement shall be documented and implemented.

E. The risk management plan shall establish and implement policies to identify any populations at risk for falls and to develop a prevention/management program.

F. The provider shall develop, document and implement infection control measures, including the use of universal precautions.

12 VAC 35-105-530. Emergency preparedness and response plan.

A. The provider shall develop a written emergency preparedness and response plan for all of a provider's services and locations. The plan shall address:

1. Documentation of contact with the local emergency coordinator to determine local disaster risks and community-wide plans to address different disasters and emergency situations.

2. Analysis of the provider's capabilities and potential hazards, including natural disasters, severe weather, fire, flooding, work place violence or terrorism, missing persons, severe injuries, or other emergencies that would disrupt the normal course of service delivery.

3. Written emergency management policies outlining specific responsibilities for provision of administrative direction and management of response activities, coordination of logistics during the emergency, communications, life safety of employees, contractors, students, volunteers, visitors and individuals receiving services, property protection, community outreach, and recovery and restoration.

4. Written emergency response procedures for assessing the situation; protecting individuals receiving services, employees, contractors, students, volunteers, visitors, equipment and vital records; and restoring services. Emergency procedures shall address:

- a. Communicating with employees, contractors and community responders;

- b. Warning and notification of individuals receiving services;

- c. Providing emergency access to secure areas and opening locked doors;

- d. Conducting evacuations to emergency shelters or alternative sites and accounting for all individuals receiving services;

- e. Relocating individuals receiving residential or inpatient services, if necessary;

- f. Notifying family members and legal guardians;

- g. Alerting emergency personnel and sounding alarms;

5. Supporting documents that would be needed in an emergency, including emergency call lists, building and site maps necessary to shut off utilities, designated escape

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routes, and list of major resources such as local emergency shelters.

6. Schedule for testing the implementation of the plan and conducting emergency preparedness drills.

B. The provider shall develop and implement periodic emergency preparedness and response training for all employees, contractors, students and volunteers. Training shall cover responsibilities for:

1. Alerting emergency personnel and sounding alarms;
2. Implementing evacuation procedures, including evacuation of individuals with special needs (i.e., deaf, blind, nonambulatory);
3. Using, maintaining, and operating emergency equipment;
4. Accessing emergency medical information for individuals receiving services; and
5. Utilizing community support services.

C. The provider shall review the emergency preparedness plan annually and make necessary revisions. Such revisions shall be communicated to employees, contractors, students and volunteers and incorporated into training for employees, contractors, students and volunteers and orientation of individuals to services.

D. In the event of a disaster, fire, emergency or any other condition that may jeopardize the health, safety and welfare of individuals, the provider shall take appropriate action to protect the health, safety and welfare of the individuals receiving services and take appropriate actions to remedy the conditions as soon as possible.

E. Employees, contractors, students and volunteers shall be knowledgeable in and prepared to implement the emergency preparedness plan in the event of an emergency. The plan shall include a policy regarding periodic emergency preparedness training for all employees, contractors, students and volunteers.

F. In the event of a disaster, fire, emergency, or any other condition that may jeopardize the health, safety and welfare of individuals, the provider shall notify the department of the condition at the location and status of the individuals within one business day.

G. This section does not apply to home and noncenter-based services.

12 VAC 35-105-540. Access to telephone in emergencies; emergency telephone numbers.

- A. Telephones shall be accessible for emergency purposes.
- B. Current emergency telephone numbers and location of the nearest hospital, ambulance service, rescue squad and other trained medical personnel, poison control center, fire station and the police are prominently posted near the telephones.
- C. This section does not apply to home and noncenter-based services and correctional facilities.

12 VAC 35-105-550. First aid kit accessible.

A. A well-stocked first aid kit shall be maintained and readily accessible for minor injuries and medical emergencies at each service location and to employees or contractors providing in-home services or traveling with individuals.

B. One unexpired container of activated charcoal and one unexpired 30 cc bottle of Syrup of Ipecac shall be available at each service location for use at the direction of the poison control center or physician and shall be kept locked when not in use.

12 VAC 35-105-560. Operable flashlights or battery lanterns.

Operable flashlights or battery lanterns shall be readily accessible to employees and contractors in services that operate between dusk and dawn to use in emergencies. This section does not apply to home and noncenter-based services.

PART IV. SERVICES AND SUPPORTS.

Article 1. Service Description and Staffing.

12 VAC 35-105-570. Mission statement.

The provider shall develop a written mission statement that clearly identifies its philosophy, purpose, and goals.

12 VAC 35-105-580. Service description requirements.

A. The provider shall develop, implement, review and revise its services according to the provider's mission and shall have that information available for public review.

B. The provider shall document that each service offers a structured program of care designed to meet the individuals' physical and emotional needs; provide protection, guidance and supervision; and meet the objectives of any required service plan.

C. The provider shall prepare a written description of each service it offers. Service description elements shall include:

1. Goals;
2. Care, treatment, training, habilitation, or other supports provided;
3. Characteristics and needs of the population served;
4. Contract services, if any;
5. Admission, continued stay and exclusion criteria;
6. Termination of treatment and discharge or transition criteria; and
7. Type and role of employees or contractors.

D. The provider shall revise a service description whenever the service description changes.

E. The provider shall not implement services that are inconsistent with its most current service description.

F. The provider shall provide for the physical separation of children and adults in residential and inpatient services and shall provide separate group programming for adults and children, except in the case of family services. The provider shall develop a plan providing for the safety of children accompanying parents receiving services. Older adolescents transitioning from school to adult activities may participate in mental retardation day support services with adults.

G. If the provider offers substance abuse treatment services, the service description shall address the timely and appropriate treatment of substance abusing pregnant women.

12 VAC 35-105-590. Provider staffing plan.

A. The provider shall design and implement a staffing plan including the type and role of employees and contractors that reflects the:

1. Needs of the population served;
2. Types of services offered;
3. The service description; and
4. The number of people served.

B. The provider shall develop a transition staffing plan for new services.

C. The following staffing requirements relate to supervision.

1. The provider shall describe how employees, volunteers, contractors and student interns are to be supervised in the staffing plan.
2. Supervision of employees, volunteers, contractors and student interns shall be provided by persons who have experience in working with the population served and in providing the services outlined in the service description. In addition, supervision of mental health services shall be performed by a QMHP and supervision of mental retardation services shall be performed by a QMRP or an employee or contractor with experience equivalent to the educational requirement.
3. Supervision shall be appropriate to the services provided and the needs of the individual. Supervision shall be documented.
4. Supervision shall include responsibility for approving assessments and individualized services plans. This responsibility may be delegated to an employee or contractor who is a QMHP or QMRP or who has equivalent experience.

D. The provider shall employ or contract with persons with appropriate training as necessary to serve the needs of individuals with medical or nursing needs, speech, language or hearing problems or other needs where specialized training is necessary.

12 VAC 35-105-600. Nutrition.

A. A provider preparing and serving food shall:

1. Have a written plan for the provision of food services, which ensures access to nourishing, well-balanced, healthful meals;

2. Make reasonable efforts to prepare meals that consider cultural background, personal preferences, and food habits and that meet the dietary needs of the individuals served; and

3. Assist individuals who require assistance feeding themselves in a manner that effectively addresses any deficits.

B. Providers of residential and inpatient services shall develop and implement a policy to monitor each individual's food consumption for:

1. Warning signs of changes in physical or mental status related to nutrition; and
2. Compliance with any needs determined by the individualized services plan or prescribed by a physician, nutritionist or health care professional.

12 VAC 35-105-610. Community participation.

Opportunities shall be provided for individuals receiving services to participate in community activities. This regulation does not apply to outpatient, inpatient and sobering-up services.

12 VAC 35-105-620. Monitoring and evaluating service quality.

The provider shall have a mechanism to monitor and evaluate service quality and effectiveness on a systematic and ongoing basis. The provider shall implement improvements, when indicated.

Article 2.

Screening, Admission, Assessment, Service Planning and Orientation.

12 VAC 35-105-630. Policies on screening, admission and referrals.

A. The provider shall establish written criteria for admission that include:

1. A description of the population to be served;
2. A description of the types of services offered; and
3. Exclusion criteria.

B. The provider shall admit only those individuals whose service needs are consistent with the service description, for whom services are available, and for which staffing levels and types meet the needs of the individuals served.

C. The provider shall complete a preliminary assessment detailed enough to determine that the individual qualifies for admission and to develop a preliminary individualized services plan for individuals admitted to services. Employee or contractors responsible for screening, admitting and referral shall have immediate access to written service descriptions and admission criteria.

D. The provider shall assist individuals who are not admitted to identify other appropriate services.

E. The provider shall develop and implement a policy on the qualifications of employees or contractors responsible for

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providing screening, admission and referrals and resources for consultation.

F. The provider shall develop procedures for screening, admitting and referring individuals to services.

12 VAC 35-105-640. Screening and referral services documentation and retention.

A. The provider shall maintain written documentation of each screening performed, including:

1. Date of initial contact;
2. Name, age, and gender of the individual;
3. Address and phone number, if applicable;
4. Presenting needs or situation to include psychiatric/medical problems, current medications and history of medical care;
5. Name of screening employee or contractor;
6. Method of screening;
7. Screening recommendation; and
8. Disposition of individual.

B. The provider shall retain documentation for each screening. For individuals not admitted, documentation shall be retained for six months. Documentation shall be included in the individual's record if the individual is admitted.

12 VAC 35-105-650. Assessment policy.

A. The provider shall document and implement an assessment policy. The policy shall define how assessments will be documented.

B. The provider shall conduct an assessment to identify an individual's physical, medical, behavioral, functional, and social strengths, preferences and needs, as applicable. The assessment shall address:

1. Onset/duration of problems;
2. Social/behavioral/developmental/family history;
3. Employment/vocation/educational background;
4. Previous interventions/outcomes;
5. Financial resources and benefits;
6. Health history and current medical care needs;
7. Legal status, including guardianship, commitment and representative payee status, and relevant criminal charges or convictions, probation or parole status;
8. Daily living skills;
9. Social/family supports;
10. Housing arrangements; and
11. Ability to access services.

C. The policy shall designate employees or contractors responsible for assessments. Employees or contractors responsible for assessments shall have experience in working

with the population being assessed and with the assessment tool being utilized.

D. Frequency of assessments.

1. A preliminary assessment shall be done prior to admission;
2. The preliminary assessment shall be updated and finalized during the first 30 days of service prior to completing the individualized services plan. Longer term assessments may be included as part of the individualized services plan. The provider shall document the reason for assessments requiring more than 30 days.
3. Reassessments shall be completed when there is a need based on the medical, psychiatric or behavioral status of the individual and at least annually.

E. The provider shall make reasonable attempts to obtain previous assessments.

F. This section does not apply to sobering-up services.

12 VAC 35-105-660. Individualized services plan (ISP).

A. The provider shall develop a preliminary individualized services plan for the first 30 days. The preliminary individualized services plan shall be developed and implemented within 24 hours of admission and shall continue in effect until the individualized services plan is developed or the individual is discharged, whichever comes first.

B. The provider shall develop an individualized services plan for each individual as soon as possible after admission but no later than 30 days after admission. Providers of short-term services must develop and implement a policy to develop individualized services plans within a time frame consistent with the expected length of stay of individuals. Services requiring longer term assessments may include the completion of those as part of the individualized services plan as long as all appropriate services are incorporated into the individualized services plan based on the assessment completed within 30 days of admission and the individualized services plan is updated upon the completion of assessment.

C. The individualized services plan shall address:

1. Relevant psychological, behavioral, medical, rehabilitation and nursing needs as indicated by the assessment;
2. Individualized strategies, including the intensity of services needed;
3. A communication plan for individuals with communication barriers, including language barriers;
4. The behavior treatment plan, if applicable; and
5. The individual's needs and preferences.

D. The provider shall document that it has followed the human rights regulations in regard to participation in decision making (see 12 VAC 35-115-70) by the individual or legally authorized representative in developing or revising the individualized services plan.

E. The provider shall involve family members, guardian, or others in developing or revising the individualized services plan consistent with laws protecting confidentiality, privacy, the human rights of individuals receiving services (see 12 VAC 35-115-60) and the rights of minors.

F. Employees or contractors responsible for implementation of an individualized services plan shall demonstrate a working knowledge of the plan's goals, objectives and strategies.

G. The provider shall develop and implement a written policy regarding the qualifications of personnel for developing an individualized services plan.

H. The provider shall implement the individualized services plan and review it at least every three months or whenever there is a revised assessment. These reviews shall evaluate the individual's progress toward meeting the plan's objectives. The goals, objectives and strategies of the individualized services plan shall be updated, if indicated.

I. The provider shall review and rewrite the individualized services plan at least annually based on a current assessment and with the participation of the individual and his family.

J. This section does not apply to sobering-up services.

12 VAC 35-105-670. Individualized services plan requirements.

A. The individualized services plan shall include, at a minimum:

1. A summary or reference to the assessment;
2. Goals and measurable objectives for addressing each identified need;
3. The services and supports and frequency of service to accomplish the goals and objectives;
4. Target dates for accomplishment of goals and objectives;
5. Estimated duration of service plan;
6. Discharge plan, where applicable; and
7. The employees or contractors responsible for coordination and integration of services, including employees of other agencies.

B. The individualized services plan shall be signed and dated, at a minimum, by the person responsible for implementing the plan and the individual receiving services or the legally authorized representative. If unable to obtain the signature of the individual receiving services or the legally authorized representative, the provider shall document the reason.

C. This section does not apply to sobering-up services.

12 VAC 35-105-680. Progress notes or other documentation.

The provider shall use signed and dated progress notes or other documentation to document the services provided, and the implementation and outcomes of individualized services plans. This section does not apply to sobering-up services.

12 VAC 35-105-690. Orientation.

A. The provider shall develop and implement a written policy regarding orientation of individuals and the legally authorized representative to services.

B. At a minimum, the policy shall require the provision to individuals and the legally authorized representative of the following information, as appropriate to the scope and level of services:

1. The mission of the provider;
2. Confidentiality practices for individuals receiving services;
3. Human rights and how to report violations;
4. Participation in treatment and discharge planning;
5. Fire safety and emergency preparedness procedures;
6. The grievance procedure;
7. Service guidelines;
8. Physical plant or building lay-out;
9. Hours and days of operation; and
10. Availability of after-hours service.

C. In addition, individuals receiving treatment services in correctional facilities will receive orientation to security restrictions.

D. The provider shall document that orientation has been provided to individuals and the legal guardian/authorized representative.

E. This section does not apply to sobering-up centers.

Article 3.

Crisis Intervention and Clinical Emergencies.

12 VAC 35-105-700. Written policies and procedures for a crisis or clinical emergency; required elements.

A. The provider shall develop and implement written policies and procedures for prompt intervention in the event of a crisis or clinical emergency that occurs during screening and referral or during admission and service provision. A clinical emergency refers to either a medical or psychiatric emergency.

B. The policies and procedures shall include:

1. A definition of crisis and clinical emergency;
2. Procedures for stabilization and immediate access to appropriate internal and external resources including a provision for obtaining physician and mental health clinical services if on-call physician back up or mental health clinical services are not available;
3. Employee or contractor responsibilities; and
4. Location of emergency medical information for individuals receiving services, which shall be readily accessible in an emergency.

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12 VAC 35-105-710. Documenting crisis intervention and clinical emergency services.

A. The provider shall develop a method for documenting the provision of crisis intervention and clinical emergency services. Documentation shall include the following:

1. Date and time;
2. Nature of crisis or emergency;
3. Name of individual;
4. Precipitating factors;
5. Interventions/treatment provided;
6. Employees or contractors involved; and
7. Outcome.

B. If a crisis or clinical emergency involves an individual who is admitted into service, the crisis intervention documentation shall become part of his record.

Article 4. Medical Management.

12 VAC 35-105-720. Health care policy.

A. The provider shall develop and implement a written policy, appropriate to the scope and level of service that addresses provision of adequate medical care. This policy shall describe how:

1. Medical care needs will be assessed;
2. Individualized services plans address any medical care needs appropriate to the scope and level of service;
3. Medical care needs beyond the scope of services will be met;
4. The provider manages medical care needs or responds to abnormal findings;
5. The provider communicates medical assessments and diagnostic laboratory results to individuals and authorized representatives.
6. The provider keeps accessible to staff the names, addresses, phone numbers of medical and dental providers.
7. The provider arranges for transportation to medical and dental appointments and medical tests.

B. Providers of residential or inpatient services shall either provide or arrange for the provision of appropriate medical care. A provider of other services shall define instances when it shall provide or arrange for appropriate medical and dental care and instances when it shall refer the individual to appropriate medical care.

12 VAC 35-105-730. Medical evaluation.

A. The provider shall develop and implement a medical evaluation or document its ability to obtain a medical evaluation that consists of, at a minimum, a health history and emergency medical information.

B. A health history shall include:

1. Allergies;
2. Recent physical complaints and medical conditions;
3. Chronic conditions;
4. Communicable diseases;
5. Handicaps or restriction on physical activities, if any;
6. Past serious illnesses, serious injuries and hospitalizations;
7. Serious illnesses and chronic conditions of the individual's parents, siblings and significant others in the same household;
8. Current and past drug usage including alcohol, prescription and nonprescription medications, and illicit drugs; and
9. Gynecological history, including pregnancies.

12 VAC 35-105-740. Physical examination.

A. The provider shall develop a policy on physical examinations in consultation with a qualified practitioner. Providers of residential services shall administer or obtain results of physical exams within 30 days of admission. Providers of inpatient services shall administer physical exams within 24 hours of admission.

B. A physical examination shall include, at a minimum:

1. General physical condition (history and physical);
2. Evaluation for communicable diseases;
3. Recommendations for further diagnostic tests and treatment, if appropriate;
4. Other examinations indicated, if appropriate; and
5. The date of examination and signature of a qualified practitioner.

C. Locations designated for physical examinations shall ensure individual privacy.

12 VAC 35-105-750. Emergency medical information.

A. The provider shall maintain the following emergency medical information for each individual:

1. If available, the name, address, and telephone number of:
 - a. The individual's physician; and
 - b. A relative, legally authorized representative, or other person to be notified;
2. Medical insurance company name and policy or Medicaid, Medicare or CHAMPUS number, if any; and
3. Currently prescribed medications and over-the-counter medications used by the individual;
4. Medication and food allergies;
5. History of substance abuse;

6. Significant medical problems;
7. Significant communication problems; and
8. Advance directive.

B. Current emergency medical information shall be readily available to employees or contractors wherever program services are provided.

12 VAC 35-105-760. Medical equipment.

The provider shall develop and implement a policy on maintenance and use of medical equipment, including personal medical equipment and devices.

Article 5.
Medication Management Services.

12 VAC 35-105-770. Medication management.

A. The provider shall develop and implement written policies addressing:

1. The safe administration, handling, storage, and disposal of medications;
2. The use of medication orders;
3. The handling of packaged medications brought by individuals from home or other residences;
4. Employees or contractors authorized to administer medication and training required for administration of medication;
5. The use of professional samples; and
6. The window within which medications can be given in relation to the ordered time of administration.

B. Medications shall be administered only by persons authorized by state law.

C. Medications shall be given only to the individuals for whom the medications are prescribed and shall be administered as prescribed.

D. The provider shall maintain a daily log of all medicines received and refused by each individual. This log shall identify the employee or contractor who administered the medication.

E. If the provider administers medications or supervises self-administration of medication in a service, a current medication order for all medications the individual receives shall be maintained on site.

F. The provider shall promptly dispose of discontinued drugs, outdated drugs, and drug containers with worn, illegible, or missing labels according to the applicable regulations of the Virginia Board of Pharmacy.

12 VAC 35-105-780. Medication errors and drug reactions.

A. In the event of a medication error or adverse drug reaction, first aid shall be administered if indicated.

B. Employees or contractors shall promptly contact a poison control center, pharmacist, nurse or physician and shall take actions as directed.

C. The individual's physician shall be notified as soon as possible unless the situation is addressed in standing orders.

D. Actions taken by employees or contractors shall be documented.

E. The provider shall keep a log of all medication errors and review it at least quarterly as part of the quality assurance in 12 VAC 35-105-620.

F. Medication errors and adverse drug reactions shall be recorded in the individual's medication log.

12 VAC 35-105-790. Medication administration and storage or pharmacy operation.

A. The provider responsible for medication administration and storage or pharmacy operations shall comply with:

1. The Drug Control Act (§ 54.1-3400 et seq. of the Code of Virginia);
2. The Virginia Board of Pharmacy regulations (18 VAC 110-20); and
3. Applicable federal laws and regulations relating to controlled substances.

B. The provider responsible for medication administration and storage or pharmacy operation shall provide in-service training to employees and consultation to individuals or legally authorized representatives on issues of basic pharmacology including medication side effects.

Article 6.
Behavior Management.

12 VAC 35-105-800. Policies and procedures on behavior management techniques.

A. The provider shall develop and implement written policies and procedures that describe the use of behavior management techniques, including seclusion, restraint, and time out. The policies and procedures shall:

1. Be consistent with applicable federal and state laws and regulations;
2. Emphasize positive approaches to behavior management;
3. List and define behavior management techniques in the order of their relative degree of intrusiveness or restrictiveness and the conditions under which they may be used in each service for each individual;
4. Protect the safety and well-being of the individual at all times, including during fire and other emergencies;
5. Specify the mechanism for monitoring the use of behavior management techniques; and
6. Specify the methods for documenting the use of behavior management techniques.

B. The behavior management policies and procedures shall be developed, implemented, and monitored by employees or contractors trained in behavior management programming.

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C. Policies and procedures related to behavior management shall be available to individuals, their families, guardians and advocates except that it does not apply to services provided in correctional facilities.

D. Individuals receiving services shall not discipline, restrain, seclude or implement behavior management techniques on other individuals receiving services.

E. Injuries resulting from or occurring during the implementation of behavior management techniques shall be recorded in the clinical record and reported to the employee or contractor responsible for the overall coordination of services.

12 VAC 35-105-810. Behavioral treatment plan.

A behavioral treatment plan may be developed as part of the individualized services plan in response to behavioral needs identified through the assessment process. A behavioral treatment plan may include restrictions only if the plan has been developed according to procedures outlined in the human rights regulations. Behavioral treatment shall be developed, implemented and monitored by employees or contractors trained in behavioral treatment.

12 VAC 35-105-820. Prohibited actions.

The following actions shall be prohibited:

1. Prohibition of contacts and visits with attorney, probation officer, placing agency representative, minister or chaplain;
2. Any action that is humiliating, degrading, or abusive;
3. Corporal punishment;
4. Subjection to unsanitary living conditions;
5. Deprivation of opportunities for bathing or access to toilet facilities except as ordered by a licensed physician for a legitimate medical purpose and documented in the individual's record;
6. Deprivation of appropriate services and treatment;
7. Deprivation of health care;
8. Administration of laxatives, enemas, or emetics except as ordered by a physician or other professional acting within the scope of his license for a legitimate medical purpose and documented in the individual's record;
9. Applications of aversive stimuli except as permitted pursuant to other applicable state regulations;
10. Limitation on contacts with regulators, advocates or staff attorneys employed by the department or the Department for the Rights of Virginians with Disabilities.
11. Deprivation of drinking water or food necessary to meet an individual's daily nutritional needs except as ordered by a licensed physician for a legitimate medical purpose and documented in the individual's record;
12. Prohibition on contacts and visits with family or legal guardian except as permitted by other applicable state regulations or by order of a court of competent jurisdiction;

13. Delay or withholding of incoming or outgoing mail except as permitted by other applicable state and federal regulations or by order of a court of competent jurisdiction; and

14. Deprivation of opportunities for sleep or rest except as ordered by a licensed physician for a legitimate medical purpose and documented in the individual's record.

12 VAC 35-105-830. Seclusion, restraint, and time out.

A. The use of seclusion, restraint, and time out shall comply with applicable federal and state laws and regulations and be consistent with the provider's policies and procedures.

B. Devices used for mechanical restraint shall be designed specifically for behavior management of human beings in clinical or therapeutic programs.

C. Application of time out, seclusion and restraint shall be documented in the individual's record and, at a minimum, include:

1. Physician's order;
2. Date and time;
3. Employees or contractors involved;
4. Circumstances and reasons for use, including but not limited to other behavior management techniques attempted;
5. Duration;
6. Type of technique used; and
7. Outcomes, including documentation of debriefing of the individual and staff involved following the incident.

12 VAC 35-105-840. Requirements for seclusion room.

A. The room used for seclusion shall meet the design requirements for buildings used for detention or seclusion of persons.

B. The seclusion room shall be at least six feet wide and six feet long with a minimum ceiling height of eight feet.

C. The seclusion room shall be free of all protrusions, sharp corners, hardware, fixtures or other devices which may cause injury to the occupant.

D. Windows in the seclusion room shall be so constructed as to minimize breakage and otherwise prevent the occupant from harming himself.

E. Light fixtures and other electrical receptacles in the seclusion room shall be recessed or so constructed as to prevent the occupant from harming himself. Light controls shall be located outside the seclusion room.

F. Doors to the seclusion room shall be at least 32 inches wide, shall open outward and shall contain observation view panels of transparent wire glass or its approved equivalent, not exceeding 120 square inches but of sufficient size for someone outside the door to see into all corners of the room.

G. The seclusion room shall contain only a mattress with a washable mattress covering designed to avoid damage by tearing.

H. The seclusion room shall maintain temperatures appropriate for the season.

I. All space in the seclusion room shall be visible through the locked door, either directly or by mirrors.

Article 7.
Continuity of Service and Discharge.

12 VAC 35-105-850. Transition of individuals among services.

A. The provider shall have written procedures to define the process for the transition of an individual among services of the provider. At a minimum, the policy will address:

1. Continuity of service;
2. Participation of the individual and his family;
3. Transfer of the individual's record;
4. Transfer summary; and
5. Where applicable, discharge and admission summaries.

B. The transfer summary will include at a minimum:

1. The originating service;
2. The destination service;
3. Reason for transfer;
4. Current psychiatric and medical condition of the individual;
5. Updated progress on meeting the goals and objectives of the ISP;
6. Medications and dosages in use;
7. Transfer date; and
8. Signature of employee or contractor responsible for preparing the transfer summary.

12 VAC 35-105-860. Discharge.

A. The provider shall have written policies and procedures regarding the discharge of individuals from the service and termination of services. These policies and procedures shall include medical or clinical criteria for discharge.

B. The provider shall make appropriate arrangements or referrals to all services identified by the discharge plan prior to the individual's scheduled discharge date.

C. Discharge planning and discharge shall be consistent with the individualized services plan and the criteria for discharge.

D. The individual's, the individual's legally authorized representative and the individual's family's involvement in discharge planning shall be documented in the individual's service record.

E. A written discharge summary shall be completed within 30 days of discharge and shall include, at a minimum, the:

1. Reason for admission and discharge;
2. Individual's participation in discharge planning;
3. Individual's level of functioning or functional limitations, if applicable;
4. Recommendations on procedures, activities, or referrals to assist the individual in maintaining or improving functioning and increased independence and the status, location and arrangements for future services that have been made;
5. Progress made achieving the goals and objectives identified in the individualized services plan and summary of critical events during service provision;
6. Discharge date;
7. Discharge medications, if applicable;
8. Date the discharge summary was actually written/documented; and
9. Signature of person who prepared summary.

PART V.
RECORDS MANAGEMENT.

Article 1.
Records Management.

12 VAC 35-105-870. Written records management policy.

A. The provider shall develop and implement a written records management policy that shall describe confidentiality, accessibility, security, and retention of records pertaining to individuals, including:

1. Access, duplication and dissemination of information only to persons legally authorized according to federal and state laws;
2. Storage, processing and handling of active and closed records;
3. Storage, processing and handling of electronic records;
4. Security measures to protect records from loss, unauthorized alteration, inadvertent or unauthorized access, disclosure of information and transportation of records between service sites; physical and data security controls shall exist for electronic records;
5. Designation of person responsible for records management; and
6. Disposition of records in event the service ceases operation. If the disposition of records would involve a transfer to another provider, the provider shall have a written agreement with that provider.

B. The records management policy shall be consistent with state and federal laws and regulations including:

1. Section 32.1-127.1:03 of the Code of Virginia;
2. 42 USC § 290dd;
3. 42 CFR Part 2; and

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4. Health Insurance Portability and Accountability Act (Public Law 104-191, 42 USC § 300gg et seq.) and implementing regulations (42 CFR Part 146).

12 VAC 35-105-880. Documentation policy.

A. The provider shall define, by policy, all records it maintains that address an individual's care and treatment and what each record contains.

B. The provider shall define, by policy, a system of documentation which supports appropriate service planning, coordination, and accountability. At a minimum this policy shall outline:

1. The location of the individual's record;
2. Methods of access by employees or contractors to the individual's record; and
3. Methods of updating the individual's record by employees or contractors including frequency and format.

C. Entries in the individual's record shall be current, dated, and authenticated by the person making the entry. Errors shall be corrected by striking through and initialing. If records are electronic, the provider shall develop and implement a policy to identify corrections of the record.

12 VAC 35-105-890. Individual's service record.

A. There shall be a single, separate primary record for each individual or family admitted for service. A separate record shall be maintained for each family member who is receiving individual treatment.

B. All individuals admitted to the service shall have identifying information on the face sheet in the individual's service record. Identifying information on a standardized face sheet or sheets shall include the following:

1. Identification number unique for the individual;
2. Name of individual;
3. Current residence, if known;
4. Social security number;
5. Gender;
6. Marital status;
7. Date of birth;
8. Name of legal guardian or authorized representative;
9. Name, address, and telephone number for emergency contact;
10. Adjudicated legal incompetency or legal incapacity; and
11. Date of admission to service.

C. In addition to the face sheet, an individual's service record shall contain, at a minimum:

1. The admission form;
2. Screening documentation;
3. Assessments;

4. Medical evaluation, as applicable to the service;
5. Individualized services plans and reviews;
6. Progress notes; and
7. A discharge summary, if applicable.

12 VAC 35-105-900. Record storage and security.

A. When not in use, active and closed records shall be stored in a locked cabinet or room.

B. Physical and data security controls shall exist for electronic records.

12 VAC 35-105-910. Retention of individual's service records.

A. An individual's service records shall be kept for a minimum of three years after discharge or date of last contact unless otherwise specified by state or federal requirements.

B. Permanent information kept on each individual shall include:

1. Individual's name;
2. Social security number;
3. Date of individual's birth;
4. Dates of admission and discharge; and
5. Name and address of legal guardian, if any.

12 VAC 35-105-920. Review process for records.

The provider shall implement a review process to evaluate both current and closed records for completeness, accuracy, and timeliness of entries.

PART VI. ADDITIONAL REQUIREMENTS FOR SELECTED SERVICES.

Article 1. Opioid Treatment Services.

12 VAC 35-105-930. Registration, certification or accreditation.

A. The opioid treatment service shall maintain current registration or certification with:

1. The Federal Drug Enforcement Administration;
2. The Federal Department of Health and Human Services; and
3. The Virginia Board of Pharmacy.

B. If required by federal regulations, a provider of opioid treatment services shall be required to maintain accreditation with an entity approved under federal regulations.

12 VAC 35-105-940. Criteria for involuntary termination from treatment.

A. The provider shall establish criteria for involuntary termination from treatment that describe the rights of the individual receiving services and the responsibilities and rights of the provider.

B. The provider shall establish a grievance procedure as part of the rights of the individual.

C. On admission, the individual shall be given a copy of the criteria and shall sign a statement acknowledging receipt of same. The signed acknowledgement shall be maintained in the individual's record.

12 VAC 35-105-950. Service operation schedule.

A. The service's days of operation shall meet the needs of the population served. If the service dispenses or administers a medication requiring daily dosing, the service shall operate seven days a week, 12 months a year, except for official state holidays. Prior approval from the state authority shall be required for additional closed days.

B. Medication dispensing hours shall include at least two hours each day of operation outside normal working hours, i.e., before 9 a.m. and after 5 p.m. The state authority may approve an alternative schedule if that schedule meets the needs of the population served.

12 VAC 35-105-960. Physical examinations.

A. The individual shall have a complete physical evaluation prior to admission to the service unless the individual is transferring from another licensed opioid agonist service. A full physical examination, including the results of serology and other tests, shall be completed within 14 days of admission.

B. Physical exams of each individual shall be completed annually or more frequently if there is a change in the individual's physical or mental condition.

C. The provider shall maintain the report of the individual's physical examination in the individual's service record.

12 VAC 35-105-970. Counseling sessions.

The provider shall conduct face-to-face counseling sessions (either individual or group) at least every two weeks for the first year of treatment and every month in the second year. After two years, the number of face-to-face counseling sessions shall be based on progress in treatment. Absences shall be addressed as part of the overall treatment process.

12 VAC 35-105-980. Drug screens.

A. The provider shall perform random drug screens:

1. Weekly, during the first 30 days of treatment;
2. Monthly, after the first 30 days of treatment, unless the conditions in subdivision 3 of this subsection apply; and
3. Weekly, whenever an individual's drug screen indicates continued illicit drug use or an individual fails to participate in the treatment plan.

B. Drug screens shall be analyzed for opiates, methadone (if ordered), benzodiazepines and cocaine. In addition, drug screens for other drugs with potential for addiction shall be performed when clinically and environmentally indicated.

C. The provider shall develop and implement a policy on how the results of drug screens shall be used to direct treatment.

12 VAC 35-105-990. Take-home medication.

A. Prior to dispensing regularly scheduled take-home medication, the provider shall ensure the individual demonstrates a level of current lifestyle stability as evidenced by the following:

1. Regular clinic attendance;
2. Absence of recent alcohol and other drug use;
3. Absence of significant behavior problems; and
4. Absence of recent criminal activities, charges or convictions.

B. The provider shall educate the individual on the safe transportation and storage of take-home medication.

12 VAC 35-105-1000. Preventing duplication of medication services.

To prevent duplication of opioid medication services to an individual, the provider shall have a policy and implement procedures to contact every opioid treatment service within a 50-mile radius before admitting an individual.

12 VAC 35-105-1010. Guests.

A. No medication shall be dispensed to any guest unless the guest has been receiving such medication services from another provider and documentation from such provider has been received prior to dispensing medication.

B. Guests may receive medication for up to 28 days. To continue receiving medication after 28 days, the guest must be admitted to the service. Individuals receiving guest medications as part of a residential treatment service may exceed the 28-day maximum time limit.

12 VAC 35-105-1020. Detoxification prior to involuntary discharge.

Individuals who are being involuntarily discharged shall be given an opportunity to detoxify from opioid agonist medication not less than 10 days or not more than 30 days prior to discharge from the service, unless the state authority has granted an exception.

12 VAC 35-105-1030. Opioid agonist medication renewal.

Physician orders for opioid agonist medication shall be reevaluated and renewed at least every six months.

12 VAC 35-105-1040. Emergency preparedness plan.

The emergency preparedness plan shall include provision for the continuation of opioid treatment in the event of an emergency or natural disaster.

12 VAC 35-105-1050. Security of opioid agonist medication supplies.

A. At a minimum, opioid agonist medication supplies shall be secured as follows:

1. Admittance to the medication area shall be restricted to medical or pharmacy personnel;
2. Medication inventory shall be reconciled monthly; and

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3. Inventory records, including the monthly reconciliation, shall be kept for three years.

B. The provider shall maintain a current plan to control the diversion of medication to unprescribed or illegal uses.

Article 2.

Sobering-Up and Detoxification Services.

12 VAC 35-105-1060. Criminal justice referrals.

The provider shall develop and implement written policies and procedures for accepting criminal justice referrals in conjunction with the chief law-enforcement officer and the chief general district court judge of the localities served.

12 VAC 35-105-1070. Cooperative agreements with community agencies.

The provider shall establish cooperative agreements with other community agencies to accept referrals for treatment, including provisions for physician coverage and emergency medical care. The agreements shall clearly outline the responsibility of each party.

12 VAC 35-105-1080. Rest, holding or admission areas.

A. The provider shall provide for rest, holding, or admission areas with:

1. Adequate space for individuals to sleep and sober up;
2. Unobstructed observation by employees or contractors;
3. Nearby bathrooms;
4. Available drinking water; and
5. Access to showers.

B. The provider shall provide for designated areas for employees and contractors with unobstructed observation of individuals.

12 VAC 35-105-1090. Direct-care training for providers of sobering-up and detoxification services.

A. Direct-care training and certification shall include Department of Mental Health, Mental Retardation and Substance Abuse Services Managed Withdrawal Training and:

1. First responder training; or
2. First aid and CPR training.

B. New employees or contractors shall be trained within 30 days of employment. Untrained employees or contractors shall not be solely responsible for the care of individuals.

12 VAC 35-105-1100. Minimum number of employees or contractors on duty.

A. The providers shall establish staffing patterns based on the needs and number of individuals served.

B. In free-standing sobering-up or detoxification service locations, at least two employees or contractors shall be on duty at all times. If the location is within or contiguous to another service location, at least one employee or contractor

shall be on duty at the location with trained backup employees or contractors immediately available.

12 VAC 35-105-1110. Documentation.

Employees or contractors shall document services provided and significant events in the individual's record on each shift. This regulation applies to sobering up services.

12 VAC 35-105-1120. Admission assessments.

A. During the admission process, providers of sobering-up and detoxification services shall:

1. Identify individuals with a high-risk profile;
2. Assess substances used and time of last use;
3. Determine time of last meal;
4. Administer a urine screen;
6. Analyze blood alcohol content or administer a breathalyzer; and
7. Record vital signs.

B. The provider shall develop and implement written procedures to address situations when an individual refuses to participate in the assessment process. The provider shall document all refusals and follow-up actions taken.

12 VAC 35-105-1130. Vital signs.

A. Unless the individual refuses, the provider shall take vital signs:

1. At admission and discharge;
2. Every four hours for the first 24 hours and every eight hours thereafter; and
3. As frequently as necessary, until signs and symptoms stabilize for individuals with a high-risk profile.

B. The provider shall have procedures to address situations when an individual refuses to have vital signs taken.

C. The provider shall document vital signs, all refusals and follow-up actions taken.

12 VAC 35-105-1140. First aid equipment.

The provider shall have first aid equipment that is easily accessible in a well-marked location and includes a blood pressure cuff, stethoscope and thermometer. Other required first aid equipment includes bandages, saline solution, adhesive bandages, sterile gauze, latex gloves, tweezers, instant ice pack, adhesive tape and antiseptic soap.

12 VAC 35-105-1150. Light snacks and fluids.

The provider shall offer light snacks and fluids to individuals who are not in danger of aspirating.

Article 3.

Services in Correctional Facilities.

12 VAC 35-105-1160. Clinical and security coordination.

A. The provider shall have formal and informal methods of resolving procedural and programmatic issues regarding

individual care arising between the clinical and security employees or contractors.

B. The provider shall demonstrate ongoing communication between clinical and security employees to ensure individual care.

C. The provider shall provide cross-training for the clinical and security employees or contractors that includes:

- 1. Mental health, mental retardation, and substance abuse education;*
- 2. Use of clinical and security restraints; and*
- 3. Channels of communication.*

D. Employees or contractors shall receive periodic in-service training, have knowledge of and be able to demonstrate the appropriate use of clinical and security restraint.

E. Security and behavioral assessments shall be completed at the time of admission to determine service eligibility and at least weekly for the safety of individuals, other persons, employees, and visitors.

F. Personal grooming and care services for individuals shall be a cooperative effort between the clinical and security employees or contractors.

G. Clinical needs and security level shall be considered when arrangements are made regarding privacy for individual contact with family and attorneys.

H. Living quarters shall be assigned on the basis of the individual's security level and clinical needs.

I. An assessment of the individual's clinical condition and needs shall be made when disciplinary action or restrictions are required for infractions of security measures.

J. Clinical services consistent with the individual's condition and plan of treatment shall be provided when security detention or isolation is imposed.

12 VAC 35-105-1170. Other requirements for correctional facilities.

A. Group bathroom facilities shall be partitioned between toilets and urinals to provide privacy.

B. If uniform clothing is required, the clothing shall be properly fitted, climatically suitable, durable, and presentable.

C. Financial compensation for work performed shall be determined by the Department of Corrections. Personal housecleaning tasks may be assigned without compensation to the individual.

D. The use of audio equipment, such as televisions, radios, and record players, shall not interfere with therapeutic activities.

E. Aftercare planning for individuals nearing the end of incarceration shall include provision for continuing medication and follow-up services with area community services to facilitate successful reintegration into the community including specific appointment provided to the inmate no later than the day of release.

Article 4.

Sponsored Residential Home Services.

12 VAC 35-105-1180. Sponsored residential home information.

Providers of sponsored residential home services shall maintain the following information:

- 1. Names and ages of residential sponsors;*
- 2. Date of sponsored residential home agreement;*
- 3. The maximum number of individuals that can be placed in the home;*
- 4. Names and ages of all other individuals not receiving services, but residing in a sponsored residential home;*
- 5. Address and telephone number of the sponsored residential home; and*
- 6. All staff employed in the home, including on-call and substitute staff.*

12 VAC 35-105-1190. Sponsored residential home agreements.

The provider shall maintain a written agreement with residential home sponsors. Sponsors are individuals who provide the home where the service is located and are directly responsible for the provision of services. The agreement shall:

- 1. Be available for inspection by the licensing specialist; and*
- 2. Include a provision for granting the right of entry to state licensing specialists or human rights advocates to investigate complaints.*

12 VAC 35-105-1200. Sponsor qualification and approval process.

A. The provider shall evaluate sponsored residential homes other than his own through face-to-face interviews, home visits, and other information before individuals are placed in the home.

B. The provider shall certify that all sponsored residential homes meet the criteria for physical environment and residential services designated in these regulations.

C. The provider shall document the sponsored staff's ability to meet the needs of the individuals placed in the home by assessing and documenting:

- 1. The sponsored staff's ability to communicate and understand individuals receiving services;*
- 2. The sponsored staff's ability to provide the care, treatment, training or habilitation for individual receiving services in the home;*
- 3. The abilities of all members of the household to accept individuals with disabilities and their disability-related characteristics, especially the ability of children in the household to adjust to nonfamily members living with them; and*

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4. The financial capacity of the sponsor to meet the sponsor's own expenses independent of payments received for residents living in the home.

D. The provider shall obtain references, criminal background checks and a search of the registry of founded complaints of child abuse and neglect maintained by the Department of Social Services for all adults in the home.

E. Sponsored residential home members shall submit to the provider the results of a physical and mental health examination when requested by the provider based on indications of a physical or mental health problem.

F. Sponsored residential homes shall not also operate as group homes or foster homes.

12 VAC 35-105-1210. Sponsored residential home service policies.

A. The provider shall develop and implement policies to provide orientation and supportive services to sponsored staff specific to individual receiving services.

B. The provider shall develop and implement a training plan for the sponsored staff consistent with resident needs.

C. The provider shall specify staffing arrangements in all homes, including on-call and substitute care.

D. The provider shall develop and implement a policy on managing, monitoring and supervising sponsored residential homes.

E. The provider shall conduct at least semi-annual unannounced visits to sponsored residential homes other than his own.

F. On an on-going basis and at least annually, the provider shall review compliance of sponsored residential homes and sponsors with regulations related to sponsored residential homes.

G. The provider shall develop policies regarding termination of a sponsored residential home.

12 VAC 35-105-1220. Supervision.

A. A responsible adult shall be available to provide supervision to the individual as specified in the individualized service plan.

B. Any member of the family who transports individuals receiving services must have a valid driver's license and automobile liability insurance. The vehicle used to transport individuals receiving services shall have a valid registration and inspection sticker.

C. The sponsor shall inform the provider in advance of any anticipated additions or changes in the home or as soon as possible after an unexpected change occurs.

12 VAC 35-105-1230. Sponsored residential home service records.

Providers of sponsored residential home services shall maintain records on each sponsored residential home, which shall include:

1. Documentation of references;

2. Criminal background checks and results of the search of the registry of founded complaints of child abuse and neglect on all individuals residing in the home over the age of 21 who are not individuals receiving services;

3. Orientation and training provided by the provider;

4. A log of visits to each sponsored residential home including the date, the person visiting, the purpose of the visit, and any significant events; and

5. The sponsor will maintain a daily log of significant events related to individuals receiving services.

12 VAC 35-105-1240. Regulations pertaining to employees.

Providers will certify compliance of sponsors with regulations pertaining to employees.

12 VAC 35-105-1250. Maximum number of beds or occupants in sponsored residential home.

The maximum number of sponsored residential home beds is two. The maximum number of occupants in a sponsored residential home is seven.

Article 5.

Case Management Services.

12 VAC 35-105-1260. Service requirements for providers of case management services.

A. Providers of case management services shall identify and contact potential individuals to identify their needs for services.

B. Providers of case management services shall document that the services below are performed consistent with the individual's assessment and individualized services plan.

1. Enhancing community integration through increased opportunities for community access and involvement and creating opportunities to enhance community living skills to promote community adjustment including, to the maximum extent possible, the use of local community resources available to the general public;

2. Making collateral contacts with the individual's significant others with properly authorized releases to promote implementation of the individual's individualized services plan and his community adjustment;

3. Assessing needs and planning services to include developing a case management individualized services plan;

4. Linking the individual to services and supports specified in the individualized services plan, including primary medical care;

5. Assisting the individual directly to locate, develop, or obtain needed services, resources, and appropriate public benefits;

6. Assuring the coordination of services and service planning within a provider agency, with other providers and

with other human service agencies and systems, such as local health and social services departments;

7. Monitoring service delivery through contacts with service providers and periodic site and home visits;

8. Providing follow up instruction, education and counseling to guide the individual and develop a supportive relationship that promotes the individualized services plan;

9. Advocating for individuals in response to their changing needs, based on changes in the individualized services plan;

10. Developing a crisis plan for an individual as needed;

11. Planning for transitions in individual's lives; and

12. Knowing and monitoring the individual's health status, any medical conditions, and his medications and potential side effects, and assisting the individual in accessing primary care and other medical services, as needed.

12 VAC 35-105-1270. Qualifications of case management employees or contractors.

A. Employees or contractors providing case management services shall have knowledge of:

1. Services and systems available in the community including primary health care, support services, eligibility criteria and intake processes and generic community resources;

2. The nature of serious mental illness, mental retardation and/or substance abuse depending on the population served, including clinical and developmental issues;

3. Different types of assessments, including functional assessment, and their uses in service planning;

4. Treatment modalities and intervention techniques, such as behavior management, independent living skills training, supportive counseling, family education, crisis intervention, discharge planning and service coordination;

5. Types of mental health, mental retardation and substance abuse programs available in the locality;

6. The service planning process and major components of a service plan;

7. The use of medications in the care or treatment of the population served; and

8. All applicable federal and state laws, state regulations and local ordinances.

B. Employees or contractors providing case management services shall have skills in:

1. Identifying and documenting an individual's need for resources, services, and other supports;

2. Using information from assessments, evaluations, observation, and interviews to develop service plans;

3. Identifying services and resources within the community and established service system to meet the individual's needs; and

4. Coordinating the provision of services by diverse public and private providers.

C. Employees or contractors providing case management services shall have abilities to:

1. Work as team members, maintaining effective inter- and intra-agency working relationships;

2. Work independently performing position duties under general supervision; and

3. Engage and sustain ongoing relationships with individuals receiving services.

12 VAC 35-105-1280. Screening, referral and admission.

Maintaining waiting lists for services, case management tracking and periodically contacting individuals for the purpose of determining the potential need for services shall be considered screening and referral and not admission into licensed case management services.

Article 6.

Community Gero-Psychiatric Residential Services.

12 VAC 35-105-1290. Admission criteria.

An individual receiving community gero-psychiatric residential services shall have had a medical, psychiatric, and behavioral evaluation to determine that he cannot be appropriately cared for in a nursing home or other less intensive level of care but does not need inpatient care.

12 VAC 35-105-1300. Physical environment requirements of community gero-psychiatric residential services.

A. Providers shall be responsible for ensuring safe mobility and unimpeded access to programs or services by installing and maintaining ramps, handrails, grab bars, elevators, protective surfaces and other assistive devices or accommodations as determined by periodic review of the needs of the individuals being served. Entries, doors, halls and program areas, including bedrooms, must have adequate room to accommodate wheel chairs and allow for proper transfer of individuals. Single bedrooms shall have at least 100 square feet and multi-bed rooms shall have 80 square feet per individual.

B. Floors must have resilient, nonabrasive, and slip-resistant floor surfaces and floor coverings that promote mobility in areas used by individuals and promote maintenance of sanitary conditions.

C. Temperatures shall be maintained between 70°F and 80°F throughout resident areas.

D. Bathrooms, showers and program areas must be accessible to individuals. There must be at least one bathing unit available by lift, door or swivel-type tub.

E. Areas must be provided for quiet and recreation.

F. Areas must be provided for charting, storing of administrative supplies, a utility room, employee hand washing, dirty linen, clean linen storage, clothes washing, and equipment storage.

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12 VAC 35-105-1310. Monitoring.

Employees or contractors regularly monitor individuals in all areas of the residence to ensure safety.

12 VAC 35-105-1320. Service requirements for providers of gero-psychiatric residential services.

A. Providers shall provide mental health, nursing and rehabilitative services; medical and psychiatric services; and pharmaceutical services for each individual as specified in the individualized services plan.

B. Providers shall provide crisis stabilization services.

C. Providers shall develop and implement written policies and procedures that support an active program of mental health and behavioral management directed toward assisting each individual to achieve outcomes consistent with the highest level of self-care, independence and quality of life. Programming may be on-site or at another location in the community.

D. Providers shall develop and implement written policies and procedures that respond to the nursing needs of each individual to achieve outcomes consistent with the highest level of self-care, independence and quality of life. Providers shall be responsible for:

1. Providing each individual services to prevent clinically avoidable complications, including but not limited to: skin care, dexterity and mobility, continence, hydration and nutrition;
2. Giving each individual proper daily personal attention and care, including skin, nail, hair and oral hygiene, in addition to any specific care ordered by the attending physician;
3. Dressing each individual in clean clothing and encouraging each individual to wear day clothing when out of bed;
4. Providing each individual tub or shower baths as often as needed, but not less than twice weekly, or a sponge bath daily if the medical condition prohibits tub or shower baths.
5. Providing each individual appropriate pain management; and
6. Ensuring that each individual has his own personal utensils, grooming items, adaptive devices and other personal belongings including those with sentimental value.

E. Providers shall integrate behavioral/mental health care and medical/nursing care in the individualized services plan.

F. Providers shall have available nourishment between scheduled meals.

12 VAC 35-105-1330. Staffing requirements for community gero-psychiatric residential services.

A. Community gero-psychiatric residential services shall be under the direction of a:

1. Program director with experience in gero-psychiatric services.

2. Medical director.

3. Director of clinical services who is a registered nurse with experience in gero-psychiatric services.

B. Providers shall provide qualified nursing supervisors, nurses, and certified nurse aides on all shifts, seven days per week, in sufficient number to meet the assessed nursing care and behavioral management needs determined by the individualized services plans.

C. Providers shall provide qualified staff for behavioral, psychosocial rehabilitation, rehabilitative, mental health, or recreational programming to meet the needs determined by the individualized services plan. These services shall be under the direction of a registered nurse, licensed psychologist, licensed clinical social worker, or licensed therapist.

12 VAC 35-105-1340. Interdisciplinary services planning team.

A. At a minimum, a registered nurse, a licensed psychologist, a licensed social worker, a therapist (recreational, occupational or physical therapist), a pharmacist, and a psychiatrist shall participate in the development and review of the individualized services plan. Other employees or contractors as appropriate shall be included.

B. The interdisciplinary services planning team shall meet to develop the individualized services plans and review it quarterly. Members of the team shall be available for consultation on an as needed basis.

C. The interdisciplinary services planning team shall review the medications prescribed at least quarterly and consult with the primary care physician as needed.

D. The interdisciplinary services planning team shall integrate medical care plans prescribed by the primary care physician into the individualized services plan and consult with the primary care physician as needed.

12 VAC 35-105-1350. Employee or contractor qualifications and training.

A. A nurse aide may be employed only if he is certified by the Board of Nursing. During the initial 120 days of employment, a nurse aide may be employed if he is enrolled full-time in a nurse aide education program approved by the Virginia Board of Nursing or has completed a nurse aide education program or competency testing.

B. All nursing employees or contractors, including certified nursing assistants, must have additional competency-based training in providing mental health services to geriatric individuals, including behavior management.

12 VAC 35-105-1360. Medical director.

Providers of community gero-psychiatric community services shall employ or have a written agreement with one or more psychiatrists with training and experience in gero-psychiatric services to serve as medical director. The duties of the medical director shall include, but are not limited to:

1. Responsibility for the overall medical and psychiatric care;

2. Advising the program director and the director of clinical services on medical/psychiatric issues, including the criteria for residents to be admitted, transferred or discharged;

3. Advising on the development, execution and coordination of policies and procedures that have a direct effect upon the quality of medical, nursing and psychiatric care delivered to residents; and

4. Acting as liaison and consulting with the administrator and the primary care physician on matters regarding medical, nursing and psychiatric care policies and procedures.

12 VAC 35-105-1370. Physician services and medical care.

A. Each individual in a community gero-psychiatric residential service shall be under the care of a primary care physician. Nurse practitioners and physician assistants licensed to practice in Virginia may provide care in accordance with their practice agreements. Prior to, or at the time of admission, each individual, his legally authorized representative, or the entity responsible for his care shall designate a primary care physician.

B. The primary care physician shall conduct a physical examination at the time of admission or within 48 hours of admission into a community gero-psychiatric residential service. The primary care physician shall develop, in coordination with the interdisciplinary services planning team, a medical care plan of treatment for an individual.

C. All physicians or other prescribers shall review all medication orders at least every 60 days or whenever there is a change in medication.

D. The provider shall have a signed agreement with a local general hospital describing back-up and emergency medical care plans.

12 VAC 35-105-1380. Pharmacy services for providers of community gero-psychiatric residential services.

A. The provider shall make provision for 24-hour emergency pharmacy services.

B. The provider shall have a written agreement with a qualified pharmacist to provide consultation on all aspects of the provision of pharmacy services and for regular visits, at least monthly.

C. A pharmacist licensed by the Virginia Board of Pharmacy shall review each individual's medication regimen. Any irregularities identified by the pharmacist shall be reported to the physician and the director of clinical services, and their response documented.

Article 7.

Intensive Community Treatment and Program of Assertive Community Treatment Services.

12 VAC 35-105-1390. Admission and discharge criteria.

A. Individuals must meet the following admission criteria:

1. Severe and persistent mental illness, predominantly schizophrenia, other psychotic disorder, or bipolar disorder,

that seriously impairs functioning in the community. Individuals with a sole diagnosis of substance addiction or abuse or mental retardation are not eligible for services.

2. Significant functional impairments on a continuing or intermittent basis to include:

a. Inability to consistently perform practical daily living tasks required for basic adult functioning in the community;

b. Persistent or recurrent failure to perform daily living tasks except with significant support of assistance by family, friends or relatives;

c. Inability to be consistently employed at a self-sustaining level or inability to consistently carry out homemaker roles; or

d. Inability to maintain a safe living situation.

3. High service needs due to one or more of the following problems:

a. Residence in a state mental health facility or other psychiatric hospital but clinically assessed to be able to live in a more independent situation if intensive services were provided or anticipated to require extended hospitalization in a state mental health facility if more intensive services are not available;

b. High user of state mental health facility or other acute psychiatric hospital inpatient services within the past two years or a frequent user of psychiatric emergency services (more than four times per year);

c. Intractable (i.e. persistent or very recurrent) severe major symptoms (e.g., affective, psychotic, suicidal);

d. Co-occurring substance addiction or abuse of significant duration (e.g., greater than six months);

e. High risk or a recent history (within the past six months) of criminal justice involvement (e.g., arrest and incarceration);

f. Unable to meet basic survival needs or residing in substandard housing, homeless, or at imminent risk of becoming homeless; or

g. Unable to consistently participate in traditional office-based services.

B. Criteria for discharge are:

1. Moving out of the service area;

2. Death;

3. Incarceration for a period to exceed a year;

4. Choice of the individual (the provider is responsible for revising the individualized services plan to meet any concerns of the individual leading to the choice of discharge); or

5. Demonstration by the individual of an ability to function in all major role areas with minimal team contact and support for at least one year.

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12 VAC 35-105-1400. Treatment team and staffing plan.

A. ICT and PACT Services are delivered by interdisciplinary teams.

1. The ICT team shall have employees or contractors who are qualified to provide the services described in 12 VAC 35-105-1360, including at least five full-time equivalent clinical employees or contractors (80% of whom meet the qualifications of QMHP), a program assistant, and a full- or part-time psychiatrist. The team shall include the following positions:

a. Team Leader – one full time equivalent (FTE) LMHP with three years experience in the provision of mental health services to adults with serious mental illness.

b. Nurses – one or more FTE registered nurse with one year of experience or licensed practical nurse with three years of experience in the provision of mental health services to adults with serious mental illness.

c. Mental health professionals – two or more FTE QMHPs (half of whom shall hold a master's degree), including a vocational specialist and a substance abuse specialist.

d. Peer specialists – one or more FTE QPPMH or QMHP who is or has been a recipient of mental health services for severe and persistent mental illness.

e. Program assistant – one person with skills and abilities in medical records management, operating and coordinating the management information system, maintaining accounts and budget records for individual and program expenditures, and providing receptionist activities.

f. Psychiatrist – one board certified or board eligible in psychiatry and licensed to practice medicine. An equivalent ratio to 20 minutes (.008 FTE) of psychiatric time for each individual served must be maintained.

2. PACT teams are ICT teams that consist of at least 10 full-time equivalent clinical employees or contractors in the same proportions including at least three FTE nurses.

B. ICT and PACT teams must include a minimum number of employees (counting contractors but not counting the psychiatrist and program assistant) to maintain an employee to individual ratio of at least 1:10. ICT teams may serve no more than 80 individuals. PACT teams may serve no more than 120 individuals.

C. ICT and PACT teams shall meet daily Monday through Friday to review and plan services and to plan for emergency and crisis situations.

D. ICT teams shall operate a minimum of 8 hours per day, 7 days per week, 365 days per year and shall provide services on a case-by-case basis in the evenings. PACT teams shall be available to individuals 24 hours per day and shall operate a minimum of 12 hours each weekday and 8 hours each weekend day and each holiday.

E. The ICT and PACT team shall make crisis services directly available 24 hours a day but may only arrange coverage

through another crisis services provider if the team coordinates with the crisis services provider daily. The PACT team shall operate an after-hours on-call system and be available to individuals by telephone or in person.

12 VAC 35-105-1410. Contacts.

A. The ICT and PACT team shall have the capacity to provide multiple contacts per week to individuals experiencing severe symptoms or significant problems in daily living, for an aggregate average of three contacts per individual per week.

B. Each individual receiving ICT or PACT services shall be seen face-to-face by an employee or contractor a minimum of at least one time per week and 75% of all such contacts should occur in-vivo (i.e., in the community where people live, work, and recreate as opposed to any clinical office settings.)

12 VAC 35-105-1420. ICT service daily operation and progress notes.

A. ICT teams and PACT teams shall conduct daily organizational meetings Monday through Friday at a regularly scheduled time to review the status of all individuals and the outcome of the most recent employee or contractor contact, assign daily and weekly tasks to employees and contractors, revise treatment plans as needed, plan for emergency and crisis situations, and to add service contacts that are identified as needed.

B. A daily log that provides a roster of individuals served in the ICT or PACT services program and documentation of services provided and contacts made with them shall be maintained. There shall also be at least a weekly individual note documenting progress or lack of progress toward goals and objectives as outlined in the Psychosocial Rehabilitation Services Plan.

12 VAC 35-105-1430. ICT and PACT assessment.

The provider shall solicit the individual's own assessment of his needs, strengths, goals, preferences and abilities to identify the need for recovery oriented treatment, rehabilitation and support services and the status of his environmental supports within the individual's cultural context. The provider will assess:

1. Psychiatric history, mental status and diagnosis, including the content of an advance directive;
2. Medical, dental and other health needs;
3. Extent and effect of drug or alcohol use;
4. Education and employment including current daily structures use of time, school or work status, interests and preferences and the effect of psychiatric symptomatology on educational and employment performance;
5. Social development and functioning including childhood and family history, culture and religious beliefs leisure interests and social skills;
6. Housing and daily living skills, including the support needed to obtain and maintain decent, affordable housing integrated into the broader community; the current ability to meet basic needs such as personal hygiene, food preparation, housekeeping, shopping, money management

and the use of public transportation and other community based accommodations;

7. Family and social network including the current scope and strength of a individual's network of family, peers, friends, and co-workers and their understanding and expectations of the team's services;

8. Finances and benefits including the management of income, the need for and eligibility for benefits and the limitations and restrictions of those benefits; and

9. Legal and criminal justice involvement including the guardianship, commitment, representative payee status and the experience as either victim or accused person.

12 VAC 35-105-1440. Service requirements.

Providers shall document that the following services are provided consistent with the individual's assessment and individualized services plan.

1. Ongoing assessment to ascertain the needs, strengths and preferences of the individual;
2. Case management;
3. Nursing;
4. Symptom assessment and management;
5. Psychopharmacological treatment, administration and monitoring;
6. Substance abuse assessment and treatment including individual and group therapy for individuals with a dual diagnosis of mental illness and substance abuse;
7. Individual supportive therapy;
8. Skills training in activities of daily living, social skills, interpersonal relationships and leisure time;
9. Supportive residential services;
10. Work-related services to help find and maintain employment;
11. Support for resuming education;
12. Support, education, consultation, and skill-teaching to family members and significant others;
13. Collaboration with families and assistance to individuals with children;
14. Direct support to help individuals obtain legal and advocacy services, financial support, money-management services, medical and dental services, transportation, and natural supports in the community;
15. Mobile crisis assessment, intervention and facilitation into and out of psychiatric hospitals.

VA.R. Doc. Nos. R98-40, R01-103 and R01-104; Filed October 10, 2001, 12:36 p.m.



TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARDS OF NURSING AND MEDICINE

Title of Regulation: **18 VAC 90-30. Regulations Governing the Licensure of Nurse Practitioners (amending 18 VAC 90-30-20, 18 VAC 90-30-100, and 18 VAC 90-30-220; adding 18 VAC 90-30-105).**

Title of Regulation: **18 VAC 90-40. Regulations for Prescriptive Authority for Nurse Practitioners (amending 18 VAC 90-40-20, 18 VAC 90-40-50, 18 VAC 90-40-60, and 18 VAC 90-40-130; adding 18 VAC 90-40-55).**

Statutory Authority: §§ 54.1-103, 54.1-2400, 54.1-2912.1, and 54.1-2957.01 of the Code of Virginia.

Public Hearing Date: November 7, 2001 - 9 a.m.

Public comments may be submitted until 5 p.m. on December 5, 2001.

(See Calendar of Events section for additional information)

Agency Contact: Nancy K. Durrett, R.N., Executive Director, Department of Health Professions, 6606 W. Broad Street, 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9909, FAX (804) 662-9512 or e-mail ndurrett@dhp.state.va.us.

Basis: Section 54.1-2400 of the Code of Virginia establishes the general powers and duties of health regulatory boards including the responsibility to promulgate regulations, levy fees, administer a licensure and renewal program, and discipline regulated professionals.

Section 54.1-2912.1 of the Code of Virginia provides the specific statutory mandate for the Board of Medicine to adopt regulations for practitioner continued competency.

The boards are also authorized by § 54.1-103 of the Code of Virginia to specify additional training for licensees seeking renewal.

Section 54.1-2957.01 of the Code of Virginia mandates the Board of Nursing to promulgate regulations that shall include, at a minimum, such requirements as may be necessary to ensure continued nurse practitioner competency which may include continuing education, testing, or any other requirement, and shall address the need to promote ethical practice, an appropriate standard of care, patient safety, the use of new pharmaceuticals, and appropriate communication with patients.

Purpose: With nurse practitioners assuming increasing responsibilities for patient care and an expanding authority to prescribe certain schedules of drugs, the Boards of Medicine and Nursing concur that some evidence on continued competency is essential to protect public health and safety.

The purpose of any regulation of a profession is "for the exclusive purpose of protecting the public interest" (§ 54.1-100 of the Code of Virginia). According to the Code of Virginia, regulation is necessary to protect the health, safety or welfare of the public when the potential for harm is recognizable. In the practice of a nurse practitioner, there

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exists a clearly recognized potential for harm and a need to protect the public.

Regulation is further authorized when the practice of the profession requires specialized skills and assurances of initial and continuing professional and occupational ability. The Boards of Nursing and Medicine do not believe that current regulations provide such assurances, and that regulations requiring mandatory continuing competency are in keeping with its statutory responsibility to protect the public.

In its discussion of the need to require evidence of continued competency, the Committee of the Joint Boards identified three reasons why it is essential: (i) there is a statutory mandate as described above; (ii) it is unprofessional conduct for a practitioner to continue treating patients without updating his knowledge and skills - some experts estimate that the half-life of medical knowledge is seven years; others estimate that it is outdated in three to five years; and (iii) in disciplinary cases before the joint boards, there is evidence that nurse practitioners who are guilty of practicing outside the scope of their training and certification have not maintained current or continued competency.

The Committee of the Joint Boards also determined that some evidence of current knowledge of new pharmaceuticals and appropriate prescribing practices is necessary. Legislation passed by the General Assembly expanded the prescribing authority for nurse practitioners to include Schedule V and VI drugs in 2000, Schedules IV, V and VI drugs in 2002 and Schedules III through VI in 2003. It is likely that knowledge acquired by a nurse practitioner in order to initially meet the requirements for prescriptive authority has become out-dated and may not have included drugs in schedules other than Schedule VI.

The boards have reviewed mandatory continuing competency as required for other professions in Virginia and in regulations by other states. Among those professions whose regulations currently require continuing education or continued national certification for renewal of licensure in Virginia are doctors of medicine, osteopathy, podiatry and chiropractic, pharmacists, dentists, dental hygienists, optometrists, nursing home administrators, veterinarians, veterinary technologists, physician assistants and licensed acupuncturists. Audiologists, speech-language pathologists, psychologists and social workers are in the process of promulgating proposed regulations for continuing competency. Among other states, there are only seven that have no requirement for continued competency for advanced practice nurses. As the growth of technology and scientific knowledge escalates, it is essential for health care practitioners who make crucial decisions about the care of patients to stay abreast in their profession. Licensing boards have a statutory responsibility to not only assure minimal competency as a person enters a profession with initial licensure but to continue to provide assurance of continued competency for practitioners who renew licensure over a period of years.

Among the other states, there are 10 that have some specific requirement for continued education for advanced practice nurses who have prescriptive authority or a specific hour requirement for continuing education in pharmacology. As the new drugs come on the market and new information about

drug interactions and efficacy becomes known, it is essential for health care practitioners who make crucial decisions about the care of patients to stay current. Licensing boards have a statutory responsibility to not only assure minimal competency for a practitioner who is initially authorized to write prescriptions but to continue to provide assurance of continued competency for practitioners who renew that authorization over a period of years.

Substance: The substance of the proposed amendments for 18 VAC 90-30, Regulations Governing the Licensure of Nurse Practitioners is a requirement that evidence of continuing competency be provided in order to renew licensure. After the effective date of the regulation, newly licensed nurse practitioners will be required to maintain current professional certification. Nurse practitioners licensed prior to that date will be required to maintain current professional certification or acquire a minimum of 40 hours of continuing education each biennium in the area of specialty practice in which they hold licensure.

The substance of the proposed amendments for 18 VAC 90-40, Regulations for Prescriptive Authority for Nurse Practitioners is a requirement for at least eight hours of continuing education each biennium in pharmacology or pharmacotherapeutics. Further, there is a proposal to require at least four hours of continuing education for each year in which a practitioner license has been lapsed, not to exceed 16 hours.

Other amendments in both regulations provide for compliance requirements, requests for extensions or exemptions from all or part of the regulations, and retention of records.

Issues: 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. Members of the boards estimate that the vast majority of practitioners already maintain professional certification or engage in enough continuing education to meet the requirements and should only have to maintain documentation of that certification and/or hours. The resources for earning the hours and engaging in the required learning are numerous and readily available in all parts of Virginia.

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 boards' concurrence that those practitioners and their patients would greatly benefit from continuing education requirements, and that the public is better protected if there is some assurance of that effort.

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.

Advantages or disadvantages to the agency: With the adoption of these regulations, the agency will be in compliance with a statutory mandate for evidence of continued competency for nurse practitioners. By recognizing the certifying bodies already named in regulation, it will not be necessary for the boards to engage in the review and approval of continuing education courses and providers. Such an activity can be very time-consuming and costly to a board. The primary disadvantage lies in the need to verify compliance for a percentage of licensee selected in a random audit and the potential effect on non-compliance on the disciplinary caseload of the Committee of the Joint Boards.

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 § 2.2-4007 G of the Administrative Process Act and Executive Order Number 25 (98). Section 2.2-4007 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. Section 54.1-2912.1 of the Code of Virginia mandates that the Board of Medicine establish continuing education requirements for regulated practitioners which include nurse practitioners. Section 54.1-2957.01 specifically mandates that the Board of Medicine and the Board of Nursing promulgate regulations to ensure continued competency of licensed nurse practitioners with prescriptive authority. Therefore, the Boards of Medicine and Nursing ("the boards") are proposing the following new requirements in order to renew a license each biennium.

Nurse Practitioners (18 VAC 90-30). Current professional certification in the area of specialty practice for all nurse practitioners licensed after the effective date of the regulations. If licensed prior to the effective date, the licensee must either hold current certification or obtain at least 40 hours of continuing education in the area of specialty practice as approved by one of the certifying agencies designated by the boards.

Nurse Practitioners with Prescriptive Authority (18 VAC 90-40).

1. At least eight hours of continuing education each biennium in pharmacology or pharmacotherapeutics.
2. For reinstatement of prescriptive authority, at least four hours of continuing education in pharmacology or pharmacotherapeutics will be required for each year in which a license has been lapsed, not to exceed a total of 16 hours.

In addition, the proposed regulations require retention of records for four years, include provisions for random audits by the board, and delegate the Executive Director of the Board of

Nursing the authority to grant an extension or exemption from all or part of the continuing competency requirements.

Estimated economic impact.

Biennial Renewal of Active License. The most significant change proposed to the current regulations is the addition of continuing education (CE) requirements for the renewal of an active 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 new cost. Based on information provided by the agency, the monetary costs for earning the required CE hours could range from \$0 to several hundred dollars per biennium for each of the 3,900 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 Boards of Nursing and Medicine will also incur costs related to enforcement of the proposed CE requirements. Based on experience with other professions, the biennial audits of licensees can be expected to result in an estimated 20 cases settled with a pre-hearing consent order (\$100 per case) and less than 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.

Reinstatement of Lapsed Licenses. For nurse practitioners with prescriptive authority that allow their licenses to lapse, four hours of continuing education in pharmacology or pharmacotherapeutics will be required for each year in which a license has been lapsed, not to exceed a total of 16 hours. The existing regulations governing nurse practitioners already require proof of current national certification for reinstatement of lapsed licenses.

Inactive Licensure. Legislation sought by DHP, and passed by the 1998 General Assembly, gives authorization to all boards to issue inactive licenses, which exempts practitioners who are either retired or out-of-state, and do not intend to engage in active practice in Virginia, from continuing education requirements. By taking inactive status, the licensee is not

¹ Estimates are based on information from DHP regarding re-certifying and re-examination costs from approved organizations. Opportunities for continuing education hours include courses offered by the American Nurses Credentialing Center (ANCC) via the Internet (\$0 to \$15 for approximately 2 hours of CE) and state conferences sponsored by the Virginia Nurses Association.

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required to maintain certification or complete required CE, but is likewise not permitted to practice. Recognizing that there needs to be some assurance that a practitioner with an inactive license has maintained or relearned some of the minimal knowledge and skills necessary to practice with safety, documentation of current certification or of taking the required continuing education hours is required to reactivate an inactive license. According to the "Principles for Fee Development" adopted by DHP, the renewal fee for inactive licensure is half that of active licensure. Taking inactive status also eliminates the need for the practitioner to reapply for reinstatement of an expired license, which may be complicated and costly.

In the proposed regulations, the Board of Medicine and Board of Nursing elected not to institute an inactive license, reasoning that, even if a nurse practitioner is not currently practicing, he should maintain national certification if he intends to be rehired and resume practice at some point in the future. This position, however, is inconsistent with the position of other boards in the Department of Health Professions (DHP) that include inactive licensure provisions for professions with continuing education requirements. For example, in its *Statement of Reasoning* for proposed amendments establishing inactive licensure for physician assistants, the Board of Medicine noted that "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...to maintain certification."

According to DHP, the Board of Nursing is beginning to study the need for inactive licensure for its regulated professions. However, under the regulations as proposed, nurse practitioners not intending to practice in Virginia for a period of time will either have to maintain active licensure (including continuing competency requirements) or let their license expire. For those practitioners licensed prior to the effective date of these regulations who choose to let their licenses expire, the option of taking continuing education hours will no longer be available since the regulations require proof of national certification in order to reinstate an expired license.

Conclusion. With nurse practitioners assuming increasing responsibilities for patient care and an expanding authority to prescribe certain schedules of drugs, the proposed CE requirements can be expected to provide some beneficial results by providing some assurance to the public that nurse practitioners are maintaining their knowledge, skills, and competencies and that those nurses with prescriptive authority are maintaining current information on new drugs and drug interventions. However, there is no empirical evidence currently available on how effective continuing education is on improving the quality of care provided by nurse practitioners nor is there any data on the economic value of incremental benefits in that quality of care. Thus, no conclusions can be drawn at this time about the net economic impact of the proposed CE requirements.

Businesses and entities affected. There are 3,900 nurse practitioners currently licensed in Virginia, 1,800 of which hold authorization to prescribe controlled substances, who would be affected by the proposed changes to this regulation.

Localities particularly affected. The proposed changes to this regulation are not expected to uniquely affect any particular localities.

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 board concurs with the economic impact analysis prepared by the Department of Planning and Budget.

Summary:

The proposed amendments require that evidence of continuing competency be provided in order for nurse practitioners to renew licensure. After the effective date of the regulation, newly licensed nurse practitioners will be required to maintain current professional certification. Nurse practitioners licensed prior to that date will be required to maintain current professional certification or acquire a minimum of 40 hours of continuing education each biennium in the area of specialty practice in which they hold licensure.

For nurse practitioners with prescriptive authority, the proposed amendments require at least eight hours of continuing education each biennium in pharmacology or pharmacotherapeutics. Further, there is a proposal to require at least four hours of continuing education for each year in which a practitioner license has been lapsed, not to exceed 16 hours.

Other amendments provide for compliance requirements, requests for extensions or exemptions from all or part of the regulations, and retention of records.

18 VAC 90-30-20. Delegation of authority.

A. The boards hereby delegate to the executive director of the Virginia Board of Nursing the authority to issue the initial licensure and the biennial renewal of such licensure to those persons who meet the requirements set forth in this chapter and to grant extensions for compliance with continuing competency requirements as set forth in subsection E of 18 VAC 90-30-105. Questions of eligibility shall be referred to the Committee of the Joint Boards of Nursing and Medicine.

B. All records and files related to the licensure of nurse practitioners shall be maintained in the office of the Virginia Board of Nursing.

18 VAC 90-30-100. Renewal of licensure.

A. Licensure of a nurse practitioner shall be renewed biennially at the same time the license to practice as a registered nurse in Virginia is renewed.

B. The application for renewal of the license shall be mailed by the committee to the last known address of each nurse practitioner.

C. The licensed nurse practitioner shall complete the application and return it with *his signature attesting to compliance with continuing competency requirements prescribed in 18 VAC 90-30-105* and the license renewal fee prescribed in 18 VAC 90-30-50.

18 VAC 90-30-105. Continuing competency requirements.

A. *In order to renew a license biennially, a nurse practitioner initially licensed on or after [insert effective date of regulation] shall hold current professional certification in the area of specialty practice from one of the certifying agencies designated in 18 VAC 90-30-90.*

B. *In order to renew a license biennially on or after January 1, 2004, nurse practitioners licensed prior to [insert effective date of regulation] shall meet one of the following requirements:*

1. *Hold current professional certification in the area of specialty practice from one of the certifying agencies designated in 18 VAC 90-30-90; or*
2. *Complete at least 40 hours of continuing education in the area of specialty practice approved by one of the certifying agencies designated in 18 VAC 90-30-90.*

C. *The nurse practitioner shall retain evidence of compliance and all supporting documentation for a period of four years following the renewal period for which the records apply.*

D. *The boards shall periodically conduct a random audit of at least 1.0% to 2.0% of its licensees to determine compliance. The nurse practitioners selected for the audit shall provide the evidence of compliance and supporting documentation within 30 days of receiving notification of the audit.*

E. *The boards 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.*

F. *The boards may delegate to the committee the authority to 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 90-30-220. Grounds for disciplinary action against the license of a licensed nurse practitioner.

The boards may deny licensure or relicensure, revoke or suspend the license, or place on probation, censure or reprimand a nurse practitioner upon proof that the nurse practitioner:

1. Has had his license to practice nursing in this Commonwealth or in another jurisdiction revoked or suspended or otherwise disciplined;
2. Has directly or indirectly held himself out or represented himself to the public that he is a physician, or is able to, or will practice independently of a physician;
3. Has exceeded his authority as a licensed nurse practitioner;

4. Has violated or cooperated in the violation of the laws or regulations governing the practice of medicine, nursing or nurse practitioners;

5. Has become unable to practice with reasonable skill and safety to patients as the result of a physical or mental illness or the excessive use of alcohol, drugs, narcotics, chemicals or any other type of material; or

6. Has violated or cooperated with others in violating or attempting to violate any law or regulation, state or federal, relating to the possession, use, dispensing, administration or distribution of drugs; or

7. *Has failed to comply with continuing competency requirements as set forth in 18 VAC 90-30-105.*

18 VAC 90-40-20. Authority and administration of regulations.

A. The statutory authority for this chapter is found in §§ 54.1-2957.01, 54.1-3303, 54.1-3401, and 54.1-3408 of the Code of Virginia.

B. Joint boards of nursing and medicine.

1. The Committee of the Joint Boards of Nursing and Medicine shall be appointed to administer this chapter governing prescriptive authority.

2. The boards hereby delegate to the Executive Director of the Virginia Board of Nursing the authority to issue the initial authorization and biennial renewal to those persons who meet the requirements set forth in this chapter *and to grant extensions for compliance with continuing competency requirements as set forth in subsection E of 18 VAC 90-40-55.* Questions of eligibility shall be referred to the committee.

3. All records and files related to prescriptive authority for nurse practitioners shall be maintained in the office of the Board of Nursing.

18 VAC 90-40-50. Renewal of prescriptive authority.

An applicant for renewal of prescriptive authority shall:

1. Renew biennially at the same time as the renewal of licensure to practice as a nurse practitioner in Virginia.
2. Submit a completed renewal application along with *his signature attesting to compliance with continuing competency requirements set forth in 18 VAC 90-40-55* and the renewal fee as prescribed in 18 VAC 90-40-70 ~~of this chapter.~~
3. Submit a new practice agreement which meets the requirements of 18 VAC 90-40-90 with the renewal application if there has been a change since the last practice agreement was filed.

18 VAC 90-40-55. Continuing competency requirements.

A. *In order to renew prescriptive authority, a licensee shall meet continuing competency requirements for biennial renewal as a licensed nurse practitioner. Such requirements shall address issues such as ethical practice, an appropriate standard of care, patient safety, and appropriate communication with patients.*

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B. In addition to the minimal requirements for compliance with subsection B of 18 VAC 90-30-105, a nurse practitioner with prescriptive authority shall obtain eight hours of continuing education in pharmacology or pharmacotherapeutics for each biennium.

C. The nurse practitioner with prescriptive authority shall retain evidence of compliance and all supporting documentation for a period of four years following the renewal period for which the records apply.

D. The boards shall periodically conduct a random audit of at least 1.0% to 2.0% of its licensees to determine compliance. The nurse practitioners selected for the audit shall provide the evidence of compliance and supporting documentation within 30 days of receiving notification of the audit.

E. The boards 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.

F. The boards may delegate to the committee the authority to 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 90-40-60. Reinstatement of prescriptive authority.

A. A nurse practitioner whose prescriptive authority has lapsed may reinstate within one renewal period by payment of the current renewal fee and the late renewal fee.

B. A nurse practitioner who is applying for reinstatement of lapsed prescriptive authority after one renewal period shall:

1. File the required application and practice agreement as required for renewal in 18 VAC 90-40-50;
2. Provide evidence of a current, unrestricted license to practice as a nurse practitioner in Virginia;
3. Pay the fee required for reinstatement of a lapsed authorization as prescribed in 18 VAC 90-40-70; and
4. If the authorization has lapsed for a period of ~~five~~ two or more years, the applicant shall provide proof of:
 - a. Continued practice as a licensed nurse practitioner with prescriptive authority in another state; or
 - b. Continuing education, *in addition to the minimal requirements for current professional certification, consisting of ~~30~~ four contact hours in pharmacology or pharmacotherapeutics for each year in which the prescriptive authority has been lapsed in the Commonwealth, not to exceed a total of 16 hours.*

C. An applicant for reinstatement of suspended or revoked authorization shall:

1. Request a hearing pursuant to the provisions of the Virginia Administrative Process Act (§ ~~9-6-14:1~~ 2.2-4000 et seq. of the Code of Virginia) to be held before the committee;

2. Present evidence of competence to resume practice as a nurse practitioner with prescriptive authority;

3. Pay the fee for reinstatement of a suspended or revoked authorization as prescribed in 18 VAC 90-40-70; and

4. Meet the qualifications and resubmit the application required for initial authorization in 18 VAC 90-40-40.

18 VAC 90-40-130. Grounds for disciplinary action.

The boards may deny approval of prescriptive authority, revoke or suspend authorization, or take other disciplinary actions against a nurse practitioner who:

1. Exceeds his authority to prescribe or prescribes outside of the written practice agreement with the supervising physician;
2. Has had his license as a nurse practitioner suspended, revoked or otherwise disciplined by the boards pursuant to 18 VAC 90-30-220 and 18 VAC 85-70-220.
3. *Fails to comply with requirements for continuing competency as set forth in 18 VAC 90-40-55.*

<p>NOTICE: The forms used in administering 18 VAC 90-40, Regulations for Prescriptive Authority for Nurse Practitioners, are listed below. Any amended or added forms are reflected in the listing and are published following the listing.</p>
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FORMS

Application for Prescriptive Authority for Nurse Practitioner (rev. 11/99).

Practice Agreement (rev. 6/22/00).

~~Application for Controlled Substances Registration (eff. 5/00).~~

Renewal Notice and Application, ~~C-31728~~ (rev. ~~6/22/00~~ 2001).

6606 West Broad Street, Fourth Floor
Richmond, Virginia 23220-1717

Post Check Back
UP Payment Paid
Richmond, VA
Permit No. 1002

LICENSE RENEWAL NOTICE AND APPLICATION

Renew License
 Renew License and Change Address
 Renew License and Change Expiration Date
 Renew License and Change Other Information

*First Name *Last Name
 *License Type - *License No
 *Renewal Period *Renewal Period to send *Amount Due
 *Renewal Period *Renewal Period to send *Amount Due

1. For name/address changes, cross out any incorrect information on the front of this renewal form, write the correct information and check the box on return envelope. Enclose a copy of your marriage license or court order for name changes.
 2. Double "Renewal form" parties and return completed form with poly check in attached return envelope.
 3. Voided check payable to "Department of Health Professions"
 4. Renewal fee payment required if suspension has changed.

*First Name *Last Name *Amount Due
 *License No *Renewal Period *Renewal Period to send *Amount Due
 *Renewal Period *Renewal Period to send *Amount Due

I wish to renew and I certify that I have met all continuing education requirements to renew an active license.
 I wish to renew and I certify that I have met all continuing education requirements to renew an active license.

****RI License and LIP License must be current in order to renew****
****New practice agreement required if supervision has changed****
 NOTE: Renewal fee is waived/def. Renewed License should be received in 14-21 days.
 If Payment is Received by Renew After e.L. Expiration Date, Amount Due \$15.00
 Do not attach check to renewal form or RM/renewal form.

3Scan_Line
 3Scan_Line

To Open - Fold & Tear Along Perforation
 To Open - Fold & Tear Along Perforation
 To Open - Fold & Tear Along Perforation
 To Open - Fold & Tear Along Perforation

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

VA.R. Doc. Nos. R00-279 and R00-280; Filed October 16, 2001, 4:36 p.m.

Proposed Regulations

TITLE 20. PUBLIC UTILITIES AND TELECOMMUNICATIONS

CASE NO. PUC010186

STATE CORPORATION COMMISSION

REGISTRAR'S NOTICE: The State Corporation Commission is exempt from the Administrative Process Act in accordance with § 2.2-4002 A 2 of the Code of Virginia, which exempts courts, any agency of the Supreme Court, and any agency which by the Constitution is expressly granted any of the powers of a court of record.

The distribution lists that are referenced as Appendices A through D in the following order are not being published. However, these lists are available for public inspection at the State Corporation Commission, Document Control Center, Tyler Building, 1st Floor, 1300 East Main Street, Richmond, Virginia 23219, from 8:15 a.m. to 5 p.m., Monday through Friday; or it may be viewed at the Virginia Code Commission, General Assembly Building, 2nd Floor, 910 Capitol Street, Richmond, Virginia 23219, during regular office hours.

Title of Regulation: **20 VAC 5-400. Telecommunications (repealing 20 VAC 5-400-90).**

Title of Regulation: **20 VAC 5-407. Rules for Payphone Service and Instruments (adding 20 VAC 5-407-10 through 20 VAC 5-407-70).**

Statutory Authority: § 12.1-13 and 56-508.16 of the Code of Virginia.

Agency Contact: Steven Bradley, Deputy Director, Division of Communications, State Corporation Commission, P.O. Box 1197, Richmond, VA 23218, telephone (804) 371-9420 or e-mail sbradley@scc.state.va.us.

Summary:

The proposed rules attached to the State Corporation Commission's "Order for Notice and Comment or Requests for Hearing" dated October 17, 2001, will govern payphone service and instruments in Virginia and are intended to replace those now contained in 20 VAC 5-400-90. These proposed rules eliminate the rate cap on operator-assisted services for calls made from payphones, instead requiring that operator service providers provide to payphone users a real-time rate quote for the selected service prior to completing the call. This change from price regulation to disclosure regulation conforms to the new era of competition in the telecommunications industry, where the consumer is able to readily obtain sufficient information to make his own decisions. Also, the proposed rules better correlate accountability with the control over various payphone service elements, thereby including operator service providers, in addition to payphone service providers and serving local exchange carriers, among the providers now subject to the rules.

AT RICHMOND, OCTOBER 17, 2001

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

Ex Parte: In the matter of
revising rules governing
payphone service and instruments

ORDER FOR NOTICE AND COMMENT OR REQUESTS FOR HEARING

By Order dated November 24, 1993, the Commission adopted Regulations for Payphone Service and Instruments (20 VAC 5-400-90). Since then, the payphone industry has changed markedly. For example, the use of payphones for certain types of calls has diminished over the last few years due to the relative ease of use and cost of cellular telephones. Also, fewer and fewer people rely on operator-assisted services from payphones, opting instead for pre-paid calling cards and other methods of network access.

Notwithstanding these trends, however, payphone service remains essential to many Virginians and the traveling public who depend upon payphones to satisfy their communications needs and who rely on operator assistance to complete their calls. Payphones also continue to be an important communications device in the event of emergencies.

Therefore, in an attempt to modernize the rules to address changes in technology and the marketplace, the Commission's Division of Communications has drafted revised rules governing payphone service and instruments ("Proposed Rules"). Both the regulations that are proposed for repeal and that are proposed for amendment appear in Attachment A, appended to this Order. The Proposed Rules apply to payphone service providers ("PSPs"), serving local exchange carriers ("serving LECs"), and operator service providers ("OSPs").

Among the revisions to the rules, the Staff proposes eliminating the rate cap on operator-assisted services for calls made from payphones, instead requiring that OSPs provide to payphone users a real-time rate quote for the selected service prior to completing the call. This change from price regulation to disclosure regulation conforms to the new era of competition in the telecommunications industry where the consumer is able to readily obtain sufficient information to make his or her own decisions.

The Staff also proposes rules that would better correlate accountability with the control over various payphone service elements, thereby including OSPs, in addition to PSPs and serving LECs, among the providers now subject to these rules.

NOW THE COMMISSION, having considered the Staff's Proposed Rules, finds that interested parties should be permitted to comment, propose modifications or supplements to, or request a hearing on the Proposed Rules.

Accordingly, IT IS ORDERED THAT:

(1) This matter is docketed and assigned Case No. PUC010186.

(2) The Commission's Division of Information Resources shall forward the Proposed Rules to the Registrar of Virginia for publication in the Virginia Register of Regulations.

(3) On or before October 18, 2001, the Commission's Division of Information Resources shall make a downloadable version of the Proposed Rules available for access by the public at the Commission's website, <http://www.state.va.us/scc/caseinfo/orders.htm>. The Clerk of the Commission shall make a copy of the Proposed Rules available for public inspection and provide a copy of the Proposed Rules, free of charge, in response to any written request for one.

(4) Interested persons wishing to comment, propose modifications or supplements to, or request a hearing on the Proposed Rules shall file an original and fifteen (15) copies of such comments, proposals, or requests with the Clerk of the Commission, State Corporation Commission, P.O. Box 2118, Richmond, Virginia 23218, on or before November 14, 2001, making reference to Case No. PUC010186. Requests for hearing shall state with specificity why such concerns cannot be adequately addressed in written comments.

(5) On or before November 2, 2001, the Commission's Division of Information Resources shall publish the following notice as classified advertising in newspapers of general circulation throughout the Commonwealth of Virginia.

**NOTICE TO THE PUBLIC OF A PROCEEDING TO
REVISE RULES GOVERNING PAYPHONE SERVICE
AND INSTRUMENTS
CASE NO. PUC010186**

By Order dated November 24, 1993, the Commission adopted Regulations for Payphone Service and Instruments (20 VAC 5-400-90). Since then, the payphone industry has changed markedly. For example, the use of payphones for certain types of calls has diminished over the last few years due to the relative ease of use and cost of cellular telephones. Also, fewer and fewer people rely on operator-assisted services from payphones, opting instead for pre-paid calling cards and other methods of network access.

Notwithstanding these trends, however, payphone service remains essential to many Virginians and the traveling public who depend upon payphones to satisfy their communications needs and who rely on operator assistance to complete their calls. Payphones also continue to be an important communications device in the event of emergencies.

Therefore, in an attempt to modernize the rules to address changes in technology and the marketplace, the Commission's Division of Communications has drafted revised rules governing payphone service and instruments ("Proposed Rules"). The Proposed Rules apply to payphone service providers, serving local exchange carriers, and operator service providers.

Interested parties may obtain a copy of the Proposed Rules by visiting the Commission's website, <http://www.state.va.us/scc/caseinfo/orders.htm>, or by requesting a copy from the Clerk of the Commission. The Clerk's office will provide a copy of the Proposed Rules to any interested party, free of charge, in response to any written request for one. The Proposed Rules will also be

forwarded to the Office of the Registrar of Regulations for publication in the Virginia Register of Regulations.

Any person desiring to comment in writing or request a hearing on the Proposed Rules may do so by directing such comments or requests for hearing on or before November 14, 2001, to the Clerk of the Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218. Comments and requests for hearing must refer to Case No. PUC010186. Requests for hearing shall state with specificity why such concerns cannot be adequately addressed in written comments.

If no requests for hearing are received, a formal hearing with oral testimony may not be held, and the Commission may make its decision administratively based upon papers filed in this proceeding.

VIRGINIA STATE CORPORATION COMMISSION

(6) This matter is continued for further orders of the Commission.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to: John F. Dudley, Senior Assistant Attorney General, Division of Consumer Counsel, Office of the Attorney General, 900 East Main Street, Second Floor, Richmond, Virginia 23219; all local exchange carriers certificated in Virginia as set out in Appendix A; all interexchange carriers certificated in Virginia as set out in Appendix B; all payphone service providers registered in Virginia as set in Appendix C; other known operator service providers operating in Virginia as set out in Appendix D; and the Commission's Division of Communications.

20 VAC 5-400-90. Regulations for payphone service and instruments. (Repealed.)

~~A. The following shall apply to all payphone instruments installed or made available for public use within the Commonwealth of Virginia:~~

~~1. Any Payphone Service Provider (PSP) properly registered, as provided for in subdivision 3 of this subsection, with the State Corporation Commission (SCC) is authorized to provide payphone service anywhere within the Commonwealth of Virginia. The provisions contained herein apply to all registered PSPs. Restricted access payphone instruments provided to confinement facilities are excluded from the registration requirement and all other application of this section. Should circumstances such as, for example, consumer complaints make it necessary, the SCC may in its own discretion amend this section for further application to restricted access instruments provided to confinement facilities.~~

~~2. Reliable connections to the telecommunications network and high quality service to end users are expected of all payphone providers.~~

~~3. The SCC assesses a nonrefundable registration fee each year for each payphone operated in Virginia. The fee is \$4.00 per year per payphone. The provider must submit this fee with the completed SCC form in order to become registered. For all currently registered PSPs and all local exchange carriers registering with the SCC for the first~~

Proposed Regulations

time, the fee and completed SCC form will be due by not later than January 1, 1998. In subsequent years, the fee will be assessed and payable to the SCC by January 1 of each successive year. A late filing fee of 10% of the registration fee or \$25, whichever is greater, will be assessed for all registration applications and filing fees which are received by the Public Service Taxation Division and are postmarked after January 15, 1998, and after January 1 in successive years. After the SCC processes a form and completes the registration process no refunds on fees received will be allowed. New PSPs must register and pay the total fee for the year of their initial registration before beginning operation. SCC forms may be obtained by writing to the Division of Communications, P.O. Box 1197, Richmond, Virginia 23218 or by calling the Division of Communications at (804) 371-9420.

4. Payphone service may be provided only through telephone instruments registered by the Federal Communications Commission (FCC).

5. Payphone instruments must be equipped to receive incoming calls unless they are prominently marked with either the words "OUTGOING CALLS ONLY," "NO INCOMING CALLS" or other language deemed acceptable by the SCC which will reasonably advise the user that no incoming service is available.

6. All providers of payphone service must notify the area local exchange carrier of a payphone instrument's connection, location, provider's SCC registration number, and such other details as the local exchange company may need for billing purposes. Failure to provide accurate information could result in the instrument not being connected or being disconnected.

7. Where business flat rate service is available, local exchange companies will furnish access lines to PSPs at a flat rate not to exceed the private branch exchange trunk flat rate. Where available, local exchange companies will offer optional message rate and/or measured rate business service access lines to providers.

8. All providers must furnish local directory number information on their payphone instruments. End users of payphones may be charged by the providers for local directory assistance service. The maximum local directory assistance charge from a payphone shall be determined by rounding the local exchange company charge up to the nearest multiple of \$.05. Any long distance directory assistance charge applied to the payphone service provider by certificated carriers may be passed on to the payphone instrument user.

9. All payphone instruments must be equipped for dial tone first.

10. All payphone instruments must provide calling without a charge to 911 where that number is utilized by emergency agencies. All payphone instruments must allow consumers to reach an operator without charge by dialing "Operator ("0")." The operator whom the consumer reaches must provide prompt, efficient, and accurate emergency service to a consumer when requested. The SCC may require a provider to route "Operator ("0")" calls to the LEC Operator

whom the provider uses does not provide prompt, efficient and accurate emergency service to a consumer when requested.

11. The maximum rate for local calls or extended area calls originating from all payphone instruments, whether the call is completed coin paid, billed collect, billed to a credit card, or billed to a third number, may not exceed the rate approved for the area local exchange company including any operator assistance charges. However, a provider may initiate a proceeding before the SCC to prove that its costs cannot reasonably be met under the rate caps contained herein.

12. The charge for all intrastate toll calls placed from local exchange company, inter-exchange carrier, or cellular carrier owned pay telephone instruments shall be as specified in the tariffs on file with the SCC. The maximum charge for all intrastate, intraLATA toll calls placed from all payphone instruments may not exceed the approved charge for similarly rated calls, including any operator assistance charges, as specified in the area local exchange company tariff, plus a surcharge of \$1.00. The maximum charge for all intrastate, interLATA toll calls placed from payphone instruments may not exceed the charge for similarly rated calls as specified in the tariffs of AT&T, plus a surcharge of \$1.00. However, a provider may initiate a proceeding before the SCC to prove that its costs cannot reasonably be met under the rate caps contained herein.

13. All providers must post consumer information and instructions on their payphone instruments as specified in subsection B of this section.

14. In providing intrastate toll service, all providers must allow dialed user access without charge from their payphone instruments to all operator service providers' networks through their "950," "800," "1-0-XXX-0-1" or "1-0-1-0XXX-0" numbers. Dialed user access without charge must also be allowed to the local exchange operator. In those cases where the access code "0" is reserved for carriers other than the local exchange company operator, access to the local exchange operator must be provided through the access code "*0."

15. All coin operated payphone instruments must accept any combination of nickels, dimes, and quarters for local and long distance calling charges. All coin operated payphone instruments must return any deposited amount if the call is not completed.

16. All providers must assure that a process exists for making prompt refunds to customers.

17. All providers must make all reasonable efforts to minimize the extent and duration of service interruptions. Ninety percent to 100% of all payphone instruments which are reported as being out of service, when the trouble condition does not require construction work, must be restored to service within 24 hours of the report receipt. The 24-hour clearance standard excludes trouble reports received on Sundays, legal holidays, and during emergency operating conditions. Out of service reports

which require construction must be cleared within five business days of report receipt.

18. Local exchange companies must furnish providers who operate within their certificated areas a listing of all central office codes working in their area. In addition, the local exchange companies must also provide information to providers on local and extended calling areas. This information must be updated by the local exchange companies and reissued to the providers as central office codes are added or deleted and as changes occur in local calling and extended calling areas. If local exchange companies wish to charge providers for furnishing the above described information, they should submit tariffs for SCC approval which describe their proposal.

19. All payphone instruments must conform to the requirements and the timetables which are prescribed in the Americans with Disabilities Act (42 USC § 12101 et seq.).

20. Failure to comply with this section may result in appropriate action by the State Corporation Commission to include disconnection of payphone instruments, fines, loss of registration for providers, loss of authority to engage in the payphone business, or any combination of these penalties which, in the judgment of the SCC, is necessary to protect the public interest. The sanctions set out in this section are in addition to any remedies that may be available through the Virginia Public Telephone Information Act (§ 59.1-424 et seq. of the Code of Virginia).

21. If it finds that the action is consistent with the public interest, the SCC may exempt a provider from some or all of the subdivisions contained herein.

B. Commission rules for pay telephone service and instruments. Subdivision A 13 of this section requires that all providers must post consumer information and instructions on their payphone instruments as specified in this subsection. Payphone instruction cards must contain, at a minimum, the following information:

1. Clear operating instructions.
2. Physical address and phone number of the payphone instrument.
3. Ownership of the instrument, including the owner's name, address, and contact telephone number.
4. Procedures for repair, refunds, and billing disputes, including specific contact telephone numbers for 24 hour contact service.
5. Instructions on how to contact both local and long distance directory assistance.
6. Prominent instructions specifying how to reach the local exchange operator.
7. Clear and prominent instructions on how payphone users may reach emergency agencies. These instructions shall refer to "911" where that code is in use as a locality's emergency agency contact number. Where "911" is not in use, the instructions must specify that the desired

emergency agency's telephone number be called or dial "0" for emergency assistance.

8. If the payphone instrument is not equipped to receive incoming calls, prominent instructions which read "OUTGOING CALLS ONLY," "NO INCOMING CALLS," or other language deemed acceptable by the SCC which will reasonably advise the user that no incoming service is available must be posted.

9. Instructions on how to reach a payphone instrument user's preferred long distance or interexchange carrier.

10. The identity of the company normally making the charge for any intrastate long distance or local operator assisted call not handled by the local exchange company operator.

11. A conspicuous notice stating "For long distance rates, dial..." The listed number shall be toll free to the payphone instrument user and shall connect the user to the company normally making the charge for any intrastate long distance or local operator assisted call originating from the payphone instrument. The party to whom the payphone instrument user is connected shall be able to quote a specific rate for each call upon inquiry.

12. Any and all other notices or information required by the Virginia Public Telephone Information Act (§ 59.1-424 et seq. of the Code of Virginia).

CHAPTER 407.

RULES FOR PAYPHONE SERVICE AND INSTRUMENTS.

20 VAC 5-407-10. Applicability; definitions.

A. This chapter is promulgated pursuant to the provisions of the Pay Telephone Registration Act (§ 56-508.16 of the Code of Virginia).

B. The provisions in this chapter apply to all payphone service providers (PSPs) and, where applicable, operator service providers (OSPs), and serving local exchange carriers (serving LECs). Payphone instruments located in confinement facilities are excluded from the provisions of this chapter.

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

"Commission" means the State Corporation Commission.

"Interexchange carrier" or "IXC" means a carrier that provides intrastate interexchange long-distance telephone service.

"Operator service provider" or "OSP" means a company that provides or contracts for call completion by either live or automated services.

"Payphone instrument" means a telecommunications device, either coin or coinless, that imposes a charge on a per call or use basis.

"Payphone service" means the provision of coin or coinless telephone service to the public utilizing a payphone service provider's instrument.

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"Payphone service provider" or "PSP" means a company or person that provides payphone service to the public in the Commonwealth of Virginia by means of a coin or coinless payphone instrument.

"Serving local exchange carrier" or "serving LEC" means the local exchange carrier to whom the PSP subscribes for access line service.

"User" means the individual initiating a call from a payphone instrument.

"0+ call" means a call made by a user dialing the digit "0" followed by the telephone number.

"0- call" means a call made by a user dialing the digit "0" only.

20 VAC 5-407-20. General provisions; enforcement; waiver requests.

A. A PSP, OSP, or serving LEC shall provide records, documents, and special reports to the commission as requested by the staff.

B. A PSP shall provide written responses to data requests from the commission staff regarding payphone services and instruments within 21 calendar days of the request.

C. The commission may enforce the provisions of this chapter by any means authorized under applicable law or regulation. Enforcement actions may include, without limitation, the refusal to issue a registration certificate for which application has been made and the revocation or suspension of a registration certificate previously granted. This chapter shall not be deemed to preclude a person aggrieved by a violation of these regulations from pursuing any civil relief that may be available under state or federal law, including, without limitation, private actions for damages or other equitable relief.

D. A request for a waiver of any of the provisions in this chapter may be considered by the commission on a case-by-case basis and may be granted upon such terms and conditions as the commission may impose.

20 VAC 5-407-30. Registration, renewal, and cancellation procedures for OSPs.

A. OSPs shall register and pay a registration fee of \$25 each year to provide operator services from payphones starting January 16, 2002. Registration forms may be obtained by visiting the commission's website at: <http://www.state.va.us/scc/division/puc/index.htm>, by calling the Division of Communications, or by making a request in writing to the State Corporation Commission, Division of Communications, P.O. Box 1197, Richmond, Virginia 23218.

B. Upon completion of the registration process, the commission shall issue a registration certificate to the OSP to provide operator services from payphones in accordance with the provisions of this chapter.

C. Each OSP shall renew its registration certificate by January 16 of each year. To renew, each OSP shall:

1. Submit to the commission's Public Service Taxation Division a completed renewal form.

2. Pay a nonrefundable renewal fee of \$25, payable to the Treasurer of Virginia and mailed to the State Corporation Commission, Public Service Taxation Division, P. O. Box 1197, Richmond, Virginia 23218.

3. In addition to the renewal fee, pay a late filing fee of \$10 for all renewals postmarked after January 16 of each year.

D. To cancel its registration certificate with the commission, an OSP shall return its renewal form marked "cancel" or send a letter requesting cancellation of its certificate by January 16 of the year it wishes to cancel its certificate.

E. After March 16 of each year, the commission may issue a Rule to Show Cause ordering any OSP that has not properly registered or canceled its registration certificate to show cause why it should not be penalized for violation of this chapter. In addition, after notice and hearing, if the OSP is found to be in violation of the provisions of this chapter, a fine of \$50, or as determined by the commission, may be imposed on the OSP, and its certificate to provide operator services from payphones in the Commonwealth of Virginia may be canceled.

20 VAC 5-407-40. Registration, renewal, and cancellation procedures for PSPs.

A. PSPs shall register and pay a registration fee of \$4.00 per payphone instrument before providing service to the public. Registration forms may be obtained by visiting the commission's website at: <http://www.state.va.us/scc/division/puc/index.htm>, by calling the Division of Communications, or by making a request in writing to the State Corporation Commission, Division of Communications, P. O. Box 1197, Richmond, Virginia 23218.

B. Upon completion of the registration process, the commission shall issue a registration certificate to the PSP to provide payphone service in accordance with the provisions of this chapter.

C. Each PSP shall renew its registration certificate by January 16 of each year. To renew, each PSP shall:

1. Submit to the commission's Public Service Taxation Division a completed renewal form and list of payphone instruments owned in Virginia, specifying a telephone number, physical address, the name of the serving LEC, and the OSP for each payphone instrument. The physical address of each payphone instrument shall be confidential unless and until the commission orders otherwise.

2. Pay a nonrefundable renewal fee of \$4.00 per payphone instrument, payable to the Treasurer of Virginia and mailed to the State Corporation Commission, Public Service Taxation Division, P. O. Box 1197, Richmond, Virginia 23218.

3. In addition to the renewal fee, pay a late filing fee of \$1.00 per payphone, or a minimum of \$50, whichever amount is greater, for all renewals postmarked after January 16 of each year.

D. To cancel its registration certificate with the commission, a PSP shall return its renewal form marked "cancel" or send a

letter requesting cancellation of its certificate by January 16 of the year it wishes to cancel its certificate.

E. After March 16 of each year, the commission may issue a Rule to Show Cause ordering any PSP that has not properly registered or canceled its registration certificate to show cause why it should not be penalized for violation of this chapter. In addition, after notice and hearing, if the PSP is found to be in violation of the provisions of this chapter, a fine of \$50 per payphone, or as determined by the commission, for all payphones previously registered may be imposed on the PSP, and the serving LEC may be ordered to disconnect service to the PSP.

20 VAC 5-407-50. Payphone instrument and service requirements.

A. A payphone instrument shall be equipped for "dial-tone first."

B. No more than one payphone instrument shall be attached to any one access line.

C. A payphone instrument shall receive incoming calls unless it is prominently marked with the words "OUTGOING CALLS ONLY," "NO INCOMING CALLS," or similar language.

D. A payphone instrument shall provide users with free access to the Telecommunications Relay Service system by dialing 711, as prescribed by the commission's final order in Case No. PUC000045.

E. A payphone instrument shall allow users access to the serving LEC operator without charge. Where the access code "0" is reserved for carriers other than the serving LEC operator, access to the serving LEC operator shall be provided through the access code "*0."

F. A payphone instrument shall allow users to access "800" numbers and other types of toll-free service without charge.

G. A payphone instrument shall allow users to access all OSP networks through their "950," "800," or "101-XXXX-0" without charge.

H. A coin-operated payphone instrument shall accept any combination of nickels, dimes, and quarters for local and long-distance calling charges and return any deposited amount to the user if the call is not completed.

I. PSPs shall have established procedures for making prompt refunds to users. Refunds must be made within 21 calendar days of a valid request to the PSP.

J. PSPs shall be responsible for acquiring and implementing programming information and necessary changes to central office codes and local and extended calling areas no later than the effective date of the change.

K. A payphone instrument reported to a PSP as being out of service must be removed or restored to service as quickly as possible, but in no event shall removing the payphone or restoring service take more than seven calendar days from receipt of the trouble report.

1. The serving LEC shall restore an out-of-service condition within 24 hours from receipt of trouble report.

2. The 24-hour restoral standard excludes trouble reports received on Sundays, legal holidays, and during emergency operating conditions.

3. Out-of-service conditions that require construction shall be restored within seven calendar days from receipt of the trouble report.

L. Prior to call completion and before any charges are incurred, each provider of intrastate operator services, whether local or toll, shall:

1. Identify itself audibly and distinctly, whether automated or live, to the user or billed party; and

2. If automated, provide instructions for the user to dial no more than two digits to obtain rate information and, if live, offer to provide rate information; and

3. If rate information is requested pursuant to subdivision 2 of this subsection, disclose within 60 seconds to the user or billed party a quote of its rates or charges for the call; and

4. After providing rate information, permit the user or billed party to terminate the call at no charge before the call is connected.

M. A payphone instrument shall allow access to 911 emergency service, where available, at no charge to the user. If not available, a user must be able to reach an operator without charge by dialing 0 or *0 or the posted emergency agency's contact number.

N. PSPs shall not charge fees for incoming calls.

O. Where available from the serving LEC, unless otherwise required to file payphone tariffs by the Federal Communications Commission, the access line service rates for PSPs shall be offered:

1. At a rate not to exceed the serving LEC's private branch exchange trunk flat rate; or

2. At optional message business rate, measured business rate, or a special payphone rate, subject to commission approval.

20 VAC 5-407-60. Housing card.

A. A payphone housing card shall contain, at a minimum, the following information:

1. Clear operating instructions.

2. The physical address and phone number (area code + seven-digit number) of the payphone instrument. This must be the same physical address that is provided to the serving LEC and used by 911 emergency services.

3. The PSP's certificated name, address, and free contact telephone number (area code + seven-digit number) that can be reached during normal business hours. If the PSP's contact number is posted for refunds and repairs, then posting another contact number for the PSP is not needed.

4. Procedures for repairs, refunds, and billing disputes, including a specific contact number, such as 211 or a toll-free number. Such contact numbers shall reach a live or automated attendant.

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5. Instructions on how to contact both local and long-distance directory assistance.

6. Prominent instructions specifying how to reach the serving LEC operator by dialing 0 or *0.

7. Clear and prominent instructions on how payphone users may reach emergency agencies. These instructions shall refer to 911 where that code is in use as a locality's emergency contact number. Where 911 is not used as the local emergency contact number, the instructions shall provide the emergency agency's telephone number or specify that users may dial 0 or *0 for emergency assistance. The operator must provide prompt, efficient, and accurate emergency service; and if such service is not provided, the commission may require a PSP to route 0 or *0 calls to the serving LEC.

8. Prominent instructions that read "OUTGOING CALLS ONLY," "NO INCOMING CALLS," or similar language, if the payphone instrument does not permit incoming calls.

9. A statement notifying payphone users that the long-distance carrier of their choice can be obtained by following the dialing instructions provided by that carrier.

10. The identity of the OSP, with address and toll-free number, making the charge for any intrastate long distance or local operator assisted call, whether automated or live, not handled by the serving LEC operator.

11. A posted charge for a local call, including a notice of any time limits.

B. Information pertinent only to jurisdictions other than the Commonwealth of Virginia shall not be posted on a payphone instrument in Virginia.

C. If the information on the housing card is determined to be inaccurate or violates any provisions of this chapter, the PSP shall replace its housing card with correct information either during its next scheduled collection of coins or at its next regularly scheduled maintenance visit. In no event shall the housing card contain inaccurate information or violate any provision of this chapter for more than 60 calendar days.

D. Maintenance and coin collection activity shall include the replacement of housing cards that have been vandalized.

20 VAC 5-407-70. Penalties.

Failure to comply with the provisions of this chapter may result in appropriate action by the commission, which may include, but is not limited to, disconnection of the payphone instruments, additional fines, registration certificate revocation, or any combination of these penalties which in the judgment of the commission is necessary to protect the public interest.

NOTICE: The forms used in administering 20 VAC 5-407, Rules for Payphone Service and Instruments, are listed below. The forms are not being published in the *Virginia Register of Regulations*, but are available for inspection by contacting the State Corporation Commission, Division of Communications, P.O. Box 1197, Richmond, VA 23218, telephone (804) 371-9420.

FORMS

Proposed Application for Registration as an Operator Service Provider, eff. 1/02.

Proposed Application for Registration as a Payphone Service Provider, eff. 1/02.

VA.R. Doc. No. R02-52; Filed October 17, 2001, 11:39 a.m.

TITLE 22. SOCIAL SERVICES

STATE BOARD OF SOCIAL SERVICES

Title of Regulation: **22 VAC 40-880. Child Support Enforcement Program (amending 22 VAC 40-880-10, 22 VAC 40-880-30, 22 VAC 40-880-60, 22 VAC 40-880-80, 22 VAC 40-880-110, 22 VAC 40-880-120, 22 VAC 40-880-130, 22 VAC 40-880-170, 22 VAC 40-880-190, 22 VAC 40-880-200 through 22 VAC 40-880-300, 22 VAC 40-880-320, 22 VAC 40-880-330, 22 VAC 40-880-340, 22 VAC 40-880-360, 22 VAC 40-880-380, 22 VAC 40-880-410, 22 VAC 40-880-430, 22 VAC 40-880-440, 22 VAC 40-880-480 through 22 VAC 40-880-520, 22 VAC 40-880-550, 22 VAC 40-880-560, 22 VAC 40-880-650, 22 VAC 40-880-670, 22 VAC 40-880-680, and 22 VAC 40-880-700; adding 22 VAC 40-880-385 and 22 VAC 40-880-720).**

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

Public Hearing Date: N/A -- Public comments may be submitted until January 4, 2002.

(See Calendar of Events section for additional information)

Agency Contact: Bill Brownfield, Department of Social Services, 730 East Broad Street, 4th Floor, Richmond, VA 23219, telephone (804) 692-2401, FAX (804) 692-2401 or e-mail whb900@dss.state.va.us.

Basis: This regulation informs the public of the process used by the Virginia Department of Social Services to administer the Child Support Enforcement program. Title 63.1, Welfare (Social Services), of the Code of Virginia places the responsibility for providing child support enforcement services with the Department of Social Services. The Board of Social Services is given the authority to make rules and regulations in § 63.1-25 of the Code of Virginia. The State Board shall establish guidelines to implement the department's responsibilities.

Purpose: These amendments will implement required state and federal laws and provide for improved effectiveness in child support enforcement program operation. Collection of child support debts protects all citizens of the Commonwealth, particularly its children. Further, collection of delinquent child support in public assistance cases results in a reduction of legal debts to the state, thus contributing to the general fund. The amendments to the regulation will accurately reflect the current Child Support Enforcement Program.

Substance: Most of the changes contained in the proposed amended regulation have already been incorporated into the

department's procedures. The changes (i) add the definition of interest (proposed 22 VAC 40-880-10); (ii) clarify that the department may request DMV to suspend or refuse to renew the driver's license of a person who fails to comply with a subpoena, summons, or warrant relating to paternity or child support proceedings (proposed 22 VAC 40-880-120); (iii) provide that when a putative father does not sign a sworn statement of paternity or does not voluntarily submit to genetic blood testing, the department shall order the putative father to submit to genetic testing (22 VAC 40-880-170); (iv) provide that all child support orders to include a provision for medical support if the coverage is available at a reasonable cost (22 VAC 40-880-220); (v) provide for additional enforcement remedies including interest, license suspension, interest, financial institution data match, and high-volume administrative enforcement when possible for interstate cases (22 VAC 40-880-260); (vi) allow electronic transmission of income withholding order on the employer, and the employer is to provide a copy to the employee (22 VAC 40-880-270); (vii) incorporate federal requirements that liens arise by operation of law (22 VAC 40-880-330); (viii) provide that the department may petition the court to suspend any license, certificate, registration, or other authorization to engage in a business, trade, profession, occupation, recreation or sporting activity issued to an obligor who is delinquent in the payment of child support by a period of 90 days or more or for \$5,000 or more. The department may order the Department of Motor Vehicles to suspend or refuse to renew the driver's license of an obligor delinquent in the payment of child by 90 days or more or for \$5,000 or more (22 VAC 40-880-385); (ix) provide that the department shall release information concerning the noncustodial parent to consumer credit agencies (22 VAC 40-880-520); (x) provide that when a protective order has been issued or the department otherwise finds reason to believe that a party is at risk of physical or emotional harm from the other party, information other than the name of the party at risk shall not be released (22 VAC 40-880-550); (xi) provide that the department may require advance payment for subsequent genetic testing when the original results are contested (22 VAC 40-880-700).

Issues: The public will benefit from the changes in the proposed regulation as it will be informed of the current process. 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 this 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 § 2.2-4007 G of the Administrative Process Act and Executive Order Number 25 (98). Section 2.2-4007 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 (DSS) is revising its *Child Support Enforcement Program* regulations to make it consistent with new state and federal legislation and to accurately reflect current policies and procedures.

Estimated economic impact. Most of the proposed changes have already been incorporated in the department's procedures, many beginning in 1995 and 1996. Those not already incorporated are technical in nature. According to the Department's Division of Child Support Enforcement (DCSE), the proposed changes will have no significant effect on:

1. Eligibility for child support enforcement services;
2. Who is obligated to pay child support;
3. What factors are used to calculate the amount of child support owed;
4. The amount of child support collected; or
5. The caseload of the Division of Child Support Enforcement.

Therefore, aside from accurately reflecting the current child support enforcement program, the proposed changes to this regulation are not expected to have any significant economic consequences.

Businesses and entities affected. This regulation affects custodial and noncustodial parents and their children. Employers of these individuals are also affected. As of March 31, 1999, the DCSE caseload totaled 422,854. As of third quarter 1998, the Virginia Employment Commission reported 184,824 employment establishments in the Commonwealth.

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

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

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

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The Department of Social Services agrees with the economic impact analysis completed by the Department of Planning and Budget on March 31, 2000.

Summary:

The proposed amendments make the regulation consistent with new state and federal legislation and make changes to accurately reflect current policies and procedures.

More specifically, the proposed changes (i) clarify that the department may request DMV to suspend or refuse to renew the driver's license of a person who fails to comply with a subpoena, summons, or warrant relating to paternity or child support proceedings; (ii) provide that when a putative father does not sign a sworn statement of paternity

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or does not voluntarily submit to genetic blood testing, the department shall order the putative father to submit to genetic testing; (iii) provide that all child support orders include a provision for medical support if the coverage is available at a reasonable cost; (iv) provide for additional enforcement remedies including interest, license suspension, financial institution data match, and high-volume administrative enforcement when possible for interstate cases; (v) allow electronic transmission of income withholding order on the employer; (vi) incorporate federal requirements that liens arise by operation of law; (vii) add enforcement remedies when an obligor is delinquent in the payment of child support by a period of 90 days or more or for \$5,000 or more; (viii) provide that the department shall release information concerning the noncustodial parent to consumer credit agencies; (ix) provide that when a protective order has been issued or the department otherwise finds reason to believe that a party is at risk of physical or emotional harm from the other party, information other than the name of the party at risk shall not be released; and (x) provide that the department may require advance payment for subsequent genetic testing when the original results are contested.

22 VAC 40-880-10. Definitions.

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

"Absent parent" means a responsible parent person as defined in § ~~63.1-249~~ 63.1-250 of the Code of Virginia who is required under law to support a dependent child or the dependent child and the child's caretaker.

"AFDC" means Aid to Families with Dependent Children which is established under Title IV-A of the Social Security Act. This is a category of financial assistance paid on behalf of children who are deprived of one or both of their parents by reason of death, disability, or continued absence (including desertion) from the home. See also "TANF."

"AFDC/FC" means Aid to Families with Dependent Children or Foster Care which is established under Title IV-E of the Social Security Act. This is a category of financial assistance paid on behalf of children who otherwise meet the eligibility criteria for AFDC and who are in the custody of local social services agencies.

"Administrative" means noncourt ordered, legally enforceable actions the department may take to establish, modify, collect, distribute or enforce a child support obligation.

"Appeal" means a request for a review of an administrative action taken by the division, or an action taken to contest a court order.

"Application" means a written document requesting child support enforcement services which the department provides to the individual or agency applying for services and which is signed by the ~~custodial parent or agency representative~~ applicant.

"Applicant" or "applicant/recipient" means a party who applies for and receives services from the division.

"Arrears" or "arrearage" means unpaid child or medical support payments, interest, and other costs for past periods owed by a parent to the state or obligee. This may include unpaid spousal support when child support is also being enforced.

"Assignment" means any assignment of rights to child, spousal, or medical support or any assignment of rights to medical support and to payments for medical care from any third party.

"Bad check" means a check not honored by the bank on which it is drawn.

"Case summary" means a written statement outlining the actions taken by the department on a case that has been appealed.

"Child support guideline" means a federal requirement for the establishment and adjustment/modification of financial child support and is comprised of §§ 20-108.1 and 20-108.2 of the Code of Virginia.

"Custodial parent" or "obligee" means (i) the natural or adoptive parent with whom the child resides, (ii) a stepparent or other person who has physical custody of the child and with whom the child resides, or (iii) a social service agency which has legal custody of a child in foster care.

"Debt" means the total unpaid support obligation established by court order, administrative order, or payment of public assistance which that is owed by an absent parent obligor to either the custodial parent/obligee, or to the Commonwealth, or his to the obligor's dependents.

~~"Default obligation" means an obligation based on factors other than the absent parent's ability to pay because of the absent parent's failure to provide financial information.~~

"Delinquency" means an unpaid child or medical support obligation. The obligation may include spousal support when child support is also being enforced.

"Department" means the Virginia Department of Social Services.

~~"Disregard payment" means a payment made to an AFDC recipient in an amount up to \$50. The payment is made from the current child support collected on the individual's behalf.~~

"District office" means a local office of the Division of Child Support Enforcement responsible for the operation of the Child Support Enforcement Program.

"Division" means the Division of Child Support Enforcement of the Virginia Department of Social Services, also known as a IV-D agency.

"Enforcement" means ensuring the payment of child support through the use of administrative or judicial means.

"Erroneous payment" means a payment sent to the custodial parent/obligee for which no funds were received by the department to be paid to that ~~client~~ applicant/recipient.

"Financial statement" means the provision of financial information from the ~~custodial parent and absent parent~~ showing their financial situation parents.

"Foreclosure" means a judicial procedure to enforce debts involving forced judicial sale of the real property of a debtor.

"Genetic blood testing" means scientifically reliable genetic tests, including blood tests, as described in §§ 20-49.1, 20-49.3, 20-49.4, and 20-49.8, and 63.1-250.1:2 of the Code of Virginia.

"Good cause" means, as it pertains to TANF and AFDC/FC applicants and recipients, an agency determination that the individual does not have to cooperate with Division of Child Support Enforcement in its efforts to collect child support.

"Health insurance coverage" means any plan providing hospital, medical, or surgical care coverage for dependent children provided such coverage is available and can be obtained by an ~~absent~~ parent at a reasonable cost.

"Hearings officer" means a disinterested person designated by the department to hold appeal hearings and render appeal decisions on administrative actions.

"IV-D agency" means a governmental entity administering the child support program under Title IV-D of the Social Security Act. In Virginia the IV-D agency is the Division of Child Support Enforcement.

"Interest" means charges accrued on past due child support at the prevailing judgment rate.

"Judicial" means an action initiated through a court.

"Location only services" means that certain entities such as courts and other state child support enforcement agencies can receive only locate services from the department.

"Local social service agency" means one of Virginia's locally administered social service or welfare departments which operate the AFDC TANF and AFDC/FC programs and other programs offered by the department.

"Location" means obtaining information which is sufficient and necessary to take action on a child support case including information concerning (i) the physical whereabouts of the ~~absent parent obligor~~ or his the obligor's employer, or (ii) other sources of income or assets, as appropriate.

"Medicaid only" means a category of public assistance whereby a family receives Medicaid but is not eligible for or receiving AFDC.

"Medical support services" means the establishment of a medical support order and the enforcement of health insurance coverage or, if court ordered, medical expenses.

"Mistake of fact" means an error in the identity of the ~~absent parent obligor~~ or in the amount of child support owed.

"Noncustodial parent" means a responsible person, as defined in § 63.1-250 of the Code of Virginia, who is obligated under Virginia law for support of a dependent child or child's caretaker.

"Obligation" means the amount and frequency of payments which the ~~absent parent obligor~~ is legally bound to pay as set out in a court or administrative support order.

"Obligee" means an individual to whom a duty of support is or is alleged to be owed or in whose favor a support order has been issued or a judgment determining parentage has been rendered.

"Obligor" means an individual, or the estate of a decedent, who owes or is alleged to owe a duty of support, is alleged but has not been adjudicated to be a parent of a child, or is liable under a court order.

"Occupational license" means any license, certificate, registration, or other authorization to engage in a business, trade, profession, or occupation issued by the Commonwealth pursuant to Title 22.1, 38.2, 46.2, or 54.1 of the Code of Virginia or any other provision of law.

"Past due support" means support payments determined under a court or administrative order which have not been paid.

"Pendency of an appeal" means the period of time after an administrative appeal has been made and before the final disposition by an administrative hearing officer, or between the time a court hears a case and renders a final decision.

"Public assistance" means payments for AFDC TANF, or AFDC/FC, or Medicaid-only.

"Putative father" means an alleged father; a person named as the father of a child born out-of-wedlock but whose paternity has not been established.

"Reasonable cost" means, as it pertains to health insurance coverage, available through employers, unions, or other groups without regard to service delivery mechanism.

"Recipient" means a person receiving who has applied for or is in receipt of public assistance or child support enforcement services.

"Recreational license" means any license, certificate, or registration used for the purpose of participation in games, sports, or hobbies, or for amusement or relaxation.

~~*"Subpoena"* means a document commanding a person to produce certain designated information.~~

"Service" or *"service of process"* means the delivery to or leaving of, in a manner prescribed by state statute, an administrative or court order giving the ~~absent parent party~~ reasonable notice of the action being taken against him and affording the person an opportunity to be heard regarding the matter.

"Subpoena" means a document commanding a person to appear at a time and place to give testimony upon a certain matter.

"Subpoena duces tecum" means a document compelling production of specific materials relevant to facts in a pending judicial proceeding.

~~*"Summary of facts"* means a written statement of facts outlining the actions taken by the department on a case which has been appealed.~~

"Summons" means a document notifying an absent or custodial parent that he or she must appear at a time and

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place named in the document to provide information needed to pursue child support actions.

"*Supplemental Security Income*" means a program administered by the federal government which guarantees a minimum income to persons who meet the requirement of aged, blind, or disabled.

"*Support order*" means a judgment, decree, or order, whether temporary, final, or subject to modification, issued by a court or an administrative agency of competent jurisdiction, for the support and maintenance of a child, including a child who has attained the age of majority under the law of the issuing state, or a child and the parent with whom the child is living, which provides for monetary support, health care, arrearages, or reimbursement, and which may include related costs and fees, interest and penalties, income withholding, attorneys' fees, and other relief.

"*TANF*" means *Temporary Assistance for Needy Families*, formerly known as *AFDC*.

22 VAC 40-880-30. Eligibility for services.

A. Individuals residing in Virginia who receive AFDC apply for TANF, AFDC/FC, or Medicaid only assistance are automatically eligible for child support services.

1. AFDC TANF and AFDC/FC applicants and recipients must ~~accept~~ *subrogate all rights to support to IV-D, which includes all child support services as a condition of eligibility for public assistance unless the local social service agency determines that good cause exists a determination of good cause has been made for not accepting these the IV-D agency not to pursue child support services.*

2. Medicaid ~~only~~ applicants and recipients must accept medical support and paternity establishment services as a condition of eligibility for Medicaid unless the local social services agency determines that good cause exists for not accepting these services.

3. The department shall close a child support case in which the local social service agency has determined that good cause exists for not cooperating with the department in its pursuit of child support.

4. The department shall continue to provide child support services to a ~~custodial parent when the AFDC an individual whose TANF, AFDC/FC, or Medicaid only~~ case closes.

a. The department shall provide these services without requiring a formal application.

b. The department shall continue to provide these services until the ~~custodial parent applicant/recipient~~ states in writing that the services are no longer wanted ~~unless the. This request will result in closure of the child support case unless this action is contrary to state or federal law, or outstanding arrears are owed to the Commonwealth for TANF previously paid.~~

B. Individuals residing in Virginia ~~or having a legal residence in Virginia who do not receive AFDC An individual who is not receiving TANF, AFDC/FC, or Medicaid only~~ assistance must make an application for child support services as a condition

of eligibility for those services with the exception that an application is not required for cases transferred from the courts to the department on or after October 1, 1985. For such cases the payee shall be deemed as having executed an authorization to seek or enforce a support obligation with the department unless the payee specifically indicates that the department's services are not desired.

1. The child for whom child support is being requested must ~~have an order in place for his support, or be under 18 years of age, unless:~~

a. ~~There is a court order specifying that support continue until a later age, or~~

b. ~~The child is handicapped, or~~

c. ~~The services being requested are for a child support obligation which existed prior to the child's 18th birthday.~~

2. If the child for whom support is being sought is under 18 years of age, the applicant must be the parent or physical guardian of the child and ~~the child must reside with the applicant.~~

C. Individuals residing outside of Virginia shall be eligible for child support services:

1. Upon a request for services from the IV-D agency in the state in which they reside; ~~and or~~

2. Upon receipt of an application and accompanying documentation.

D. *Locate-only services.*

1. *Custodial parents may apply for locate-only services.*

2. *Noncustodial parents may apply for locate-only services for custody and visitation purposes only.*

3. Courts and other state IV-D agencies are eligible for *child support enforcement services or for location only services.*

22 VAC 40-880-60. Special conditions regarding receipt of AFDC TANF or AFDC/FC.

A. Pursuant to § 63.1-251, receipt of AFDC TANF or AFDC/FC assistance creates a debt to the Commonwealth.

B. ~~If a debt is owed to the Commonwealth due to the receipt of AFDC or AFDC/FC assistance, the department shall apply amounts collected for past due support toward this debt unless the court order stipulates otherwise.~~

C. ~~Money received from tax intercept shall be applied, in total, toward the AFDC or AFDC/FC debt.~~

22 VAC 40-880-80. Application process.

A. The department shall make applications accessible to the public and shall include with each application information describing child support enforcement services; ~~and the custodial parent's applicant's rights and responsibilities, the absent parent's rights, and payment distribution policies.~~

1. The department shall provide an application on the day an individual requests the application when the request is made in person.

2. The department shall send applications within five working days of the date a written or telephone request for an application is received.

B. The department shall provide ~~AFDC TANF, AFDC/FC, and Medicaid~~ *only* recipients with the above information, *and* the rights and responsibilities of ~~custodial parents applicants, the absent parent's rights and general distribution policies~~ within five working days of receiving the referral from a local social service agency.

C. The department shall, within two calendar days of the date of application from a nonpublic assistance recipient or *from* the date a referral of a public assistance recipient is received, establish a case record, and within 20 calendar days, obtain the information needed to locate the ~~absent noncustodial~~ parent, initiate verification of information, if appropriate, and gather all relevant facts and documents.

22 VAC 40-880-110. Service of process.

Service is necessary when child support obligations are established either administratively or through court action and, in some instances, when actions to enforce the obligation are taken. *The department shall use diligent efforts to serve process as allowed by law.*

~~A. The methods of service of process required by law vary with the action being taken and include individual personal service, substituted service, posted service, certified mail, and regular mail.~~

~~B. The department shall use diligent efforts to serve process. Diligent efforts to serve process shall include:~~

- ~~1. When the method of service of process used to notify an absent parent of an administrative action is not successful and the address of the absent parent is known and verified, the department shall exhaust every method of service allowed by law.~~
- ~~2. When the method of service of process used to notify an absent parent of court action is not successful and the address of the absent parent is known and verified, the department shall provide the sheriff or process server with additional information about the absent parent's address.~~
- ~~3. When the method of service of process is not successful after the department has exhausted all methods of service allowed or has provided the sheriff or process server with an additional information, the department shall repeat its attempts to serve process at least quarterly.~~

22 VAC 40-880-120. Administrative summons of absent parents and custodial parents.

The department may summons ~~absent parents obligees, obligors, and custodial~~ parents to appear in the division's office to provide essential information necessary for the collection of child support.

*The department may request the Department of Motor Vehicles to suspend or refuse to renew the driver's license of a party who fails to comply with a subpoena, summons, warrant, or writ of *habeas corpus* relating to paternity or child support proceedings pursuant to § 46.2-320 of the Code of Virginia.*

22 VAC 40-880-130. Costs associated with the provision of child support services.

A. The department may not require custodial parents to pay the costs associated with the provision of child support services *unless contesting genetic test results.*

B. The department shall assess and recover fees from the ~~absent parent parties~~ according to the rules set out in Part XII (22 VAC 40-880-680 et seq.) *of this chapter.*

22 VAC 40-880-170. Establishing paternity.

In order for the department to establish a child support obligation and to enforce and collect child support payments from a putative father, the father must be determined to be legally responsible for the support of the child. In situations in which a putative father has not been legally determined to be the father of the child, paternity must be established before a child support obligation can be administratively ordered or court ordered. *The department pursues paternity establishment in accordance with §§ 20-49.1 through 20-49.9 and 63.1-250.1:2 of the Code of Virginia.*

- ~~1. The department shall obtain a sworn statement or statements for each child from the custodial parent mother acknowledging the paternity of the child or children for whom child support is sought.~~
2. Based on this sworn statement, the department shall attempt to locate the putative father, if necessary, according to the locate time requirements described in Part III (22 VAC 40-880-140 et seq.) *of this chapter.*
3. Once the putative father is located, the department shall contact him to determine if he is willing to sign a sworn statement voluntarily acknowledging paternity or to voluntarily submit to genetic ~~blood~~ testing to determine paternity.
 - a. The department shall advise the putative father verbally and in writing of his rights and responsibilities regarding child support prior to obtaining a sworn statement of paternity.
 - b. A putative father who signs a sworn statement of paternity along with an acknowledgement from the mother or who, through genetic ~~blood~~ testing, is affirmed by at least a 98% probability to be the father of the child is responsible for the financial support of the child or children.
4. When the putative father does not sign a sworn statement of paternity or does not voluntarily submit to genetic ~~blood~~ testing ~~or the blood test shows less than a 98% probability of paternity~~, the department shall *order the putative father to submit to genetic testing. If the putative father refuses to comply with the genetic testing order, the department shall* petition the court for a paternity determination when there is sufficient evidence to do so.

5. Within 90 calendar days of locating the putative father, the department shall:

- a. Obtain a sworn acknowledgement of paternity or arrange for voluntary *or mandatory* genetic ~~blood~~ testing *or the purpose of establishing paternity, or*

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b. File a petition with the court for paternity establishment.

6. In any case where more than one putative father has been identified, the department shall pursue paternity for all putative fathers.

~~7. The department shall track all cases in which paternity must be established to assure that, in all cases where the putative father is located, paternity is established or the putative father excluded within one year of the child reaching six months of age or within one year of petitioning the court for paternity, whichever occurs later.~~

22 VAC 40-880-190. Administrative establishment of a child support obligation.

A. The department has statutory authority to establish child support obligations through noncourt ordered, legally enforceable ~~administrative means~~ *child support orders*. These administrative ~~obligations orders~~ have the same force and effect as a support ~~obligation order~~ established by the court. *These administrative orders shall contain the information listed in § 63.1-252.1 of the Code of Virginia.*

~~A.~~ B. The amount of child support that is owed and the frequency with which it is paid must be established before the payment of child support can be enforced.

~~B.~~ C. The administrative order shall be called the administrative support order.

~~C.~~ The department shall use administrative rather than judicial means to establish the child support obligation whenever possible.

D. The department shall use *the administrative means support order* to establish a temporary child support obligation when judicial determinations of support are pending due to custody and visitation issues.

E. Within 90 calendar days of locating the ~~absent putative father or noncustodial parent, or of establishing paternity except as shown in subsection H of this section,~~ the department shall ~~attempt to either ensure that establish an administrative child support order or petition the court to serve the putative father or noncustodial parent to establish a child support obligation is established,~~ or shall diligently attempt to complete the service of process necessary for an obligation to be ordered.

F. When a court dismisses a petition for a support order without prejudice or an administrative hearings officer overrules an administrative support action, the department shall examine the reasons for the dismissal or overruling and to determine when or if ~~it would be further action is appropriate to seek an order in the future.~~

G. The child support obligation is established when an administrative support order has been served and the 10-day appeal period for the administrative order has elapsed.

H. A child support obligation shall not be established when the obligor is receiving Temporary Assistance for Needy Families (TANF), Supplemental Security Income (SSI), or General Relief (GR) benefits.

22 VAC 40-880-200. Determining the amount of the child support obligation.

A. ~~The obligation administrative child support order shall include: information and provisions as set forth in § 63.1-252.1 of the Code of Virginia.~~

~~1. Frequency with which the current amount owed is to be paid;~~

~~2. Current amount owed; and~~

~~3. Assessment of past public assistance debt owed to the Commonwealth, if any.~~

B. *Verification of financial information and use of financial statements.*

1. The department shall use financial statements obtained from the ~~absent parent and the custodial parent~~ *legally responsible parents* to determine the amount of the child support obligation *and shall verify financial information used to determine child support obligations.*

2. The ~~absent parent and custodial parent~~ *legally responsible parents* shall complete financial statements upon demand by the department. Such responsible parties shall certify under penalty of perjury the correctness of the statement.

3. If the custodial parent is a recipient of public assistance, the department shall use the information obtained through the AFDC TANF or AFDC/FC eligibility process to meet the financial statement ~~requirement and financial information verification requirements.~~

4. The department shall define the type of financial information which shall be required based on § 63.1-274.5 of the Code of Virginia which is incorporated by reference. *The department has the authority to request verification of financial information for the purpose of establishing or modifying a child support obligation.*

5. When both parents are ~~absent noncustodial,~~ *each parent must provide financial information.* In this situation, the person with whom the child resides shall not be required to complete a financial statement.

~~6. The department shall obtain financial statements from both absent parents when the custodial parent is not responsible for the support of the child.~~

~~C. Default obligation. When the absent parent does not provide a financial statement and there is no court order and no previously issued administrative order, the department shall issue a default Administrative Support Order if the absent parent does not respond to a summons to appear in one of the division's district offices.~~

~~1. The default administrative order shall be based on the USDA estimated annual family expenditures on raising a child in the urban south. Virginia adjusted gross median income shall be used to determine the income level that will be used.~~

~~2. In situations where an obligation is not being established to assess a current obligation, but is assessing past public assistance debt only, the default administrative order shall~~

~~be based on the amount of public assistance paid on behalf of the absent parent's dependents.~~

~~D.~~ C. The department shall determine the amount to be paid monthly toward past due support when the obligation is administratively ordered and when a court ordered obligation for support does not specify the amount to be paid toward the past due support. The monthly payment for past due support will be \$65 or 25% of the current obligation, whichever is greater, and shall not exceed the amount allowed under the federal Consumer Credit Protection Act.

22 VAC 40-880-210. Service of the administrative support order.

The department must legally serve the administrative support order on the absent parent or receive a waiver of service from the absent parent obligor in order to have an established obligation. *The department shall also provide a copy of this document to the obligee in no less than 14 days from date of service on the obligor.*

22 VAC 40-880-220. Medical support.

A. The department shall have the authority to issue orders containing provisions for medical support services for the dependent children of absent parents obligors if the coverage is available at reasonable cost as defined in § 63.1-250.1 of the Code of Virginia.

B. The absent parent obligor shall provide information regarding ~~medical support services~~ *the availability of or changes in health insurance coverage* for his or her dependent children, ~~and spouse or former spouse if applicable, upon request from the department.~~

C. The absent parent obligor shall provide health insurance coverage for the child or children if health insurance is available through his or her employment. The department may enter an administrative order or seek a judicial order requiring the absent parent's obligor's employer to enroll the dependent children in a group health insurance plan or other similar plan providing health insurance coverage offered by the employer as provided in § 20-79.3 of the Code of Virginia.

22 VAC 40-880-230. Child support guideline.

A. The department ~~is required to~~ *shall* use the *child support guideline, which includes the Schedule of Monthly Basic Child Support Obligations (§ 20-108.2 B)* and procedures in §§ 20-108.1 and 20-108.2 of the Code of Virginia in calculating the amount of administrative child support obligations. ~~Section 20-108.2 of the Code of Virginia is incorporated by reference obligation amounts except for obligations determined as set forth in 22 VAC 40-880-240 for which the presumptive amount will only be used as the initial support calculation.~~

~~B. The department shall call this schedule the child support scale.~~

~~C. The department shall use the scale in establishing Administrative Support Orders except when a default obligation is established as defined in 22 VAC 40-880-200 C.~~

~~D. The total child support obligation will be divided between both parents in the same proportion as their individual gross incomes bear to their combined gross income.~~

~~E. The department shall consider the following factors in calculating the amount of the obligation:~~

~~1. The absent parent and custodial parent's gross monthly income from all sources with the exception noted in subsection F of this section;~~

~~2. The number of children for whom the absent parent and custodial parent share joint legal responsibility;~~

~~3. Extraordinary medical and dental expenses which are defined in § 20-108.2 of the Code of Virginia;~~

~~4. The custodial parent's work related child care expenses; and~~

~~5. Any costs for health insurance coverage as defined in § 63.1-250 of the Code of Virginia when actually paid by a parent for the child or children subject to that order.~~

~~F. B.~~ The department may not include benefits from public assistance programs as defined in § 63.1-87 of the Code of Virginia, Supplemental Security Income, or child support received in calculating the combined gross income.

22 VAC 40-880-240. Administrative deviation from the child support guideline.

There shall be a rebuttable presumption that the amount of child support ~~which~~ *that* results from the application of the guidelines is the correct amount of child support ~~if there is evidence that one of the following two conditions exists pursuant to §§ 20-108.1, 20-108.2 and 63.1-264.2 of the Code of Virginia. Deviations from the guideline shall be allowed as follows:~~

~~1. There are~~ *A deviation from the gross income of either parent shall be allowed when a parent has other dependent children residing with the custodial or absent parent for whom the custodial or absent him or has child support orders for other dependent children for which either parent is legally and financially responsible and who are not included in a child support order.*

a. If there is an order in place for such child, the actual amount of the order is allowed.

b. If there is no order in place (i.e., the child lives in the home of either parent), a deviation is allowed equal to the amount of support found in the Schedule of Basic Monthly Child Support Obligations (§ 20-108.2 B of the Code of Virginia) for the income of the parent receiving the deviation and the number of children for whom a deviation is allowable as described above.

~~2. When either parent is found to be voluntarily unemployed or fails to provide financial information upon request, income shall be imputed except as indicated below. A parent is determined to be voluntarily unemployed when he quits a job without good cause or is fired for cause.~~

a. The current or last available monthly income shall be used to determine the obligation if that income is representative of what the parent could earn or otherwise receive.

b. If actual income is not available, use the federal minimum wage multiplied by 40 hours per week and

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converted to a monthly amount by multiplying the result by 4.333.

c. Where parents have never been employed, income shall not be imputed.

3. No other deviations from the child support guidelines may be made in establishing or adjusting administrative support orders or reviewing court orders. Should potential deviation factors exist, as stated in § 20-108.1 of the Code of Virginia, refer the case to court for additional action.

22 VAC 40-880-250. Periodic reviews of the child support obligation.

A. The amount of the child support obligation is based on the financial situation of both parents. ~~The department or the courts, depending on who issued the order, may modify the amount of the obligation if either parent's situation changes.~~ The department, another state's child support agency or either parent may initiate a review of the amount of the child support obligation.

~~A.~~ B. The department shall initiate a review of each child support obligation *and adjust the order* as required by federal regulations.

~~B.~~ C. Either parent may request a review of the child support obligation *once every three years. Additional requests may be made earlier* by providing documentation of a ~~change in circumstances~~ *special circumstance that has occurred that potentially affecting-affects* the child support obligation. *Such changes shall be limited to the following:*

1. An additional child needs to be covered by the order;
2. A child needs to be removed when another child remains covered by the order;
3. A provision for health care coverage needs to be added; or
4. A change of at least 25% can be documented by the requesting party in the following circumstances:
 - a. Income of either party;
 - b. Amount of medical insurance;
 - c. Cost of dependent care; or
 - d. Extraordinary medical expenses.

~~C.~~ D. The department shall ~~modify~~ *adjust* an administrative obligation when the results of the review indicate a change in ~~the gross income of either parent which is a difference of at least 10% in either parent's gross monthly income or a change in the monthly obligation of at least~~ *but not less than* \$25.

~~D.~~ E. The department shall modify the obligation for future child support payments only.

~~E.~~ F. The department shall ~~petition to modify~~ *may initiate a review of a court ordered obligation based on the criteria above or on criteria established by a court pursuant to §§ 20-108.2 and 63.1-252.2 of the Code of Virginia.*

22 VAC 40-880-260. Enforcement rules.

A. The department shall, whenever possible, administratively enforce compliance with established child support orders including both administrative and court orders.

B. The department shall enforce child support obligations at the time the administrative support order is initially entered through the use of ~~one of the following methods of wage withholdings: an income withholding order.~~

- ~~1. Immediate withholding of earnings; or~~
- ~~2. Voluntary assignment of earnings.~~

C. The department shall enforce child support obligations when the obligation becomes delinquent through the use of one or more of the following administrative enforcement remedies:

1. ~~Mandatory Income withholding of earnings order;~~
2. Liens;
3. Orders to withhold and deliver;
4. Foreclosure;
5. Distraint, seizure, and sale;
6. Unemployment compensation benefits intercept;
7. Bonds, securities, and guarantees;
8. Tax intercept;
9. Internal Revenue Service full collection service;
10. Credit bureau reporting; ~~or~~
11. Enforcement remedies for federal employees;;
12. Occupational and professional license suspensions;
13. Driver's license suspension;
14. Recreational or sporting license suspensions; or
15. Financial Institution Data Match.

D. The department shall attempt to enforce current and delinquent child support payments through administrative means before petitioning the court for enforcement action unless it determines that court action is more appropriate.

E. The department shall take ~~any~~ appropriate enforcement action, unless service of process is necessary, within ~~no more than~~ 30 calendar days of identifying a delinquency or of locating that ~~absent a noncustodial~~ parent, whichever occurs later, ~~except income withholding and federal and state income tax refund offset.~~

F. The department shall take appropriate enforcement action if service of process is necessary within 60 calendar days of identifying a delinquency or of locating ~~the absent a noncustodial~~ parent, whichever occurs later.

G. The department shall take appropriate enforcement action within the above timeframes to enforce health insurance coverage.

H. When an enforcement action is unsuccessful, the department shall examine the reason or reasons and determine when it would be appropriate to take an enforcement action in the future. The department shall take further enforcement action at a time and in a manner determined appropriate by department staff.

I. The department shall use high-volume administrative enforcement, to the same extent as used for intrastate cases, in response to a request made by another state to enforce support orders, and shall promptly report the results of such enforcement procedures to the requesting state, pursuant to 42 USC § 666(a)(14).

22 VAC 40-880-270. Withholding of earnings rules income.

A. The department ~~may~~ shall issue a *an income* withholding ~~of earnings~~ order against all *earnings income* except ~~these income exempted from garnishment~~ under federal and state law.

B. The amount of money withheld from *disposable earnings* may not ~~be more than~~ exceed the amount allowed under the federal Consumer Credit Protection Act. *That amount is 50, 55, 60 or 65%, depending on the number of weeks of delinquency, and if the NCP is responsible for other dependents.* (§ 34-29 of the Code of Virginia)

C. The department must legally serve the *wage income* withholding order on the ~~absent parent or receive a waiver of service from the individual employer.~~ *Upon service of the order on the employer by certified mail, or by electronic means, including facsimile transmission, a copy of the order shall be provided to the employee by the employer.*

D. The department shall modify the *income* withholding ~~of earnings~~ order only if there is a change in the amount of the current support or past due support.

E. The department shall release the *income* withholding ~~of earnings~~ order only if one of the following occurs:

1. The current support ~~obligation~~ *order* terminates, and any past due support is paid in full;
2. Only past due support is owed and it is paid in full;
3. The whereabouts of the child or child and caretaker become unknown;
4. Bankruptcy laws require release; or
5. A nonpublic assistance ~~client~~ *applicant/recipient* no longer wants the services of the department *and no debt is owed to the Commonwealth.*

Article 2.

~~Immediate and Voluntary Income Withholding of Earnings Enforcement Remedies.~~

22 VAC 40-880-280. General Withholding of income; administrative support orders.

The administrative support order shall include a requirement for immediate withholding of the child support obligation from the ~~absent noncustodial parent's earnings income unless the parties agree in writing to an alternate payment arrangement,~~

~~or good cause is determined by the department for not implementing an immediate withholding, pursuant to 42 USC § 666(a)(8)(B)(i) and § 63.1-258.1 of the Code of Virginia. The custodial parent and absent parent may choose a voluntary assignment of earnings as an alternate arrangement for payment of child support.~~

22 VAC 40-880-290. Immediate withholding of earnings Determining the amount to be applied toward past due support.

~~The Administrative Support Order shall include a requirement for immediate withholding of the child support obligation from the absent parent's earnings unless the absent parent and the department, on behalf of the custodial parent, agree to an alternative arrangement, or good cause is shown.~~

The department shall collect any court ordered amount to be paid towards past due support. If the order does not specify an amount to be paid toward past due support, the department shall determine the amount to be paid monthly toward past due support. The monthly payment for past due support will be \$65 or 25% of the current obligation, whichever is greater. For disposable earnings, the total amount withheld shall not exceed the amount allowed under the Consumer Credit Protection Act (§ 34-29 of the Code of Virginia).

22 VAC 40-880-300. Voluntary withholding of earnings Alternative payment arrangement.

~~A. Voluntary withholding of earnings is also called voluntary assignment of earnings.~~

~~B. The custodial parent and absent noncustodial parent may mutually choose a voluntary assignment of earnings an alternative payment arrangement at the time the obligation is established as an alternate to immediate withholding of earnings income for payment of child support.~~

~~C. The department may initiate a voluntary assignment of earnings when it is the most expeditious means of enforcing a wage withholding.~~

~~D. The absent parent may not choose a voluntary assignment of earnings as an alternative to mandatory withholding of earnings after enforcement action has been initiated.~~

22 VAC 40-880-320. Mandatory Initiated withholding of earnings income.

The department shall send a ~~Mandatory~~ *an income* withholding ~~of Earnings~~ order to an employer requiring the deduction of the child support obligation from the ~~absent noncustodial parent's earnings income~~ under the following circumstances:

1. When a payment is delinquent in an amount equal to or exceeding one month's child support obligation, or
2. When ~~the custodial~~ *either* parent requests that withholding begin regardless of whether past due support is owed or support payments are in arrears.

22 VAC 40-880-330. Liens.

A. *A lien arises by operation of law for overdue support pursuant to 42 USC § 666(a)(4)(A) and the department may*

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file a lien on the real or personal property of the ~~absent noncustodial~~ parent when ~~there is past due support owed~~. ~~the division has:~~

- ~~1. Issued an administrative support order;~~
- ~~2. Received a Virginia court order; or~~
- ~~3. Received a support order from a jurisdiction outside of Virginia.~~

~~B. Upon receipt of a support order from a jurisdiction outside of Virginia, the department may immediately file a lien.~~

~~C. The B.~~ Any lien of the department shall have the priority of a secured creditor.

~~D. The C.~~ Any lien of the department shall be subordinate to the lien of any prior mortgagee.

~~E. The D.~~ Any lien shall be released when the past due support has been paid in full.

22 VAC 40-880-340. Orders to withhold and deliver.

A. The department may use orders to withhold and deliver to collect assets such as bank accounts, trust funds, stocks, bonds, and other types of financial holdings when past due support is owed.

~~B. The department may use high-volume administrative enforcement (AEI) in response to a request made by another state to enforce support orders by using orders to withhold and deliver to collect assets such as bank accounts, trust funds, stocks, bonds, and other types of financial holdings when past due support is owed. The department shall promptly report the results of such enforcement procedure to the requesting state.~~

~~B. C.~~ The department shall release the order to withhold when the order cannot be served on the ~~absent noncustodial~~ parent.

~~C. D.~~ The department shall release the order to deliver when:

1. The past due support is paid, or
2. The ~~absent noncustodial~~ parent makes satisfactory alternate arrangements for paying the full amount of the past due support.

22 VAC 40-880-360. Unemployment compensation benefits intercept.

~~A. The department may intercept unemployment compensation benefits when there is past due for support within the limits set by the federal Consumer Credit Protection Act pursuant to 15 USC § 1673(b) and § 34-29 of the Code of Virginia.~~

~~B. The department may, with the consent of the absent parent, intercept unemployment compensation benefits when there is not past due support owed.~~

~~C. The department may intercept unemployment compensation benefits paid by the Commonwealth to an absent parent who lives out of state.~~

~~D. The department shall intercept the amount of benefits allowed by the federal Consumer Credit Protection Act.~~

22 VAC 40-880-380. Tax intercept.

A. The department shall intercept state and federal income tax refunds and shall apply these moneys, in whole or in part, first to any debt to the Commonwealth and second to pay any amount owed to the custodial parent.

B. The Virginia Department of Taxation prescribes rules for interception of state tax refunds and notification to the person whose state tax refund is being intercepted.

1. The department may retain moneys up to the amount owed on the due date of the finalization notice from the department to the Virginia Department of Taxation.

2. The department may intercept state tax refunds when the delinquent amount equals at least \$25.

3. ~~State tax refund intercepts shall be disbursed in the same manner as support payments. Federal tax intercepts shall be disbursed as required pursuant to 42 USC § 664.~~

~~3. 4.~~ The department may not disburse the intercepted state taxes if the ~~absent noncustodial~~ parent has appealed the intercept action and the appeal is pending.

4. 5. The department shall issue a refund to the ~~absent noncustodial~~ parent when one of the following occurs:

a. The intercept was made in error;

b. The ~~absent noncustodial~~ parent pays the delinquent amount in full after the Department of Taxation has been notified of the delinquency and before the tax refund is intercepted; or

c. ~~Either or both federal and state tax refunds are intercepted.~~ The total amount intercepted is more than the amount of the delinquency at the time that notification of the tax intercept ~~was sent to~~ is received from the Department of Taxation, and the ~~absent noncustodial~~ parent does not agree to allow the department to apply the excess funds to any delinquency that accrued after certification for tax intercept.

C. The Internal Revenue Service has prescribed rules regarding the interception of federal tax refunds. 45 CFR 302.60 and 303.72 are incorporated by reference in this chapter.

22 VAC 40-880-385. License suspension.

A. ~~The department may petition the court to suspend any license, certificate, registration or other authorization to engage in a business, trade, profession or occupation pursuant to 42 USC § 666(a)(16) and § 63.1-263.1 of the Code of Virginia.~~

B. ~~The department may request the Department of Motor Vehicles to suspend or refuse to renew the driver's license of an obligor pursuant to 42 USC § 666(a)(16) and § 46.2-320 of the Code of Virginia.~~

C. ~~The department may petition the court to suspend any recreation or sporting activity license issued to an obligor pursuant to 42 USC § 666(a)(16) and § 63.1-263.1 of the Code of Virginia.~~

22 VAC 40-880-410. Enforcement remedies to be used against federal employees.

A. The department may apply its enforcement remedies against United States military and civilian active and retired personnel.

B. When enforcement under Virginia law is ~~not possible unsuccessful~~, the department may use ~~(i) mandatory military allotments and (ii) involuntary child support allotments for public health services employees~~ to enforce child support obligations of *certain federal employees, including* active military personnel and public health services employees.

1. For the purposes of these ~~two~~ enforcement actions, delinquency shall be defined as failure of the ~~absent noncustodial~~ parent to make child support payments equal to the amount due for two months.

2. The amount of money withheld from these wages shall be up to the amount allowed under the federal Consumer Credit Protection Act *pursuant to 15 USC § 1673(b) and § 34-29 of the Code of Virginia.*

22 VAC 40-880-430. Validity of the appeal.

A. The department shall determine the validity of an appeal.

1. The appeal must be in writing.

2. *If the appeal is personally delivered*, the appeal must be received within 10 working days of service ~~when personally delivered of the notice of the proposed action on the appellant.~~

3. If mailed, the postmark must be ~~no later than~~ *within 10 working business days* from the date of service of the notice of *the proposed action on the appellant.*

B. The only exception to this shall be appeals of federal and state tax intercepts. The ~~absent parent appellant~~ shall have 30 days to appeal a tax intercept notice to the department.

22 VAC 40-880-440. General rules.

A. The appeal shall be heard by a ~~hearings~~ *hearing* officer.

1. The ~~hearings~~ *hearing* officer ~~shall~~ *may* hold the hearing *by telephone or* in the district office where the custodial parent or his or her case resides unless another location is requested by the ~~absent parent and it complies with § 63.1-267.1 of the Code of Virginia~~ *appellant.*

2. The ~~absent parent and the custodial parent parties~~ may be represented at the hearing by legal counsel.

3. The ~~absent parent appellant~~ may withdraw the appeal at any time. *The department may withdraw its actions at any time, such as when a case review reveals new information or that prior action taken was incorrect.*

4. The ~~hearings~~ *hearing* officer shall accept a request for a continuance from the ~~absent noncustodial~~ parent or the custodial parent if:

a. The request is made in writing at least five ~~working~~ *business* days prior to the hearing, and

b. The request is for not more than a 10-day continuance, *except when the facts presented justify an exception.*

B. The ~~hearings~~ *hearing* officer shall notify the ~~absent parent and custodial parent parties~~ of the date and time of the hearing ~~and of the disposition of the hearing~~ in accordance with § 63.1-267.1 of the Code of Virginia.

C. Prior to the hearing, the ~~hearings~~ *hearing* officer shall send the ~~absent parent and the custodial parent parties~~ a copy of the case summary of ~~Facts~~ prepared by the district office.

D. The ~~hearings~~ *hearing* officer shall ~~provide~~ *serve* the ~~absent parent and the custodial parent with appellant and mail the other party~~ a copy of the hearing *officer's* decision either at the time of the hearing or no later than 45 days from the date the appeal request was first received by the department.

E. The ~~hearings~~ *hearing* officer shall notify the ~~absent parent and the custodial parent parties~~ in writing by certified mail if the appeal is determined to be abandoned because the ~~absent parent appellant~~ did not appear at the hearing.

F. ~~The absent parent or the custodial parent~~ *Either party* may appeal the ~~hearings officer's decision to the juvenile and domestic relations district court within 10 calendar days of receipt of the hearings officer's decision.~~ *An appeal of a tax intercept must be made to the circuit court within 30 days of the date of the hearings officer's decision, as follows:*

1. *For cases under the Setoff Debt Collection Act (§ 58.1-520 et seq.), to the circuit court on the record within 30 days of the date of the decision.*

2. *For all other cases, to the juvenile and domestic relations district court de novo within 10 calendar days of receipt of the decision.*

22 VAC 40-880-480. Cooperation with other state IV-D agencies.

A. When the ~~absent noncustodial~~ parent and the custodial parent reside in different states, cooperation between these state agencies may be necessary.

~~A- B.~~ The department shall provide the same services to other state IV-D cases that it provides to its own cases with the following conditions:

1. The request for services must be in writing; and
2. The request for services must list the specific services needed.

~~B- C.~~ The department shall request in writing the services of other state IV-D agencies when ~~the custodial~~ *one* parent resides in Virginia, but the ~~absent~~ *other* parent resides in another state.

~~C- D.~~ Other department responsibilities in providing services to other state IV-D cases and obtaining services from other state IV-D agencies are defined in 45 CFR 303.7 and §§ 63.1-274.6 and ~~20-88.22 20-88.32 through 20-88.82~~ of the Code of Virginia. ~~These regulations are incorporated by reference here.~~

Proposed Regulations

22 VAC 40-880-490. Central registry.

A. The department shall manage the flow of interstate correspondence through a Central Registry located in the division's central office. Correspondence will be handled according to the rules established by the state and federal regulations cited by reference above.

B. The Central Registry shall act as the Uniform Reciprocal Enforcement of Interstate Family Support Act State Information Agent required by ~~§ 20-88.22~~ § 63.1-274.6 and 20-88.32 through 20-88.82 of the Code of Virginia.

22 VAC 40-880-500. Information collected from state, county, and city offices.

A. ~~The department may request and shall receive from state, county, and city offices, and local agencies shall provide the department with within and without the Commonwealth information about absent noncustodial parents.~~

B. The department shall use this information to locate and collect child support payments from ~~absent noncustodial~~ parents.

22 VAC 40-880-510. Subpoena of financial information.

The department may subpoena financial records or other information relating to the obligor and obligee from a person, firm, corporation, association, political subdivision, or state agency to establish or enforce the collection of child support. A civil penalty not to exceed \$1,000 may be assessed for failure to respond to a subpoena, pursuant to 42 USC § 666 (c)(1)(B) and § 63.1-250.1 of the Code of Virginia.

22 VAC 40-880-520. Agencies to whom the department releases information.

A. The department may release information on ~~absent or custodial~~ the parents as set forth in 45 CFR 303.21 to courts and other state child support agencies for the purpose of establishing or enforcing a child support order.

B. The department ~~shall~~ may release information concerning ~~the absent parent to consumer credit agencies upon their request directly bearing on the identity and whereabouts of a noncustodial parent or putative father to public officials and agencies seeking to locate obligors for the purpose of enforcing child support obligations including but not limited to the Attorney General, law-enforcement agencies, prosecuting attorneys, courts of competent jurisdiction and agencies in other states engaged in the enforcement of support of children and their caretakers.~~

C. The department shall provide information on the ~~absent noncustodial~~ or custodial parent to an entity other than the ones listed above with the written permission of that parent with exception that. However, the department shall may not release information regarding the ~~absent noncustodial~~ parent's debt to private collection agencies, if it deems such disclosure inappropriate.

D. The department shall release information concerning ~~custodial parents' and absent parents'~~ medical support payments and medical support orders to the Department of Medical Assistance Services.

22 VAC 40-880-550. Requests for information from absent parents and custodial parents.

A. The department shall release, upon request from ~~the absent parent or custodial~~ either parent, copies of court orders, administrative orders, enforcement actions, fiscal records, and financial information used to calculate the obligation. ~~If both parents are absent, financial information will not be released to the other parent. However, when a protective order has been issued or there is a risk of physical or emotional harm from the other party, information other than the name of the party at risk shall not be released.~~

B. The department shall release to ~~the absent parent and to the custodial~~ either parent personal information contained in the case record which pertains to the individual requesting the information with one exception. The department may not release medical or psychological information for which the physician providing the information has stated the individual should not have access.

C. ~~The absent parent and the custodial~~ Either parent may correct, challenge, or explain the personal information which pertains to that individual and may challenge the financial information of the other parent.

D. The department shall charge a fee for copying case record information. The department shall base the fee on the cost of copying the material.

22 VAC 40-880-560. Release of health insurance information.

The department shall provide specific third party liability information to the Department of Medical Assistance Services in order for that agency to pursue the ~~absent noncustodial~~ parent's health insurance provider for any Medicaid funds expended for his or her dependents who are receiving AFDC TANF or AFDC/FC or who are Medicaid-only clients.

A. The department shall release health insurance coverage information on ~~AFDC TANF, AFDC/FC, and Medicaid only~~ cases to the Department of Medical Assistance Services as prescribed in the cooperative agreement between the department and that agency.

B. The department shall release health insurance coverage information on ~~AFDC TANF, AFDC/FC, and Medicaid only~~ cases to other state child support agencies upon their request.

C. ~~The department shall release information on health insurance coverage for nonpublic assistance cases only with the consent of the custodial parent.~~

22 VAC 40-880-650. Methods of payment recovery from the custodial parent.

A. If the custodial parent is not an ~~AFDC a TANF or AFDC/FC~~ recipient, the department shall:

1. Intercept and retain payments for past due support (arrear) by retaining the lesser of the balance due or 100% of any intercepted funds and any amounts seized from bank accounts; and
2. Retain 10% of the current support payment;

~~3. Retain the lesser of the balance due or 100% of any intercepted funds; or~~

~~4. Retain the lesser of the balance due or funds seized from bank accounts.~~

~~B. If the custodial parent is an AFDC a TANF or AFDC/FC recipient and retains an erroneous payment, the division shall notify the Division of Benefit Programs when an erroneous or duplicate payment has been retained by the client Temporary Assistance Program.~~

22 VAC 40-880-670. General rules.

A. The department shall terminate child support enforcement services when one of the criteria defined in the 45 CFR 303.11 is met.

~~B. Sixty calendar days prior to closing a case, the department shall notify the custodial parent of its intent to close the case and shall give the reason for the case closure with the exceptions noted in the 45 CFR 303.11. The department shall not close the case if the custodial parent supplies additional case information.~~

~~C. B.~~ The department shall continue to provide collection and disbursement services until alternate arrangement for these services has been made.

~~D. The department shall reopen a closed case if the custodial parent requests the case be reopened because there is a change in circumstance which could lead to the establishment or enforcement of a child support obligation.~~

~~E. The department shall purge all closed case records three years after the case is closed pursuant to the 45 CFR 74(D).~~

22 VAC 40-880-680. Recovery of fees.

A. The department shall assess and recover from the ~~absent~~ *noncustodial* parent:

- 1. Attorney's fees;
- 2. Genetic ~~blood~~ testing fees *for paternity establishment*, and
- 3. Intercept programs' costs.

B. The department shall use any mechanism provided in Title 63.1 of the Code of Virginia to enforce these fees and costs.

22 VAC 40-880-700. Genetic ~~blood~~ testing.

A. The department shall set the costs of the genetic ~~blood~~ testing *for paternity establishment* at the rate charged the department by the provider of genetic ~~blood~~ testing services.

B. Where an original genetic test for paternity establishment is contested and either party requests additional testing, the department may require advance payment by the contestant.

22 VAC 40-880-720. Service of process, seizure and sale.

The department shall have the authority to charge the noncustodial parent the actual costs for service of process, and seizure and sale pursuant to a levy on a judgment in enforcement actions, per § 63.1-274.10 of the Code of Virginia.

FORMS

~~Application for Child Support Enforcement Services, 032-11-51-1/5.~~

~~Financial Statement, 032-11-57-7/7.~~

~~Health Care Coverage Letter/Employer, 032-11-723 (eff. 7/88).~~

~~Health Care Coverage Letter/CP, 032-11-724.~~

VA.R. Doc. No. R99-87; Filed October 16, 2001, 11:04 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 9. ENVIRONMENT

STATE AIR POLLUTION CONTROL BOARD

Title of Regulation: **9 VAC 5-40. Existing Stationary Sources (Rev. A99) (amending 9 VAC 5-40-240, 9 VAC 5-40-250, 9 VAC 5-40-310, 9 VAC 5-40-311, and 9 VAC 5-40-890).**

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

Effective Date: January 1, 2002.

Summary:

Article 4 provides a legal mechanism whereby the board is required to make source specific Reasonable Available Control Technology (RACT) determinations for all currently known major sources subject to source specific NO_x RACT requirements under the federal Clean Air Act. Amendments delete the provisions that address seasonal applicability, certain exemptions and the emission allocation system.

Proposed amendments to Article 8 were to establish emission limits along with compliance testing, monitoring, recordkeeping and reporting requirements for fuel burning equipment. Amendments were proposed to establish an emissions rate limit for nitrogen oxides for electric generating units and nonelectric generating units and create a compliance averaging plan to provide flexibility for the sources subject to the regulation. However, these proposed changes to Article 8 were not adopted in order to avoid any confusion between this regulation and the Virginia NO_x Emissions Trading Regulation (i.e., NO_x SIP Call) currently under development.

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

Agency Contact: Alma Jenkins, Office of Air Regulatory Development, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4070.

REGISTRAR'S NOTICE: The proposed regulation was adopted as published in 17:11 VA.R. 1641-1654 February 12, 2001, with the additional changes shown below. Therefore, pursuant to § 2.2-4031 A of the Code of Virginia, the text of the final regulation is not set out at length; however, the changes from the proposed regulation are printed below.

9 VAC 5-40-240. [No change from proposed.]

9 VAC 5-40-250. Definitions.

A. For the purpose of ~~these~~ *the Regulations for the Control and Abatement of Air Pollution* and subsequent amendments

or any orders issued by the board, the words or terms shall have the meanings given them in subsection C of this section.

B. As used in this article, all terms not defined herein shall have the meanings given them in 9 VAC 5 Chapter 10 (9 VAC 5-10-10 et seq.), unless otherwise required by context.

C. Terms defined.

"Combustion installation" means all combustion units within a stationary source in operation prior to October 5, 1979.

"Combustion unit" means any type of stationary equipment in which solid, liquid or gaseous fuels and refuse are burned, including, but not limited to, furnaces, ovens, and kilns.

"Heat input" means the total gross calorific value of all fuels burned.

"Manufacturing operation" means any process operation or combination of physically connected dissimilar process operations which is operated to effect physical or chemical changes or both in an article.

"Materials handling equipment" means any equipment used as a part of a process operation or combination of process operations which does not effect a physical or chemical change in the material or in an article, such as, but not limited to, conveyors, elevators, feeders or weighers.

"Physically connected" means any combination of process operations connected by materials handling equipment and designed for simultaneous complementary operation.

"Process operation" means any method, form, action, operation or treatment of manufacturing or processing, including any storage or handling of materials or products before, during or after manufacturing or processing.

"Process unit" means any step in a manufacturing or process operation which results in the emission of pollutants to the atmosphere.

"Process weight" means total weight of all materials introduced into any process unit which may cause any emission of pollutants. Process weight includes solid fuels charged, but does not include liquid and gaseous fuels charged or combustion air for all fuels.

"Process weight rate" means a rate established as follows:

- a. For continuous or long-run steady-state process operations, the total process weight for the entire period of continuous operation or for a typical portion [~~thereof of it~~], divided by the number of hours of such period or portion [~~thereof of it~~].
- b. For cyclical or batch process operations, the total weight for a period that covers a complete operation or an integral number of cycles, divided by the hours of actual process operation during such a period.

"Reasonably available control technology" means the lowest emission limit that a particular source is capable of meeting by the application of control technology that is reasonably available, considering technological and economic feasibility.

"Rated capacity" means, the capacity as stipulated in the purchase contract for the condition of 100% load, or such other capacities as mutually agreed to by the board and owner using good engineering judgment.

"Total capacity" means with reference to a combustion installation, the sum of the rated capacities (expressed as heat input) of all units of the installation which must be operated simultaneously under conditions [~~of~~] 100% use load.

9 VAC 5-40-310. [No change from proposed.]

9 VAC 5-40-311. Reasonably available control technology guidelines for stationary sources of nitrogen oxides.

A. General. Unless otherwise approved by the board, this section defines reasonably available control technology for the purposes of compliance with 9 VAC 5-40-310 A for the source types specified here.

B. Definitions.

1. For the purpose of ~~these regulations~~ *this section* and subsequent amendments [~~of or~~] any orders issued by the board, the words or terms shall have the meaning given them in subdivision B 3 of this section.

2. As used in this section, all terms not defined here shall have the meaning given them in 9 VAC 5 Chapter 10 (9 VAC 5-10-10 et seq.), unless otherwise required by context.

3. Terms defined.

"Capacity factor" means the ratio of the average load on a machine or equipment for the period of time considered to be the capacity rating of the machine or equipment.

"Combustion modification" means any change to the configuration of the burners or the firing method or mechanism of any combustion equipment for the purpose of reducing the emissions of nitrogen oxides. Acceptable combustion equipment changes within the context of this term include, but are not limited to, reburning, burners out of service, flue gas recirculation, fuel substitution, engine adjustments, engine modifications, fuel modifications and the addition of over fire air and low nitrogen oxides burner systems.

~~"Combustion unit" means any furnace, with fuel burning equipment appurtenances thereto, used in the process of burning fuel for the primary purpose of producing heat to be utilized by direct heat transfer. This includes, but is not limited to, the following facilities: drying ovens, burnout ovens, annealing furnaces, melting furnaces, holding furnaces, and space heaters.~~

"Fossil fuel" means natural gas, petroleum, coal and any form of solid, liquid or gaseous fuel derived from such materials for the purpose of creating useful heat.

"Fuel burning equipment" means any furnace, with fuel burning equipment appurtenances thereto, used in the process of burning fuel for the primary purpose of producing heat to be utilized by indirect heat transfer or producing power. This includes facilities that are designed as boilers to produce steam or heated water and are designed to burn either fossil fuel or refuse derived fuel. It does not include such facilities if designed primarily to burn raw refuse.

~~"Fuel burning equipment installation" means all fuel burning equipment units within a stationary source in operation prior to January 1, 1993.~~

"Gas turbine" means a rotary internal combustion engine fueled by liquid or gaseous fuel.

"Heat input" means the total gross calorific value of all fuels burned.

"Incinerator" means any device, apparatus, equipment, or structure using combustion or pyrolysis for destroying, or reducing the volume of any material or substance.

"Internal combustion engine" means a reciprocating engine which is fueled by liquid or gaseous fuel.

"Process heater" means any fuel burning equipment which is used to produce heat for use in a manufacturing process. This term includes boilers which use a heat transfer medium other than water, but does not include drying ovens, steam generating units, or other drying apparatus.

"Rated capacity" means the capacity as stipulated in the purchase contract for the condition of 100% load, or such other capacities as mutually agreed to by the board and owner using good engineering judgment.

"Refuse derived fuel (RDF)" means fuel produced from solid or liquid waste (includes materials customarily referred to as refuse and other discarded materials) or both which has been segregated and classified, with the useable portions being put through a size reduction and classification process which results in a relatively homogeneous mixture.

"Steam generating unit" means any furnace, boiler or other device used for combusting fuel for the purpose of producing steam.

~~"Total capacity" means, with reference to a fuel burning equipment installation, the sum of the rated capacities (expressed as heat input) of all units of the installation which must be operated simultaneously under conditions of 100% use load.~~

C. Definition of reasonably available control technology.

1. For the source types listed below, reasonably available control technology is defined as the emission limits specified below based upon the application of combustion modification; however, owners may elect to use any alternative control technology, provided such alternative is capable of achieving the prescribed emission limits.

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a. Steam generating units and process heaters. The maximum allowable emission rate for nitrogen oxides from steam generating units and process heaters is as follows:

TABLE 4-4C

Maximum Allowable Emission Rates for Nitrogen Oxides Emissions from Steam Generating Units and Process Heaters (pounds per million btu heat input)

Fuel Type	Firing Method		
	Face* and Tangential	Cyclone	Stokers
Coal--wet bottom	1.0	.55	N/A
Coal--dry bottom	.38	N/A	0.4
Oil or Gas or both	.25	.43	N/A
Gas only	.20	N/A	N/A

*Includes wall, opposed and vertical firing methods.

b. Gas turbines. The maximum allowable emission rate for nitrogen oxides from gas turbines is as follows:

TABLE 4-4D

Maximum Allowable Emission Rates for Nitrogen Oxides Emissions from Gas Turbines (parts per million by dry volume corrected to 15% oxygen)

Fuel Type	Turbine Type	
	Simple Cycle	Combined Cycle
Gas	42	42
Oil	65/77*	65/77*

*Limit shall be 65 ppm for fuel bound nitrogen (FBN) less than 0.015% and 77 ppm for FBN greater than or equal to .015%

2. Any demonstration of compliance with the limits in subdivision C 1 of this section shall be on a daily basis.

3. For the source types and sizes listed below, a demonstration of reasonably available control technology is not required as provided in 9 VAC 5-40-310 B.

~~a. Any steam generating unit, process heater or gas turbine with a rated capacity of less than 100,000,000 Btu per hour.~~

b. a. Any steam generating unit, process heater or gas turbine with an annual capacity factor of less than 5.0%, except that three months following any calendar year during which the capacity factor is 5.0% or greater, the facility shall be subject to 9 VAC 5-40-310 A or B, as applicable, and the owner shall comply with 9 VAC 5-40-310 D or E, as applicable, except the compliance date shall be two years after approval of the schedule by the board. Time periods during which a stand-by unit is used to provide replacement services for a unit being altered to comply with the provisions of 9 VAC 5-40-310 A or B shall not be used as the basis for a determination that the stand-by unit exceeded the annual capacity factor criteria of 5.0%.

~~e. Any combustion unit with a rated capacity of less than 50,000,000 Btu per hour.~~

~~d. b. Any stationary internal combustion engine with a rated capacity of less than 450 hp of output power.~~

~~e. c. Any incinerator with a maximum capacity of less than 50 tons of waste per day.~~

~~f. d. Any incinerator or thermal or catalytic oxidizer used exclusively as air pollution control equipment.~~

~~g. e. Any generator used solely to supply emergency power to buildings during periods when normal power supplies are interrupted and during periods of scheduled maintenance.~~

D. Emission allocation system.

~~1. This subsection applies only to steam generating units and gas turbines within fuel burning equipment installations not exempted from the requirements of 9 VAC 5-40-310 B by subdivision C 3 of this section.~~

~~2. The maximum allowable nitrogen oxides emissions, expressed as pounds per hour, for a fuel burning equipment installation shall be the product of the total capacity and the applicable emission limit specified in subdivision C 1 a of this section.~~

~~3. The allowable nitrogen oxides emissions for a fuel burning equipment installation when operating at less than total capacity, shall be the product of the percent load and emission allocation. The percent load shall be the quotient of the actual load and the rated capacity. The emission allocation shall be determined using procedures set forth in subdivision D 4 of this section.~~

~~4. The emission allocation for each of the fuel burning equipment units of the fuel burning equipment installation shall be its designated portion of the maximum allowable nitrogen oxides emissions from the fuel burning equipment installation when operating at total capacity. The portions shall be proposed by the owner initially and determined in a manner mutually acceptable to the board and the owner. Once accepted by the board, the portions may not be changed without the consent of the board.~~

9 VAC 5-40-890. Definitions.

A. For the purpose of ~~these~~ the Regulations for the Control and Abatement of Air Pollution and subsequent amendments or any orders issued by the board, the words or terms shall have the meanings given them in subsection C of this section.

B. As used in this article, all terms not defined here shall have the meanings given them in 9 VAC 5 Chapter 10 (9 VAC 5-10-10 et seq.), unless otherwise required by context.

C. Terms defined.

["~~Btu~~" means ~~British thermal unit.~~]

"Capacity factor" means the ratio of the average load on a machine or equipment for the period of time considered to the capacity rating of the machine or equipment.

~~["Combined cycle system" means a system comprised of one or more combustion turbines, heat recovery steam generators, and steam turbines configured to improve overall efficiency of electricity generation or steam production.~~

~~"Combustion turbine" means an enclosed fossil or other fuel-fired device that is composed of a compressor, a combustor, and a turbine, and in which the flue gas resulting from the combustion of fuel in the combustor passes through the turbine, rotating the turbine.~~

~~"Continuous emission monitoring system" or "CEMS" means the equipment required under 9 VAC 5-40-1000 E to sample, analyze, measure and provide, by readings taken at least once every 15 minutes of the measured parameters, a permanent record of NO_x emissions, expressed in tons per hour for NO_x. The following systems are component parts, to the extent consistent with 40 CFR Part 75, in a continuous emission monitoring system:~~

- ~~a. Flow monitor;~~
- ~~b. NO_x pollutant concentration monitors;~~
- ~~c. Diluent gas monitor (O₂ or CO₂);~~
- ~~d. A continuous moisture monitor; and~~
- ~~e. An automated data acquisition and handling system.~~

~~"Electric generating unit" means any fossil fuel fired combustion unit of more than 25 megawatts that serves a generator that produces electricity for sale. A unit that cogenerates steam and electricity and supplies more than one-third of its potential electric output capacity and more than 25 megawatts electricity output to any utility power distribution system for sale shall be considered an electric generating unit.~~

~~"Generator" means a device that produces electricity.~~

~~"Fossil fuel" means natural gas, petroleum, coal and any form of solid, liquid or gaseous fuel derived from such materials for the purpose of creating useful heat.~~

~~"Fossil-fuel fired" means, with regard to a unit:~~

- ~~a. The combustion of fossil fuel, alone or in combination with any other fuel, where fossil fuel actually combusted comprises more than 50% of the annual heat input on a Btu-basis during any year starting in 1995 or, if a unit had no heat input starting in 1995, during the last year of operation of the unit prior to 1995; or~~
- ~~b. The combustion of fossil fuel, alone or in combination with any other fuel, where fossil fuel is projected to comprise more than 50% of the annual heat input on a Btu-basis during any year; provided that the unit shall be "fossil-fuel fired" as of the date, during such year, on which the unit begins combusting fossil fuel.]~~

~~"Fossil-fuel fired steam generator" means furnace or boiler, or both, used in the process of burning fossil fuel for the primary purpose of providing steam by heat transfer.~~

~~"Fuel burning equipment" means any furnace, with fuel burning equipment appurtenances thereto, used in the~~

process of burning fuel for the primary purpose of producing heat to be utilized by indirect heat transfer, or by indirect production of power. This includes facilities that are designed as boilers to produce steam or heated water and are designed to burn either fossil fuel or refuse derived fuel. It does not include such facilities if designed primarily to burn raw refuse. This includes fuel burning equipment units (both permanently installed units and portable units) used to replace the power used by mobile sources. For the purposes of this article, stationary combustion turbines are considered to be fuel burning equipment.

~~"Fuel burning equipment installation" means all fuel burning equipment units within a stationary source in operation prior to October 5, 1979.~~

~~"Heat input" means the total gross calorific value of all fuels burned.~~

~~["mmBtu" means million Btu.~~

~~"MWe" means megawatt electrical.~~

~~"Nameplate capacity" means the maximum electrical generating output (in MWe) that a generator can sustain over a specified period of time when not restricted by seasonal or other deratings as measured in accordance with the United States Department of Energy standards.~~

~~"Nonelectric generating unit" means a stationary boiler, combustion turbine, or combined cycle system that is not an electric generating unit and has a maximum design heat input greater than 250 mmBtu/hr.~~

~~"Opt-in unit" means a unit that would otherwise be an electric generating unit or nonelectric generating unit if not for the size criteria.~~

~~"Ozone season" means the period beginning May 1 of a year and ending on September 30 of the same year, inclusive.~~

~~"Ozone season heat input" (OSHI) means the product (in mmBtu/time) of the gross calorific value of the fuel (in Btu/lb) and the fuel feed rate into a combustion device (in mass of fuel/time) and does not include the heat derived from preheated combustion air, recirculated flue gases or exhaust from other sources.]~~

~~"Rated capacity" means the capacity as stipulated in the purchase contract for the condition of 100% load, or such other capacities as mutually agreed to by the board and owner using good engineering judgment.~~

~~"Refuse derived fuel (RDF)" means fuel produced from solid or liquid waste (includes materials customarily referred to as refuse and other discarded materials), or both, which has been segregated and classified, with the useable portions being put through a size reduction and classification process which results in a relatively homogeneous mixture.~~

~~"Stationary combustion turbine" means any air-breathing internal combustion engine consisting of an air compressor, combustion chamber, and a turbine wheel.~~

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"Stationary internal combustion engine" means an engine in which fuel is burned within a machine in which energy is converted directly into mechanical motion or work. The energy is used directly for the production of power, locomotion or work. Internal combustion engines include, but are not limited to, diesel engines, gasoline engines, and diesel pumps. For the purposes of this article, stationary combustion turbines are not considered to be stationary internal combustion engines.

["~~Ton~~" or "~~tonnage~~" means any "~~short ton~~" (i.e., 2000 pounds). For the purpose of determining compliance with an applicable ~~NO_x~~ emission limitation, total tons for an ozone season shall be calculated as the sum of all recorded hourly emissions (or the tonnage equivalent of the recorded hourly emissions rates), with any remaining fraction of a ton equal to or greater than 0.50 ton deemed to equal one ton and any fraction of a ton less than 0.50 ton deemed to equal zero tons.]

"Total capacity" means with reference to a fuel burning equipment installation, the sum of the rated capacities (expressed as heat input) of all units of the installation which must be operated simultaneously under conditions of 100% use load.

REGISTRAR'S NOTICE: The proposed amendments to 9 VAC 5-40-925 through 9 VAC 5-40-928, 9 VAC 5-40-980 and 9 VAC 5-40-1000 that were published in 17:11 VA.R 1651-1654 February 12, 2001, were not adopted in final form by the Air Pollution Control Board. Therefore, those sections have been removed and are not being printed in this final regulatory action.

VA.R. Doc. No. R00-152; Filed October 17, 2001, 8:54 a.m.

STATE WATER CONTROL BOARD

Title of Regulation: 9 VAC 25-650-10 et seq. Closure Plans and Demonstration of Financial Capability.

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

Effective Date: December 5, 2001.

Summary:

The regulation replaces an existing emergency regulation that requires closure plans and demonstration of financial capability for privately owned sewerage systems and sewerage treatment works that treat domestic waste generated by privately owned residences.

Six alternatives were considered in the development of the permanent regulation. Alternative Two was chosen as the basis for the permanent regulation. This alternative limits the regulation to the category of facilities identified in § 62.1-44.18:3 of the Code of Virginia. The permanent regulation is essentially identical to the existing emergency regulation with the exception of two substantive changes from the emergency regulation: (i) the number of years of contract operation required under 9 VAC 25-650-60 has been decreased from five years to two years and (ii) a waiver provision (9 VAC 25-650-150) has been added

pursuant to a legislative amendment to § 62.1-44.18:3 of the Code of Virginia.

Two substantive changes were made to the regulation based on comments received during the public comment period. A Certificate of Deposit was added as an acceptable financial assurance mechanism, and the requirement for a stand-by trust was removed. Additionally, the allowable time to file the financial assurance mechanism with the board after board approval of the closure plan and cost estimate was increased from 10 days to 30 days, and the time requirement for notification to the board of an ownership transfer was decreased from 120 days to 30 days.

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

Agency Contact: Jon van Soestbergen, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4117, FAX (804) 698-4032 or (804) 698-4021/TTY, or e-mail jvansoest@deq.state.va.us.

CHAPTER 650.

CLOSURE PLANS AND DEMONSTRATION OF FINANCIAL CAPABILITY.

PART I. DEFINITIONS.

9 VAC 25-650-10. Definitions.

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

"Active life" means the length of time a facility discharges to state waters or is subject to regulation under the Virginia Pollution Discharge Elimination System (VPDES) Regulation (9 VAC 25-31 [~~10 et seq.~~]).

"Anniversary date" means the date of issuance of a financial mechanism.

"Assets" means all existing and all probable future economic benefits obtained or controlled by a particular entity.

"Board" means the State Water Control Board.

"Ceases operations" means to cease conducting the normal operation of a facility under circumstances in which it is reasonable to expect that such operation will not be resumed by the owner 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. Ceases operations shall include, but not be limited to, the following:

1. Bankruptcy or insolvency of the owner or operator or suspension or revocation of a charter or license to operate the facility or to furnish sewer services;
2. Failure to operate and maintain a facility in accordance with the Operations and Maintenance Manual for the facility, such that a substantial or imminent threat to public health or the environment is created;

3. Failure to comply with the requirements of the VPDES permit for the facility, such that a substantial or imminent threat to public health or the environment is created;

4. Notification of termination of service by a utility providing electricity or other resource essential to the normal operation of the facility.

“Closure plan” means a 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 a facility ceases operations.

“Current closure cost estimate” means the most recent of the estimates prepared in accordance with the requirements of this chapter.

“Current dollars” means the figure represented by the total of the cost estimate multiplied by the current annual inflation factor.

“CWA” means the Clean Water Act (formerly referred to as the Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972) Public Law 92-500, as amended by Public Law 95-217, Public Law 95-576, Public Law 96-483, and Public Law 97-117, 33 USC [§] 1251 et seq.

“Department” means the Virginia Department of Environmental Quality.

“Director” means the Director of the Department of Environmental Quality, or an authorized representative.

“Discharge” when used without qualification means the discharge of a pollutant.

“Facility” means any VPDES point source or treatment works treating domestic sewage or any other facility or activity (including land or appurtenances thereto) that is subject to regulation under the VPDES program.

“Facility closure plan” means a facility closure plan prepared in accordance with 9 VAC 5-585-140.

“Local government” means a municipality, county, city, town, authority, commission, school board, political subdivision of a state, or other special purpose local government which provides essential services.

“Owner or operator” means the owner or operator of any facility or activity subject to regulation under the VPDES program.

“Parent corporation” means a corporation that directly owns at least 50% of the voting stock of the corporation that is the facility owner or operator; the latter corporation is deemed a “subsidiary” of the parent corporation.

“Permit” means an authorization, certificate, license, or equivalent control document issued by the board to implement the requirements of this chapter. For the purposes of this chapter, permit includes coverage issued under a VPDES general permit. Permit does not include any permit which has not yet been the subject of final board action, such as a draft permit or proposed permit.

“Person” means an individual, corporation, partnership, association, a governmental body, a municipal corporation, or any other legal entity.

“Point source” means any discernible, defined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft, from which pollutants may be discharged. This term does not include return flows from irrigated agricultural or agricultural storm water run off.

“Pollutant” means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials (except those regulated under the Atomic Energy Act of 1954, as amended (42 USC § 2011 et seq.)), heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water. It does not mean:

1. Sewage from vessels; or

2. Water, gas, or other material which is injected into a well to facilitate production of oil or gas, or water derived in association with oil and gas production and disposed of in a well if the well used either to facilitate production or for disposal purposes is approved by the board, and if the board determines that the injection or disposal will not result in the degradation of ground or surface water resources.

“Pollution” means such alteration of the physical, chemical or biological properties of any state waters as will, or is likely to, create a nuisance or render such waters (i) harmful or detrimental or injurious to the public health, safety or welfare, or to the health of animals, fish or aquatic life; (ii) unsuitable with reasonable treatment for use as present or possible future sources of public water supply; or (iii) unsuitable for recreational, commercial, industrial, agricultural, or for other reasonable uses; provided that: (i) an alteration of the physical, chemical, or biological property of state waters, or a discharge or a deposit of sewage, industrial wastes or other wastes to state waters by any owner which by itself is not sufficient to cause pollution, but which, in combination with such alteration of, or discharge or deposit to state waters by other owners, is sufficient to cause pollution; (ii) the discharge of untreated sewage by any owner into state waters; and (iii) contributing to the contravention of standards of water quality duly established by the board, are “pollution” for the terms and purposes of this chapter.

“Private residence” means any building, buildings, or part of a building owned by a private entity which serves as a permanent residence where sewage is generated. Private residences include, but are not limited to, single family homes, town houses, duplexes, condominiums, mobile homes, and apartments. Private residences do not include hotels, motels, seasonal camps, and industrial facilities that do not also serve as residences.

“Privately owned sewerage system” means any device or system that is:

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1. Used in the treatment (including recycling and reclamation) of sewage. This definition includes sewers, pipes, pump stations or other conveyances only if they convey wastewater to a privately owned sewerage system; and

2. Not owned by the United States, a state, or a local government.

"Publicly owned treatment works (POTW)" means any device or system used in the treatment (including recycling and reclamation) of sewage which is owned by a state or municipality. This definition includes sewers, pipes, or other conveyances only if they convey wastewater to a POTW providing treatment.

"Sewage" means the water-carried human wastes from residences, buildings, industrial establishments or other places together with such industrial wastes, underground, surface, storm, or other water, as may be present.

"Special order" means an order of the board issued under the provisions of § 62.1-44.15:1.1 of the Code of Virginia, which require that an owner file with the board a plan to abate, control, prevent, remove, or contain a substantial and imminent threat to public health or the environment that is likely to occur if the facility ceases operations.

"State waters" means all water, on the surface and under the ground, wholly, or partially within, or bordering the Commonwealth, or within its jurisdiction, including wetlands.

"Treatment works" means any devices and systems used in the storage, treatment, or reclamation of sewage or combinations of sewage and industrial wastes, including pumping, power, and other equipment, and their appurtenances, and any works, including land that will be an integral part of the treatment process, or is used for an integral part of the treatment process, or is used for ultimate disposal of residues resulting from such treatment.

"Virginia Pollution Discharge Elimination System (VPDES) Permit" means a document issued by the board pursuant to 9 VAC 25-31-10 et seq., authorizing, under prescribed conditions, the potential or actual discharge of pollutants from a point source to surface waters and the use or disposal of sewage sludge. Under the approved state program, a VPDES permit is equivalent to an NPDES permit.

PART II.

GENERAL INFORMATION AND LEGISLATIVE AUTHORITY.

9 VAC 25-650-20. Purpose.

The purpose of this regulation is to require owners or operators of certain privately owned sewerage systems that treat sewage from private residences to file with the board a 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 the facility ceases operations. For the purposes of this regulation, such a plan shall be termed a closure plan. Such plan shall also include the demonstration of financial assurance required in 9 VAC 25-650-30 to implement the plan.

9 VAC 25-650-30. Applicability.

A. This regulation applies to all persons who own or operate permitted or unpermitted privately owned sewerage systems subject to the Virginia Pollution Discharge Elimination System (VPDES) Regulation (9 VAC 25-31 [~~40 et seq.~~]) that treat sewage generated by private residences and discharge more than 1,000 gallons per day and less than 40,000 gallons per day to state waters.

B. Owners or operators of privately owned sewerage systems must demonstrate annually financial assurance in accordance with the requirements of this chapter.

9 VAC 25-650-40. Suspensions and revocations.

Failure to submit a closure plan or to provide or maintain adequate financial assurance in accordance with this regulation shall be a basis for termination of a VPDES permit. Termination of a VPDES permit shall be in accordance with 9 VAC 25-31-410.

PART III.

CLOSURE PLANS AND FINANCIAL ASSURANCE CRITERIA.

9 VAC 25-650-50. General purpose and scope.

A. Any owner or operator of a privately owned sewerage system subject to this regulation shall file with the board a plan to abate, control, prevent, remove, or contain any substantial threat to public health or the environment that is reasonably likely to occur if such facility ceases operations. Such plan shall be referred to as a closure plan. The closure plan shall include a detailed written estimate of the cost to implement the plan. The owner or operator shall file a closure plan and associated cost estimate for the facility with the board concurrently with the owner's or operator's first VPDES permit application for issuance or reissuance for the facility submitted subsequent to [~~the effective date of this regulation~~ December 5, 2001]. Closure plans and cost estimates filed with the board shall be reviewed by the owner or operator and updated as necessary at the end of each VPDES permit term. Revised and updated closure plans shall be filed with the board concurrently with each subsequent VPDES permit application.

B. Closure plans and cost estimates shall be subject to review by the board. The owner or operator shall be notified in writing within 60 days of receipt of the closure plan and cost estimate of the board's decision to approve or disapprove the proposed closure plan and cost estimate. If the board disapproves the closure plan or cost estimate, the board shall notify the owner or operator as to what measures, if any, the owner or operator may take to secure approval. If the owner or operator submits a closure plan that is not approvable by the board, the board may, at its sole discretion, promulgate a closure plan and cost estimate for the facility, subject to appeal by the owner or operator only as to content under the Virginia Administrative Process Act (§ [~~9-6-14:4~~ 2.2-4000] et seq. of the Code of Virginia).

C. Closure plans shall be implemented when the board has determined, at its sole discretion, that the facility has ceased operations. The owner or operator of a privately owned facility

shall notify the board within 24 hours of the facility ceasing operations as defined in this chapter.

D. In order to assure that the costs associated with protecting public health and the environment are to be recovered from the owner or operator in the event that a facility subject to this regulation ceases operation, the owner or operator of such facility shall submit to the board one or a combination of the financial assurance mechanisms described in this chapter. Financial assurance mechanisms shall be in amounts calculated as the inflation-adjusted cost estimate using the procedures set forth in this chapter.

E. In the case of new facilities or increased discharges from existing facilities, the selected financial assurance mechanism or mechanisms shall be filed with the board no less than 90 days prior to the discharge or increased discharge to state waters. In the case of existing facilities with a valid VPDES permit on [the effective date of this regulation], the financial assurance mechanism or mechanisms shall be filed with the board within [40 30] days of the date of board approval of the closure plan and cost estimate.

F. The board may disapprove the proposed evidence of financial assurance if the mechanism or mechanisms submitted do not adequately assure that funds will be available for implementation of the closure plan. The owner or operator shall be notified in writing of the board's decision to approve or disapprove the proposed mechanism. If the board disapproves the financial assurance mechanism, the board shall notify the owner or operator as to what measures, if any, the owner or operator may take to secure approval.

G. Closure plans, cost estimates, and financial assurance mechanisms shall remain in place for the active life of the facility and for the time required to complete the activities specified in the closure plan.

9 VAC 25-650-60. Closure plans.

A. The owner or operator of a privately owned sewerage system subject to this chapter shall provide a closure plan which abates, controls, prevents, removes, or contains any substantial threat to public health or the environment that is reasonably likely to occur if the facility ceases operations.

B. Closure plans shall be submitted to the board by the owner or operator concurrently with its application for a VPDES permit for the facility or as otherwise required by special order. Existing closure plans filed with the board shall be reviewed by the owner or operator, modified as necessary, and resubmitted to the board concurrently with an owner's or operator's application for a reissued VPDES permit. The submittal shall include a written summary of the results of the review and any modifications to the closure plan.

C. Closure plans shall consist of one or more of the following:

1. The cessation of the discharge of pollutants to state waters, followed by closure of the facility in accordance with the facility closure plan prepared in accordance with 9 VAC 5-585-140 and approved by the Virginia Department of Health. Where no Virginia Department of Health approved facility closure plan exists, one shall be prepared in accordance with the requirements of 9 VAC 5-585-140 and submitted as part of the closure plan.

2. Connection to an alternative treatment works, such as a POTW, including rerouting of all influent flow, followed by closure of the VPDES permitted facility in accordance with the facility closure plan prepared in accordance with 9 VAC 5-585-140 and approved by the Virginia Department of Health. Where no Virginia Department of Health approved facility closure plan exists, one shall be prepared in accordance with the requirements of 9 VAC 5-585-140 and submitted as part of the closure plan.

3. Transfer of the facility to a local government, provided that written agreement of the receiving local government to obtain a VPDES permit and operate and maintain the facility in accordance with the VPDES permit and all other applicable laws and regulations, is obtained and included as part of the closure plan.

4. Contract operation of the facility for a period of two years after initial implementation of the closure plan, regardless of the date of initial implementation. Contract operation shall be by a named private company or other entity licensed to operate wastewater treatment facilities in the Commonwealth of Virginia and licensed to operate the specific facility to which the closure plan applies. A closure plan consisting of or including contract operation shall include a written, signed contract executed by the contract operator, contingent only upon approval of the closure plan by the board. The contract shall specify that the contract operator shall operate the facility for the term of the contract in accordance with the terms and conditions of the owner's or operator's VPDES permit for the facility. The contract shall also specify that the contract operator shall assume, without exception, all responsibilities and liabilities associated with the facility's discharge to state waters and with the owner's or operator's VPDES permit in the event the closure plan is implemented. The owner or operator of the facility and the owner of the private company or entity contracted to operate the facility under the closure plan shall not be the same person.

5. An alternative plan which will abate, control, prevent, remove, or contain any substantial or imminent threat to public health or the environment that is reasonably likely to occur if the facility ceases operations.

D. Closure plans shall designate and authorize a named third party who, upon notification by the board, will implement the closure plan. The closure plan shall include written agreement by the named third party, bearing that person's signature, to implement the closure plan in accordance with the requirements of the closure plan for the duration of the VPDES permit term. Where the closure plan includes contract operation of the facility, the named third party may be the contract operator.

E. Closure plans may not consist of the transfer or sale of the facility to another private entity which also would be subject to this regulation.

9 VAC 25-650-70. Transfer of ownership or permit.

A. If a privately owned sewerage system subject to this regulation is to be sold or if ownership is to be transferred in the normal course of business, the owner or operator shall notify the board, in written form through certified mail, of such

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intended sale or transfer at least [420 30] days prior to such sale or transfer. The notification shall provide the full name, address, and telephone number of the person to whom the facility is to be sold or transferred. [The notice shall include a written agreement between the existing and the new permittee containing a specific date for transfer of permit responsibilities, coverage, and liabilities between them.]

B. Changes in the ownership or operational control of a facility may be made as a minor modification with prior written approval of the board in accordance with 9 VAC 25-31-380, except as otherwise provided in this section. [~~The new owner or operator shall submit a revised permit application no later than 90 days prior to the scheduled change. A written agreement containing a specific date for transfer of permit responsibility between the current and new permittees shall also be submitted to the board.] When a transfer of ownership or operational control occurs, the old owner or operator shall comply with the requirements of this chapter until the new owner or operator has demonstrated that he is complying with the requirements of this chapter. The new owner or operator shall demonstrate compliance with this chapter within six months of the date of the change of ownership or operational control of the facility. Upon demonstration to the board by the new owner or operator of compliance with this chapter, the board shall notify the old owner or operator that he or she no longer needs to comply with this chapter as of the date of demonstration.~~

9 VAC 25-650-80. Cost estimate for facility closure.

A. The owner or operator shall prepare for approval by the board, a detailed written estimate of the cost of implementing the closure plan. The written cost estimate shall be submitted concurrently with the closure plan.

1. The closure plan cost estimate shall equal the full cost of implementation of the closure plan in current dollars.
2. The closure cost estimate shall be based on and include the costs to the owner or operator of hiring a third party to implement the closure plan. The third party may not be either a parent corporation or subsidiary of the owner or operator.
3. The closure cost estimate may not incorporate any salvage value that may be realized by the sale of wastes, facility structures or equipment, land or other facility assets at the time of implementation of the closure plan.

B. During the term of the VPDES permit, the owner or operator shall adjust the implementation cost estimate for inflation within 60 days prior to the anniversary date of the establishment of the financial assurance mechanism used to comply with this chapter. The adjustment may be made by recalculating the implementation cost in current dollars, or by using an inflation factor derived from the most recent Implicit Price Deflator for Gross National Product published by the U.S. Department of Commerce in its Survey of Current Business, as specified below. The inflation factor is the result of dividing the latest published annual deflator by the deflator for the previous year.

1. The first adjustment is made by multiplying the implementation cost estimate by the latest inflation factor. The result is the adjusted implementation cost estimate.

2. Subsequent adjustments are made by multiplying the latest adjusted cost estimate by the latest inflation factor.

C. During the term of the VPDES permit, the owner or operator shall revise the implementation cost estimate concurrently with any revision made to the closure plan which increases the implementation cost. The revised implementation cost estimate shall be adjusted for inflation as specified in subdivisions B 1 and B 2 of this section.

D. The owner or operator may reduce the implementation cost estimate and the amount of financial assurance provided under this section, if it can be demonstrated that the cost estimate exceeds the cost of implementation of the closure plan. The owner or operator shall obtain the approval of the board prior to reducing the amount of financial assurance.

E. The owner or operator shall provide continuous coverage to implement the closure plan until released from financial assurance requirements by the board.

9 VAC 25-650-90. Trust Agreement.

A. An owner or operator of a privately owned sewerage system may satisfy the requirements of this chapter by establishing an irrevocable trust fund that conforms to the requirements of this section and by submitting an originally signed duplicate of the trust agreement to the board. The trustee shall be an entity that has the authority to act as a trustee and whose trust operations are regulated and examined by a federal agency or the State Corporation Commission (Commonwealth of Virginia).

B. The trust agreement shall be irrevocable and shall continue until terminated at the written direction of the grantor, the trustee, and the board, or by the trustee and the board if the grantor ceases to exist. Upon termination of the trust, all remaining trust property, less final administration expenses, shall be delivered to the grantor. The wording of the trust agreement shall be identical to the wording as follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted. The trust agreement shall be accompanied by a formal letter of certification of acknowledgement as specified in this chapter.

TRUST AGREEMENT

Trust agreement, the "Agreement," entered into as of [date] by and between [name of the owner or operator], a [name of state] [insert "corporation," "partnership," "association," "proprietorship," or appropriate identification of type of entity], the "Grantor," and [name of corporate trustee], [insert "Incorporated in the state of _____" or "a national bank"], the "Trustee."

Whereas, the State Water Control Board of the Commonwealth of Virginia has established certain regulations applicable to the Grantor, requiring that an owner or operator of a private sewage treatment facility shall provide assurance that funds will be available when needed for implementation of a closure plan. The attached Schedule A contains the

name and address of the facility covered by this [trust agreement [~~or standby trust agreement~~]];

[~~Whereas, the Grantor has elected to establish a [insert either "surety bond," or "letter of credit"] to provide all or part of such financial assurance for implementation of the closure plan for the privately owned sewage treatment facility identified herein and is required to establish a standby trust fund able to accept payments from the instrument (This paragraph is only applicable to the standby trust agreement.);]~~

Whereas, the Grantor, acting through its duly authorized officers, has selected the Trustee to be the trustee under this agreement, and the Trustee is willing to act as trustee;

Now, therefore, the Grantor and the Trustee agree as follows:

Section 1. Definitions. As used in this Agreement:

- (a) The term "Grantor" means the owner or operator who enters into this Agreement and any successors or assigns of the Grantor.
- (b) The term "Trustee" means the Trustee who enters into this Agreement and any successor Trustee.

[~~Section 2. Identification of the Financial Assurance Mechanism.~~

~~This Agreement pertains to the [identify the financial assurance mechanism, either a guarantee, surety bond, or letter of credit, from which the standby trust fund is established to receive payments (This paragraph is only applicable to the standby trust agreement).];]~~

Section [~~3.~~ 2.] Establishment of Fund.

The Grantor and the Trustee hereby establish a trust fund, the "Fund," for the benefit of the Department of Environmental Quality of the Commonwealth of Virginia. The Grantor and the Trustee intend that no third party have access to the Fund. [~~{The Fund is established initially as a standby to receive payments and shall not consist of any property.}] Payments made by the provider of financial assurance pursuant to the Director of the Department of Environmental Quality's instruction are transferred to the Trustee and are referred to as the Fund, together with all earnings and profits thereon, less any payments or distributions made by the Trustee pursuant to this Agreement. The Fund shall be held by the Trustee, IN TRUST, as hereinafter provided. The Trustee shall not be responsible nor shall it undertake any responsibility for the amount or adequacy of, nor any duty to collect from the Grantor as provider of financial assurance, any payments necessary to discharge any liability of the Grantor established by the State Water Control Board.~~

Section [4. 3.] Payment for Implementation of the Closure Plan.

The Trustee shall make payments from the Fund as the Director, Department of Environmental Quality shall direct, in writing, to provide for the payment of the costs of implementation of the closure plan for the facility covered by the financial assurance mechanism identified in this Agreement.

[~~The Fund may not be drawn upon to cover any of the following:~~

- ~~(a) Any obligation of owner or operator under a workers' compensation, disability benefits, or unemployment compensation law or other similar law;~~
- ~~(b) Bodily injury to an employee of owner or operator arising from, and in the course of, employment by the owner or operator;~~
- ~~(c) Bodily injury or property damage arising from the operation, maintenance, use, or entrustment to others of any aircraft, motor vehicle, or watercraft;~~
- ~~(d) Property damage to any property owned, rented, loaned to, in the care, custody, or control of, or occupied by owner or operator that is not the direct result of a privately owned sewage treatment facility ceasing operations;~~
- ~~(e) Bodily injury or property damage for which owner or operator is obligated to pay damages by reason of the assumption of liability in a contract or agreement other than a contract or agreement entered into to meet the requirements of § 62.1-44.18:3 of the Code of Virginia.]~~

The Trustee shall reimburse the Grantor, or other persons as specified by the State Water Control Board, from the Fund for implementation of the closure plan in such amounts as the Director of the Department of Environmental Quality shall direct in writing. In addition, the Trustee shall refund to the Grantor such amounts as the Director of the Department of Environmental Quality specifies in writing. Upon refund, such funds shall no longer constitute part of the Fund as defined herein.

Section [~~5.~~ 4.] Payments Comprising the Fund.

Payments made to the Trustee for the Fund shall consist of cash and securities acceptable to the Trustee.

Section [~~6.~~ 5.] Trustee Management.

The Trustee shall invest and reinvest the principal and income of the Fund and keep the Fund invested as a single fund, without distinction between principal and income, in accordance with general investment policies and guidelines which the Grantor may communicate in writing to the Trustee from time to time, subject, however, to the provisions of this Section. In investing, reinvesting, exchanging, selling, and managing the Fund, the Trustee shall discharge his duties with respect to the trust fund solely in the interest of the beneficiaries and with the care, skill, prudence, and diligence under the circumstances then prevailing which persons of prudence, acting in a like capacity and familiar with such matters, would use in the conduct of an enterprise of a like character and with like aims; except that:

- (i) Securities or other obligations of the Grantor, or any other operator of the facility, or any of their affiliates as defined in the Investment Company Act of 1940, as amended, 15 USC § 80a-2(a), shall not be acquired or held, unless they are securities or other obligations of the federal or a state government;

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(ii) The Trustee is authorized to invest the Fund in time or demand deposits of the Trustee, to the extent insured by an agency of the federal or state government; and

(iii) Trustee is authorized to hold cash awaiting investment or distribution uninvested for a reasonable time and without liability for the payment of interest thereon.

Section [7. 6.] Commingling and Investment.

The Trustee is expressly authorized in its discretion:

(a) To transfer from time to time any or all of the assets of the Fund to any common, commingled, or collective trust fund created by the Trustee in which the Fund is eligible to participate, subject to all of the provisions thereof, to be commingled with the assets of other trusts participating therein; and

(b) To purchase shares in any investment company registered under the Investment Company Act of 1940, 15 USC § 80a-1 et seq., including one which may be created, managed, underwritten, or to which investment advice is rendered or the shares of which are sold by the Trustee. The Trustee may vote such shares in its discretion.

Section [8. 7.] Express Powers of Trustee.

Without in any way limiting the powers and discretions conferred upon the Trustee by the other provisions of this Agreement or by law, the Trustee is expressly authorized and empowered:

(a) To sell, exchange, convey, transfer, or otherwise dispose of any property held by it, by public or private sale. No person dealing with the Trustee shall be bound to see to the application of the purchase money or to inquire into the validity or expediency of any such sale or other disposition;

(b) To make, execute, acknowledge, and deliver any and all documents of transfer and conveyance and any and all other instruments that may be necessary or appropriate to carry out the powers herein granted;

(c) To register any securities held in the Fund in its own name or in the name of a nominee and to hold any security in bearer form or in book entry, or to combine certificates representing such securities with certificates of the same issue held by the Trustee in other fiduciary capacities, or to deposit or arrange for the deposit of such securities in a qualified central depository even though, when so deposited, such securities may be merged and held in bulk in the name of the nominee of such depository with other securities deposited therein by another person, or to deposit or arrange for the deposit of any securities issued by the United States Government, or any agency or instrumentality thereof, with a Federal Reserve bank, but the books and records of the Trustee shall at all times show that all such securities are part of the Fund;

(d) To deposit any cash in the Fund in interest-bearing accounts maintained or savings certificates issued by the Trustee, in its separate corporate capacity, or in any other banking institution affiliated with the Trustee, to the extent insured by an agency of the federal or state government; and

(e) To compromise or otherwise adjust all claims in favor of or against the Fund.

Section [9. 8.] Taxes and Expenses.

All taxes of any kind that may be assessed or levied against or in respect of the Fund and all brokerage commissions incurred by the Fund shall be paid from the Fund. All other expenses incurred by the Trustee in connection with the administration of this Trust, including fees for legal services rendered to the Trustee, the compensation of the Trustee to the extent not paid directly by the Grantor, and all other proper charges and disbursements of the Trustee shall be paid from the Fund.

Section [40. 9.] Advice of Counsel.

The Trustee may from time to time consult with counsel, who may be counsel to the Grantor, with respect to any questions arising as to the construction of this Agreement or any action to be taken hereunder. The Trustee shall be fully protected, to the extent permitted by law, in acting upon the advice of counsel.

Section [44. 10.] Trustee Compensation.

The Trustee shall be entitled to reasonable compensation for its services as agreed upon in writing from time to time with the Grantor.

Section [42. 11.] Successor Trustee.

The Trustee may resign or the Grantor may replace the Trustee, but such resignation or replacement shall not be effective until the Grantor has appointed a successor trustee and this successor accepts the appointment. The successor trustee shall have the same powers and duties as those conferred upon the Trustee hereunder. Upon the successor trustee's acceptance of the appointment, the Trustee shall assign, transfer, and pay over to the successor trustee the funds and properties then constituting the Fund. If for any reason the Grantor cannot or does not act in the event of the resignation of the Trustee, the Trustee may apply to a court of competent jurisdiction for the appointment of a successor trustee or for instructions. The successor trustee shall specify the date on which it assumes administration of the trust in writing sent to the Grantor and the present Trustee by certified mail 10 days before such change becomes effective. Any expenses incurred by the Trustee as a result of any of the acts contemplated by this Section shall be paid as provided in Section 9.

Section [43. 12.] Instructions to the Trustee.

All orders, requests, and instructions by the Grantor to the Trustee shall be in writing, signed by such persons as are designated in the attached Schedule B or such other designees as the Grantor may designate by amendment to Schedule B. The trustee shall be fully protected in acting without inquiry in accordance with the Grantor's orders, requests, and instructions. All orders, requests, and instructions by the State Water Control Board to the Trustee shall be in writing, signed by the Director of the Department of Environmental Quality, and the Trustee shall act and shall be fully protected in acting in accordance with such orders, requests, and instructions. The Trustee shall have the right to

assume, in the absence of written notice to the contrary, that no event constituting a change or a termination of the authority of any person to act on behalf of the Grantor or the State Water Control Board hereunder has occurred. The Trustee shall have no duty to act in the absence of such orders, requests, and instructions from the Grantor and/or the State Water Control Board, except as provided for herein.

Section [44. 13.] Irrevocability and Termination.

Subject to the right of the parties to amend this Agreement as provided in Section 17, this Trust shall be irrevocable and shall continue until terminated at the written direction of the Grantor and the Trustee, or by the Trustee and the Director of the Department of Environmental Quality, if the Grantor ceases to exist. Upon termination of the Trust, all remaining trust property, less final trust administration expenses, shall be delivered to the Grantor.

Section [45. 14.] Immunity and Indemnification.

The Trustee shall not incur personal liability of any nature in connection with any act or omission, made in good faith, in the administration of this Trust, or in carrying out any directions by the Grantor or the State Water Control Board issued in accordance with this Agreement. The Trustee shall be indemnified and saved harmless by the Grantor, from and against any personal liability to which the Trustee may be subjected by reason of any act or conduct in its official capacity, including all expenses reasonably incurred in its defense in the event the Grantor fails to provide such defense.

Section [46. 15.] Choice of Law.

This Agreement shall be administered, construed, and enforced according to the laws of the Commonwealth of Virginia.

Section [47. 16.] Amendment of Agreement.

This Agreement may be amended by an instrument executed in writing executed by the Grantor, the Trustee, and the Director of the Department of Environmental Quality, Commonwealth of Virginia, or by the Trustee and the Director of the Department of Environmental Quality, Commonwealth of Virginia, if the Grantor ceases to exist.

Section [48. 17.] Annual Valuation.

The Trustee will annually, at the end of the month coincident with or preceding the anniversary date of establishment of the Fund, furnish the Grantor and to the Director of the Department of Environmental Quality, Commonwealth of Virginia, a statement confirming the value of the Trust. Any securities in the Fund will be valued at market value as of no more than 30 days prior to the date of the statement. The failure of the Grantor to object in writing to the Trustee within 90 days after the statement has been furnished to the Grantor and the Director of the Department of Environmental Quality, Commonwealth of Virginia will constitute a conclusively binding assent by the Grantor, barring the Grantor from asserting any claim or liability against the Trustee with respect to matters disclosed in the statement.

Section [49. 18.] Interpretation.

As used in this Agreement, words in the singular include the plural and words in the plural include the singular. The descriptive headings for each section of this Agreement shall not affect the interpretation or the legal efficacy of this Agreement.

In Witness whereof the parties have caused this Agreement to be executed by their respective officers duly authorized and their corporate seals (if applicable) to be hereunto affixed and attested as of the date first above written. The parties below certify that the wording of this Agreement is identical to the wording specified in 9 VAC 25-650-90 B as such regulations were constituted on the date written above.

[Signature of Grantor]
[Name of the Grantor]
[Title]
Attest:
[Signature of Trustee]
[Name of the Trustee]
[Title]
[Seal]
[Signature of Witness]
[Name of Witness]
[Title]
[Seal]

[CERTIFICATE OF ACKNOWLEDGMENT

State of _____

County of _____

On this [date], before me personally came [owner's or operator's representative] to me known, who, being by me duly sworn, did depose and say that she/he resides at [address], that she/he is [title] of [corporation], the corporation described in and which executed the above instrument; that she/he knows the seal of said corporation; that the seal affixed to such instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation; and that she/he signed her/his name thereto by like order.

[Signature of Notary Public]

[Name of Notary Public]

My Commission expires: _____]

SCHEDULE A

Name of Facility

Address of facility

Closure Cost Estimate

VPDES Permit Number

C. The irrevocable trust fund, when established, shall be funded for the full required amount of coverage, or funded for part of the required amount of coverage and used in combination with other mechanism(s) that provide the remaining required coverage. Schedule A of the trust agreement shall be updated within 60 days after a change in

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the amount of the approved cost estimate covered by the agreement.

D. If the value of the trust fund is greater than the required amount of coverage, the owner or operator may submit a written request to the board for release of the excess.

E. If other financial assurance as specified in this chapter is substituted for all or part of the trust fund, the owner or operator may submit a written request to the Director for release of the excess.

F. Within 60 days after receiving a request from the owner or operator for release of funds as specified in subsection D or E of this section, the board will instruct the trustee to release to the owner or operator such funds, if any, that the board determines to be eligible for release and specifies in writing.

G. Whenever the cost estimate changes, the owner or operator shall compare the new estimate with the trustee's most recent annual valuation of the trust [~~agreement~~ fund]. If the value of the [~~agreement~~ fund] is less than the amount of the new cost estimate, the owner or operator shall, within 10 days of the change in the approved cost estimate, deposit a sufficient amount into the trust so that its value after payment at least equals the amount of the new estimate, or obtain other financial assurance as specified in this article to cover the difference. If the value of the trust fund is greater than the total amount of the cost estimate, the owner or operator may submit a written request to the board for release of the amount that is in excess of the cost estimate.

H. After beginning implementation of the closure plan, an owner or operator or any other person authorized to implement the closure plan, may request reimbursement for implementation expenditures by submitting itemized bills to the board. Within 60 after receiving bills for plan implementation activities, the board shall instruct the trustee to make reimbursements in those amounts as the board determines are in accordance with the closure plan or are otherwise justified.

- I. The board shall agree to terminate the trust when:
1. The owner or operator substitutes alternate financial assurance as specified in this article; or
 2. The board notifies the owner or operator that he is no longer required to maintain financial assurance for the implementation of the closure plan.

9 VAC 25-650-100. Surety Bond.

A. An owner or operator may satisfy the requirements of this chapter by obtaining a surety bond that conforms to the requirements of this section and by submitting an originally signed duplicate of the bond to the board. The surety company issuing the bond shall be licensed to operate as a surety in the Commonwealth of Virginia and be among those listed as acceptable sureties on federal bonds in the latest Circular 570 of the U.S. Department of the Treasury.

B. The surety bond shall be worded as follows, except that instructions in brackets shall be replaced with the relevant information and the brackets deleted.

PERFORMANCE BOND

Date bond executed: _____

Period of coverage: _____

Effective date: _____

Principal: [legal name and address of owner or operator]

Type of organization: [insert "individual" "joint venture," "partnership," "corporation," or appropriate identification of type of organization] _____

State of incorporation (if applicable): _____

Surety: [name(s) and business address] _____

Scope of Coverage:

[List the name of and the address where the private sewage treatment facility assured by this mechanism is located. List the coverage guaranteed by the bond: operation, maintenance, and closure of the privately owned sewage treatment facility]

Penal sum of bond: \$ _____

Surety's bond number: _____

Know All Persons by These Presents, that we, the Principal and Surety(ies), hereto are firmly bound to the Department of Environmental Quality, Commonwealth of Virginia, ("DEQ") in the above penal sum for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns jointly and severally; provided that, where the Surety(ies) are corporations acting as co-sureties, we, the Sureties, bind ourselves in such sums jointly and severally only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of such sums only as is set forth opposite the name of such Surety, but if no limit of liability is indicated, the limit of liability shall be the full amount of the penal sum.

Whereas said Principal is required under § 62.1-44.18:3 of the State Water Control Law of the Code of Virginia to provide financial assurance to implement a plan to abate, control, prevent, 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 (closure plan) [~~—and Whereas said Principal shall establish a standby trust fund as is required when a surety bond is used to provide such financial assurance~~];

Now, therefore, the conditions of the obligation are such that if the Principal shall faithfully implement the closure plan in accordance with the Director of the DEQ's instructions to implement the plan for the facility described above, or if the Principal shall provide alternate financial assurance, acceptable to DEQ and obtain the Director's written approval of such assurance, within 60 days after the date the notice of cancellation is received by the Director of the DEQ from the Surety(ies), then this obligation shall be null and void; otherwise it is to remain in full force and effect.

[~~Such obligation does not apply to any of the following:~~

~~(a) Any obligation of owner or operator under a workers' compensation, disability benefits, or unemployment compensation law or other similar law;~~

~~(b) Bodily injury to an employee of owner or operator arising from, and in the course of, employment by owner or operator;~~

~~(c) Bodily injury or property damage arising from the ownership, maintenance, use, or entrustment to others of any aircraft, motor vehicle, or watercraft;~~

~~(d) Property damage to any property owned, rented, loaned to, in the care, custody, or control of, or occupied by owner or operator that is not the direct result of a privately owned sewage treatment facility ceasing operations;~~

~~(e) Bodily injury or property damage for which owner or operator of facility is obligated to pay damages by reason of the assumption of liability in a contract or agreement other than a contract or agreement entered into to meet the requirements of § 62.1-44.18:3 of the Code of Virginia.]~~

The Surety(ies) shall become liable on this bond when the Principal has failed to fulfill the conditions described above. Upon notification by the Director of the DEQ that the owner or operator has failed to fulfill the conditions above [or that the DEQ has determined that the facility has ceased operations], the Surety(ies) shall either implement the closure plan or [place funds in an amount up to the penal sum into the standby trust fund forfeit the full amount of the penal sum] as directed by the Director of the DEQ under 9 VAC 25-650-140.

~~[Upon notification by the Director of the DEQ that the Principal has failed to provide alternate financial assurance within 60 days after the date the notice of cancellation is received by the Principal from the Surety(ies) or that the DEQ has determined or suspects that the facility has ceased operations, the Surety(ies) shall place funds in an amount not exceeding the aggregate penal sum into the standby trust fund as directed by the Director of DEQ.]~~

The liability of the Surety(ies) shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments shall amount in the penal sum shown on the face of the bond, but in no event shall the obligation of the Surety(ies) hereunder exceed the amount of said penal sum.

The Surety(ies) may cancel the bond by sending notice of cancellation by certified mail to the Principal and to the Director of the DEQ, Commonwealth of Virginia, 629 East Main Street, Richmond, Virginia 23219, provided, however, that cancellation shall not occur (1) during the 120 days beginning on the date of receipt of the notice of cancellation by the Principal and Director of the DEQ as shown on the signed return receipt; or (2) while a compliance procedure is pending.

In Witness Whereof, the Principal and Surety(ies) have executed this Bond and have affixed their seals on the date set forth above.

The persons whose signatures appear below hereby certify that they are authorized to execute this surety bond on behalf of the Principal and Surety(ies) and that the wording of this

surety bond is identical to the wording specified in 9 VAC 25-650-100.B as such regulations were constituted on the date this bond was executed.

PRINCIPAL

[Signature(s)]
[Name(s)]
[Title(s)]
[Corporate seal]

CORPORATE SURETY(IES)

[Name and address]
State of Incorporation:
Liability limit: \$ _____
[Signature(s)]
[Name(s) and title(s)]
[Corporate seal]
[For every co-surety, provide signature(s), corporate seal, and other information in the same manner as for Surety above.]
Bond premium: \$ _____

C. Under the terms of the bond, the surety will become liable on the bond obligation when the owner or operator fails to perform as guaranteed by the bond.

~~[D. The owner or operator who uses a surety bond to satisfy the requirements of this chapter shall establish a standby trust fund when the surety bond is acquired. Under the terms of the bond, all amounts paid by the surety under the bond will be deposited directly into the standby trust fund in accordance with instructions from the board under 9 VAC 25-650-140. This standby trust fund shall meet the requirements specified in 9 VAC 25-650-120.~~

~~E. D.] The bond shall guarantee that the owner or operator or any other authorized person will:~~

- 1. Implement the closure plan in accordance with the approved closure plan and other requirements in any permit for the facility;
- 2. Implement the closure plan following an order to do so issued by the board or by a court.

~~[F. E.] The surety bond shall guarantee that the owner or operator shall provide alternate financial assurance as specified in this article within 60 days after receipt by the board of a notice of cancellation of the bond from the surety.~~

~~[G. F.] If the approved cost estimate increases to an amount greater than the amount of the penal sum of the bond, the owner or operator shall, within 60 days after the increase, cause the penal sum of the bond to be increased to an amount at least equal to the new estimate or obtain other financial assurance, as specified in this article to cover the increase. Whenever the cost estimate decreases, the penal sum may be reduced to the amount of the cost estimate following written approval by the board. Notice of an increase or decrease in the penal sum shall be sent to the board by certified mail within 60 days after the change.~~

~~[H. G.] The bond shall remain in force for its term unless the surety sends written notice of cancellation by certified mail to the owner or operator and to the board. Cancellation cannot occur, however:~~

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1. During the 120 days beginning on the date of receipt of the notice of cancellation by the board as shown on the signed return receipt; or

2. While an enforcement procedure is pending.

[J. H.] The surety shall provide written notification to the board by certified mail no less than 120 days prior to the expiration date of the bond, that the bond will expire and the date the bond will expire.

[J. I.] In regard to implementation of a closure plan either by the owner or operator, by an authorized third party, or by the surety, proper implementation of a closure plan shall be deemed to have occurred when the board determines that the closure plan has been completed. Such implementation shall be deemed to have been completed when the provisions of the facility's approved closure plan have been executed and the provisions of any other permit requirements or enforcement orders relative to the closure plan have been complied with.

9 VAC 25-650-110. Letter of Credit.

A. An owner or operator may satisfy the requirements of this chapter by obtaining an irrevocable standby letter of credit that conforms to the requirements of this section and by submitting an originally signed duplicate of the letter of credit to the board. The issuing institution shall be an entity that has the authority to issue letters of credit in the Commonwealth of Virginia and whose letter-of-credit operations are regulated and examined by a federal agency or the State Corporation Commission.

B. The letter of credit shall be worded as follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted.

IRREVOCABLE STANDBY LETTER OF CREDIT

[Name and address of issuing institution]

Beneficiary:

Director

Department of Environmental Quality (DEQ)

P. O. Box 10009

629 E. Main Street

Richmond, Virginia 23240-0009

Dear Sir or Madam: We hereby establish our Irrevocable Standby Letter of Credit No. _____ in your favor, at the request and for the account of [owner or operator name] of [address] up to the aggregate amount of [in words] U.S. dollars, (\$[insert dollar amount]), available upon presentation of

(1) your sight draft, bearing reference to this letter of credit, No. _____ and

(2) your signed statement reading as follows:

"I certify that the amount of the draft is payable pursuant to regulations issued under authority of § 62.1- 44.18:3 of the Code of Virginia."

This letter of credit may be drawn on to implement the closure plan for the facility identified below in the amount of [in words] \$ [insert dollar amount]. [Name of facility and address of the

facility assured by this mechanism, and number of hookups served by the system.]

[~~The letter of credit may not be drawn on to cover any of the following:~~

~~(a) Any obligation of owner or operator under a workers' compensation, disability benefits, or unemployment compensation law or other similar law;~~

~~(b) Bodily injury to an employee of owner or operator arising from, and in the course of, employment by the owner or operator;~~

~~(c) Bodily injury or property damage arising from the ownership, maintenance, use, or entrustment to others of any aircraft, motor vehicle, or watercraft;~~

~~(d) Property damage to any property owned, rented, loaned to, in the care, custody, or control of, or occupied by owner or operator that is not the direct result of a privately owned sewage treatment facility ceasing operations;~~

~~(e) Bodily injury or property damage for which owner or operator of facility is obligated to pay damages by reason of the assumption of liability in a contract or agreement other than a contract or agreement entered into to meet the requirements of § 62.1-44.18:3 of the Code of Virginia.]~~

This letter of credit is effective as of [date] and shall expire on [date], but such expiration date shall be automatically extended for a period of [at least the length of the original term] on [expiration date] and on each successive expiration date, unless, at least 120 days before the current expiration date, we notify the Director of the DEQ and the owner or operator by certified mail that we have decided not to extend this letter of credit beyond the current expiration date. In the event that the owner or operator is so notified, any unused portion of the credit shall be available upon presentation of your sight draft for 120 days after the date of receipt by the Director of the DEQ and the owner or operator, as shown on the signed return receipt.

Whenever this letter of credit is drawn on under and in compliance with the terms of this credit, we shall duly honor such draft upon presentation to us, and we shall [~~deposit~~ submit] the amount of the draft directly [~~into the standby trust fund of owner or operator~~ to DEQ] in accordance with your instructions.

We certify that the wording of this letter of credit is identical to the wording required in 9 VAC 25-650-110 B as such regulations were constituted on the date shown immediately below.

Attest:

[Signature(s) and title(s) of official(s) of issuing institution]

[Date]

This credit is subject to [insert "the most recent edition of the Uniform Customs and Practice for Documentary Credits, published by the International Chamber of Commerce," or "the Uniform Commercial Code"].

[~~C. An owner or operator who uses a letter of credit to satisfy the requirements of this chapter also shall establish a standby trust fund when the letter of credit is acquired. Under the~~

~~terms of the letter of credit, all amounts paid pursuant to a draft by the board will be deposited by the issuing institution directly into the standby trust fund in accordance with instructions from the board under 9 VAC 25-650-140. This standby trust fund shall meet the requirements specified in 9 VAC 25-650-120.~~

~~D. C.] The letter of credit shall be irrevocable and issued for a period of at least one year in an amount at least equal to the current cost estimate for implementation of the closure plan. The letter of credit shall provide that the expiration date will be automatically extended for a period of at least one year. If the issuing institution decides not to extend the letter of credit beyond the current expiration date it shall, at least 120 days before the expiration date, notify both the owner or operator and the board by certified mail of that decision. The 120-day period will begin on the date of receipt by the board as shown on the signed return receipt. Expiration cannot occur, however, while an enforcement procedure is pending. If the letter of credit is canceled by the issuing institution, the owner or operator shall obtain alternate financial assurance to be in effect prior to the expiration date of the letter of credit.~~

~~[E. D.] Whenever the approved cost estimate increases to an amount greater than the amount of credit, the owner or operator shall, within 60 days of the increase, cause the amount of credit to be increased to an amount at least equal to the new estimate or obtain other financial assurance as specified in this article to cover the increase. Whenever the cost estimate decreases, the letter of credit may be reduced to the amount of the new estimate following written approval by the board. The issuing institution shall send the notice of an increase or decrease in the amount of the credit to the board by certified mail within 60 days of the change.~~

~~[F. E.] Following a determination by the board that the owner or operator [has failed to provide alternate financial assurance within 60 days after the date the notice of cancellation is received by the owner or operator or] has ceased operations at the facility or has failed to implement the closure plan in accordance with the approved plan or other permit or special order requirements, the board will draw on the letter of credit.~~

~~[G. F.] The owner or operator may cancel the letter of credit only if alternate financial assurance acceptable to the board is substituted as specified in this article or if the owner or operator is released by the board from the requirements of this chapter.~~

~~[H. G.] The board shall return the original letter of credit to the issuing institution for termination when:~~

- ~~1. The owner or operator substitutes acceptable alternate financial assurance for implementation of the closure plan as specified in this article; or~~
- ~~2. The board notifies the owner or operator that he is no longer required by this article to maintain financial assurance for implementation of the closure plan for the facility.~~

9 VAC 25-650-120. [Standby Trust Agreement Certificate of Deposit].

~~[A. An owner or operator using any one of the mechanisms authorized by 9 VAC 25-650-100 or 9 VAC 25-650-110 shall establish a standby trust fund when the mechanism is acquired. The trustee of the standby trust fund shall be an entity that has the authority to act as a trustee and whose trust operations are regulated and examined by a federal agency or the State Corporation Commission.~~

~~B. The standby trust agreement shall be worded identically as specified in 9 VAC 25-650-90 B, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted, and accompanied by a formal certification of acknowledgment as follows.~~

CERTIFICATE OF ACKNOWLEDGMENT

State of _____
County of _____

~~On this [date], before me personally came [owner's or operator's representative] to me known, who, being by me duly sworn, did depose and say that she/he resides at [address], that she/he is [title] of [corporation], the corporation described in and which executed the above instrument; that she/he knows the seal of said corporation; that the seal affixed to such instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation; and that she/he signed her/his name thereto by like order.~~

~~[Signature of Notary Public]
[Name of Notary Public]
My Commission expires: _____~~

~~C. The board will instruct the trustee to refund the balance of the standby trust fund to the provider of financial assurance if the board determines that no additional closure plan implementation costs will occur.~~

~~D. An owner or operator may establish one trust fund as the depository mechanism for all funds assured in compliance with this chapter.~~

A. An owner or operator may satisfy the requirements of this chapter, wholly or in part, by assigning all rights, title and interest of a certificate of deposit to the board, conditioned so that the owner or operator shall comply with the approved facility closure plan filed for the facility. The issuing institution shall be an entity that has the authority to issue certificates of deposit in the Commonwealth of Virginia and whose operations are regulated and examined by a federal agency or the State Corporation Commission (Commonwealth of Virginia). The owner or operator must submit the originally signed assignment and the originally signed certificate of deposit, if applicable, to the board.

B. The assignment shall be worded as follows, except that instructions in brackets shall be replaced with the relevant information and the brackets deleted.

ASSIGNMENT OF CERTIFICATE OF DEPOSIT ACCOUNT

City, _____
20 _____

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FOR VALUE RECEIVED, the undersigned assigns all right, title and interest to the Virginia Department of Environmental Quality, Commonwealth of Virginia and its successors and assigns the Virginia Department of Environmental Quality the principal amount of the instrument, including all monies deposited now or in the future to that instrument, indicated below:

[] If checked here, this assignment includes all interest now and hereafter accrued.

Certificate of Deposit Account No. _____

This assignment is given as security to the Virginia Department of Environmental Quality in the amount of _____ Dollars (\$_____).

Continuing Assignment. This assignment shall continue to remain in effect for all subsequent terms of the automatically renewable certificate of deposit.

Assignment of Document. The undersigned also assigns any certificate or other document evidencing ownership to the Virginia Department of Environmental Quality.

Additional Security. This assignment shall secure the payment of any financial assurance obligations of the [name of owner/operator] to the Virginia Department of Environmental Quality for closure activities at the [facility name and permit number] located [physical address].

Application of Funds. The undersigned agrees that all or any part of the funds of the indicated account or instrument may be applied to the payment of any and all financial assurance obligations of [name of owner/operator] to the Virginia Department of Environmental Quality for closure activities at the [facility name and address]. The undersigned authorizes the Virginia Department of Environmental Quality to withdraw any principal amount on deposit in the indicated account or instrument including any interest, if indicated, and to apply it in the Virginia Department of Environmental Quality's discretion to fund closure at the [facility name] or in the event of [name of owner or operator]'s failure to comply with the regulation entitled Closure Plans and Demonstration of Financial Capability, 9 VAC 25-650-10 et seq. The undersigned agrees that the Virginia Department of Environmental Quality may withdraw any principal and/or interest from the indicated account or instrument without demand or notice. The undersigned agrees to assume any and all loss of penalty due to federal regulations concerning the early withdrawal of funds. Any partial withdrawal of principal or interest shall not release this assignment.

The party or parties to this Assignment set their hand or seals, or if corporate, has caused this assignment to be signed in its corporate name by its duly authorized officers and its seal to be affixed by authority of its Board of Directors the day and year above written.

SEAL

[Owner]

[Print name]

SEAL

[Owner]

[Print name]

THE FOLLOWING SECTION IS TO BE COMPLETED BY THE BRANCH OR LENDING OFFICE:

The signature(s) as shown above compare correctly with the name(s) as shown on record as owner(s) of the Certificate of Deposit indicated above. The above Assignment has been properly recorded by placing a hold in the amount of \$_____ for the benefit of the Virginia Department of Environmental Quality.

[] If checked here, the accrued interest on the Certificate of Deposit indicated above has been maintained to capitalize versus being mailed by check or transferred to a deposit account.

I certify that the wording of this Assignment is identical to the wording required in 9 VAC 25-650-120.B as such regulations were constituted on the date shown immediately below.

[Signature]

[Date]

[Print name]

[Title]

C. The amount of the certificate of deposit shall be at least equal to the current closure cost estimate for the facility for which the permit application has been filed or any part thereof not covered by other financial assurance mechanisms. The owner or operator shall maintain the certificate of deposit and assignment until all activities required by the approved facility closure plan have been completed.

D. The owner or operator shall be entitled to demand, receive and recover the interest and income from the certificate of deposit as it becomes due and payable as long as the market value of the certificate of deposit plus any other mechanisms used continue to at least equal the amount of the current closure cost estimate.

E. Following a determination by the board that the owner or operator has ceased operations at the facility or has failed to complete closure activities in accordance with the approved facility closure plan or other permit or special order, the board shall cash the certificate of deposit.

F. Whenever the approved closure cost estimate increases to an amount greater than the amount of the certificate of deposit, the owner or operator shall, within 60 days of the increase, cause the amount of the certificate of deposit to be increased to an amount at least equal to the new estimate or obtain other financial assurance as specified in this chapter to cover the increase. Whenever the cost estimate decreases, the owner or operator may reduce the amount of the certificate of deposit to the new estimate following written approval by the board. The owner or operator must submit a certificate of deposit and assignment reflecting the new cost estimate within 60 days of the change in the cost estimate.

G. The board shall return the original assignment and certificate of deposit, if applicable, to the issuing institution for termination when:

1. The owner or operator substitutes acceptable alternate financial assurance for implementation of the closure plan as specified in this chapter; or

2. The board notifies the owner or operator that he is no longer required by this Chapter to maintain financial assurance for implementation of the closure plan for the facility.]

9 VAC 25-650-130. Multiple financial mechanisms.

An owner or operator may satisfy the requirements of this chapter by establishing more than one financial mechanism per facility, except that mechanisms guaranteeing performance, rather than payment, may not be combined with other mechanisms.

9 VAC 25-650-140. Drawing on financial assurance mechanism.

A. The board shall require the surety or institution issuing a letter of credit [or certificate of deposit] to [~~place up to the limit of funds provided by the financial assurance mechanism, into the standby trust if~~ submit to the board the amount of funds stipulated by the board, up to the limit of funds provided by the financial assurance mechanism when:]

1. The owner or operator fails to establish alternate financial assurance within 60 days after receiving notice of cancellation of the surety bond [or ,] letter of credit [or certificate of deposit]; or

2. The conditions of subsection B of this section are satisfied.

B. [~~The board may draw on a standby trust fund when~~] The board makes a final determination that a privately owned sewerage system has ceased operation.

9 VAC 25-650-150. Waiver of requirements.

A. The board may waive the filing of the closure plan required pursuant to this chapter for any person who operates a privately owned sewerage system or treatment works subject to this regulation that was permitted prior to January 1, 2001, and discharges less than 5,000 gallons per day upon a finding that such person has not violated any regulation or order of the board, any condition of a permit to operate the facility, or any provision of the State Water Control Law, § 62.1-44.2 et seq. of the Code of Virginia for a period of not less than five years.

B. No waiver shall be approved by the board until after the governing body of the locality in which the facility is located approves the waiver after a public hearing.

C. The board may revoke a waiver at any time for good cause.

9 VAC 25-650-160. Release of the owner or operator from the financial assurance requirements.

A. Where the closure plan results in the termination of discharge to state waters and a VPDES permit for the discharge is no longer required, the board shall verify, within 60 days after receiving certification from the owner or operator that the closure plan has been completed in accordance with the requirements of the approved closure

plan, permit or other order, whether the closure plan has been completed. Unless the board has reason to believe that the closure plan has not been implemented in accordance with the appropriate plan or other requirements, [~~the board~~] shall notify the owner or operator in writing that [~~the owner or operator~~] is no longer required to maintain financial assurance for the particular facility. Such notice shall release the owner or operator only from the requirements for financial assurance for the facility; it does not release [~~him~~ the owner or operator] from legal responsibility for meeting the facility closure standards. If no written notice of termination of financial assurance requirements or of failure to properly implement the closure plan is received by the owner or operator within 60 days after certifying proper implementation of the closure plan, the owner or operator may request the board for an immediate decision in which case the board shall respond within 10 days after receipt of such request.

B. Where a VDPES permit for the facility is no longer required under State Water Control Law, the board shall notify the owner or operator in writing that [~~the owner or operator~~] is no longer required to maintain financial assurance for the facility. Such notice shall release the owner or operator only from the requirements for financial assurance for the facility.

9 VAC 25-650-170. Cancellation or renewal by a provider of financial assurance.

A. Except as otherwise provided, a provider of financial assurance may cancel or fail to renew an assurance mechanism by sending a notice of termination by certified mail to the owner or operator. Termination of a surety bond or a letter of credit may not occur until 120 days after the date on which the owner or operator receives the notice of termination, as evidenced by the return receipt.

B. If a provider or financial assurance cancels or fails to renew for reasons other than incapacity of the provider as specified in 9 VAC 25-650-180, the owner or operator shall obtain alternate coverage as specified in this section and shall submit to the board the appropriate original forms listed in 9 VAC 25-650-90, 9 VAC 25-650-100, [or] 9 VAC 25-650-110 [, or 9 VAC 25-650-120] documenting the alternate coverage within 60 days after receipt of the notice of termination. If the owner or operator fails to obtain alternate coverage within 60 days after receipt of the notice of termination, the owner or operator shall immediately notify the board of such failure and submit:

1. The name and address of the provider of financial assurance;

2. The effective date of termination; and

3. A copy of the financial assurance mechanism subject to the termination maintained in accordance with this chapter.

~~**9 VAC 25-650-180. Replenishment of letters of credit or surety bonds.**~~

~~A. If at any time after a standby trust is funded upon the instruction of the board with funds drawn from a letter of credit or surety bond, and the amount in the standby trust is reduced below the full amount of coverage required, the owner or operator shall by the anniversary date of the financial mechanism from which the funds were drawn:~~

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~~1. Replenish the value of financial assurance to equal the full amount of coverage required, or~~

~~2. Acquire another financial assurance mechanism for the amount by which funds in the standby trust have been reduced.~~

~~B. For purposes of the section, the full amount of coverage required is the amount of coverage to be provided by this chapter. If a combination of mechanisms was used to provide the assurance funds which were drawn upon, replenishment shall occur by the earliest anniversary date among the mechanisms.]~~

[~~9 VAC 25-650-190~~ 9 VAC 25-650-180]. Incapacity of owners or operators, or financial institution.

A. An owner or operator shall notify the board by certified mail of the commencement of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming the owner or operator as debtor, within 10 days after commencement of the proceeding.

B. An owner or operator who fulfills the requirements of 9 VAC 25-650-50 D by obtaining a trust fund, a letter of credit, [~~or~~] a surety bond, [or certificate of deposit] will be deemed to be without the required financial assurance in the event of bankruptcy of the trustee or issuing institution, or a suspension or revocation of the authority of the trustee institution to act as trustee or of the institution issuing a surety bond, [~~or~~] letter of credit [, or certificate of deposit] to issue such mechanisms. The owner or operator shall establish other financial assurance within 60 days of such event.

[~~9 VAC 25-650-200~~ 9 VAC 25-650-190]. Incremental funding.

A. Incremental funding of the amount of financial assurance required may be allowed at the sole discretion of the board for existing facilities discharging in compliance with a current VPDES permit on [~~the effective date of this regulation~~ December 5, 2001]. Incremental funding of the amount of financial assurance required shall not be allowed for new or expanded discharges. Incremental funding of the amount of financial assurance shall not be allowed where a mechanism is already in place. Incremental funding of the amount of financial assurance required shall be considered only upon written request by the owner or operator. The board may allow incremental funding of closure cost estimates under the following conditions:

1. The board determines that closure plan implementation cost estimates are complete and accurate and the owner or operator has submitted a statement from a registered professional engineer so stating; and

2. The facility has been in operation, discharging to state waters, for a period of at least five years prior to [~~the effective date of this regulation~~ December 5, 2001], in accordance with a VPDES permit issued by the board; and

3. The board finds the facility is substantially in compliance with its VPDES permit conditions, and has been substantially in compliance with its VPDES permit conditions for a period of at least one permit term (five

years) prior to the effective date of the owner's or operator's current VPDES permit; and

4. The board determines that the facility is not within five years of the expected facility life and there are no foreseeable factors that will shorten the estimate of facility life (to include facility upgrade or expansion); and

5. A schedule for funding the total amount of the approved cost estimate through the financial assurance mechanism within five years of the initial date required under this regulation is provided by the owner or operator and approved by the board. This period is hereafter referred to as the "pay-in period."

B. Incremental funding shall be, at a minimum, in accordance with the approved schedule as follows:

1. Payments into the financial assurance mechanism shall be made annually during the pay-in period by the owner or operator until the amount of financial assurance equals the total amount of the approved cost estimate, adjusted for inflation.

2. Annual payments into the financial assurance mechanism shall not be less than 20% of the approved inflation-adjusted cost estimate, and shall continue until the amount of financial assurance equals the amount of the total approved cost estimate.

3. In no case shall the pay-in period exceed five years.

4. Incremental funding cost estimates must be adjusted annually to reflect inflation and any change in the cost estimate.

C. The owner or operator shall submit a request for incremental funding of the amount of financial assurance, including documentation justifying the request in accordance with the requirements of this section, to the board in conjunction with the cost estimate submitted in accordance with the requirements of this chapter. The board shall review such requests by the owner or operator and inform the owner or operator of approval or disapproval of the request for incremental funding in conjunction with approval or disapproval of the cost estimate.

[~~9 VAC 25-650-210~~ 9 VAC 25-650-200]. Notices to the State Water Control Board.

All requirements of this chapter for notification to the State Water Control Board shall be addressed as follows:

Director	Director
Department of	Department of
Environmental Quality	Environmental Quality
P.O. Box 10009	629 East Main Street
Richmond, Virginia 23240-0009	Richmond, Virginia 23219

VA.R. Doc. No. R01-50; Filed October 17, 2001, 11:52 a.m.



TITLE 12. HEALTH

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

REGISTRAR'S NOTICE: The Department of Medical Assistance Services has claimed an exemption from the Administrative Process Act in accordance with § 2.2-4006 A 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 Department of Medical Assistance Services will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: Coverage of Ocular Prosthetics. 12 VAC 30-50. Amount, Duration and Scope of Services (amending 12 VAC 30-50-210).

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

Effective Date: December 5, 2001.

Summary:

The amendments provide for the coverage of ocular prosthetics for individuals regardless of age and without regard to the reason for the loss of the eyeball or the function of the eyeball.

Agency Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 786-7959.

12 VAC 30-50-210. Prescribed drugs, dentures, and prosthetic devices; and eyeglasses prescribed by a physician skilled in diseases of the eye or by an optometrist.

A. Prescribed drugs.

1. Drugs for which Federal Financial Participation is not available, pursuant to the requirements of § 1927 of the Social Security Act (OBRA 90 § 4401), shall not be covered.
2. Nonlegend drugs shall be covered by Medicaid in the following situations:
 - a. Insulin, syringes, and needles for diabetic patients;
 - b. Diabetic test strips for Medicaid recipients under 21 years of age;
 - c. Family planning supplies;
 - d. Designated categories of nonlegend drugs for Medicaid recipients in nursing homes; and
 - e. Designated drugs prescribed by a licensed prescriber to be used as less expensive therapeutic alternatives to covered legend drugs.
3. Legend drugs are covered with the exception of the drugs or classes of drugs identified in 12 VAC 30-50-520. FDA-approved drug therapies and agents for weight loss,

when preauthorized, will be covered for recipients who meet the strict disability standards for obesity established by the Social Security Administration in effect on April 7, 1999, and whose condition is certified as life threatening, consistent with Department of Medical Assistance Services' medical necessity requirements, by the treating physician.

4. Notwithstanding the provisions of § 32.1-87 of the Code of Virginia, and in compliance with the provision of § 4401 of the Omnibus Reconciliation Act of 1990, § 1927(e) of the Social Security Act as amended by OBRA 90, and pursuant to the authority provided for under § 32.1-325 A of the Code of Virginia, prescriptions for Medicaid recipients for multiple source drugs subject to 42 CFR 447.332 shall be filled with generic drug products unless the physician or other practitioners so licensed and certified to prescribe drugs certifies in his own handwriting "brand necessary" for the prescription to be dispensed as written.

5. New drugs shall be covered in accordance with the Social Security Act § 1927(d) (OBRA 90 § 4401).

6. The number of refills shall be limited pursuant to § 54.1-3411 of the Drug Control Act.

7. Drug prior authorization.

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

"Board" means the Board for Medical Assistance Services.

"Committee" means the Medicaid Prior Authorization Advisory Committee.

"Department" means the Department of Medical Assistance Services.

"Director" means the Director of Medical Assistance Services.

"Drug" shall have the same meaning, unless the context otherwise dictates or the board otherwise provides by regulation, as provided in the Drug Control Act (§ 54.1-3400 et seq. of the Code of Virginia).

b. Medicaid Prior Authorization Advisory Committee; membership. The Medicaid Prior Authorization Committee shall consist of 11 members to be appointed by the board. Five members shall be physicians, at least three of whom shall care for a significant number of Medicaid patients; four shall be pharmacists, two of whom shall be community pharmacists; one member shall be a consumer of mental health services; and one shall be a Medicaid recipient.

(1) A quorum for action of the committee shall consist of six members.

(2) The members shall serve at the pleasure of the board; vacancies shall be filled in the same manner as the original appointment.

(3) The board shall consider nominations made by the Medical Society of Virginia, the Old Dominion Medical Society, the Psychiatric Society of Virginia, the Virginia

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Pharmaceutical Association, the Virginia Alliance for the Mentally Ill, and the Virginia Mental Health Consumers Association when making appointments to the committee.

(4) The committee shall elect its own officers, establish its own procedural rules, and meet as needed or as called by the board, the director, or any two members of the committee. The department shall provide appropriate staffing to the committee.

c. Duties of the committee.

(1) The committee shall make recommendations to the board regarding drugs or categories of drugs to be subject to prior authorization, prior authorization requirements for prescription drug coverage and any subsequent amendments to or revisions of the prior authorization requirements. The board may accept or reject the recommendations in whole or in part, and may amend or add to the recommendations, except that the board may not add to the recommendation of drugs and categories of drugs to be subject to prior authorization.

(2) In formulating its recommendations to the board, the committee shall not be deemed to be formulating regulations for the purposes of the Administrative Process Act (§ ~~9-6.14:1~~ 2.2-4000 et seq.). The committee shall, however, conduct public hearings prior to making recommendations to the board. The committee shall give 30 days written notice by mail of the time and place of its hearings and meetings to any manufacturer whose product is being reviewed by the committee and to those manufacturers who request of the committee in writing that they be informed of such hearings and meetings. These persons shall be afforded a reasonable opportunity to be heard and present information. The committee shall give 30 days notice of such public hearings to the public by publishing its intention to conduct hearings and meetings in the Calendar of Events of The Virginia Register of Regulations and a newspaper of general circulation located in Richmond.

(3) In acting on the recommendations of the committee, the board shall conduct further proceedings under the Administrative Process Act.

d. Prior authorization of prescription drug products; coverage.

(1) The committee shall review prescription drug products to recommend prior authorization under the state plan. This review may be initiated by the director, the committee itself, or by written request of the board. The committee shall complete its recommendations to the board within no more than six months from receipt of any such request.

(2) Coverage for any drug requiring prior authorization shall not be approved unless a prescribing physician obtains prior approval of the use in accordance with regulations promulgated by the board and procedures established by the department.

(3) In formulating its recommendations to the board, the committee shall consider the potential impact on patient care and the potential fiscal impact of prior authorization on pharmacy, physician, hospitalization and outpatient costs. Any proposed regulation making a drug or category of drugs subject to prior authorization shall be accompanied by a statement of the estimated impact of this action on pharmacy, physician, hospitalization and outpatient costs.

(4) The committee shall not review any drug for which it has recommended or the board has required prior authorization within the previous 12 months, unless new or previously unavailable relevant and objective information is presented.

(5) Confidential proprietary information identified as such by a manufacturer or supplier in writing in advance and furnished to the committee or the board according to this subsection shall not be subject to the disclosure requirements of the Virginia Freedom of Information Act (§ ~~2-1-340~~ 2.2-3700 et seq. of the Code of Virginia). The board shall establish by regulation the means by which such confidential proprietary information shall be protected.

e. Immunity. The members of the committee and the board and the staff of the department shall be immune, individually and jointly, from civil liability for any act, decision, or omission done or made in performance of their duties pursuant to this subsection while serving as a member of such board, committee, or staff provided that such act, decision, or omission is not done or made in bad faith or with malicious intent.

f. Annual report to joint commission. The committee shall report annually to the Joint Commission on Health Care regarding its recommendations for prior authorization of drug products.

8. Coverage of home infusion therapy. This service shall be covered consistent with the limits and requirements set out within home health services (12 VAC 30-50-160). Multiple applications of the same therapy (e.g., two antibiotics on the same day) shall be covered under one service day rate of reimbursement. Multiple applications of different therapies (e.g., chemotherapy, hydration, and pain management on the same day) shall be a full service day rate methodology as provided in pharmacy services reimbursement.

B. Dentures. Dentures are provided only as a result of EPSDT and subject to medical necessity and preauthorization requirements specified under Dental Services.

C. Prosthetic devices.

1. Prosthetic services shall mean the replacement of missing arms, legs, eyes, and breasts and the provision of any internal (implant) body part. Nothing in this regulation shall be construed to refer to orthotic services or devices or organ transplantation services.

2. ~~Prosthetic devices~~ (Artificial arms and legs, and their necessary supportive attachments, implants and breasts) are provided when prescribed by a physician or other

licensed practitioner of the healing arts within the scope of their professional licenses as defined by state law. This service, when provided by an authorized vendor, must be medically necessary and preauthorized for the minimum applicable component necessary for the activities of daily living.

3. Eye prostheses are provided when eyeballs are missing regardless of the age of the recipient or the cause of the loss of the eyeball. Eye prostheses are provided regardless of the function of the eye.

D. Eyeglasses. Eyeglasses shall be reimbursed for all recipients younger than 21 years of age according to medical necessity when provided by practitioners as licensed under the Code of Virginia.

VA.R. Doc. No. R02-44; Filed October 16, 2001, 3:17 p.m.

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF MEDICINE

Title of Regulation: 18 VAC 85-20. Regulations Governing the Practice of Medicine, Osteopathy, Podiatry, and Chiropractic (amending 18 VAC 85-20-131).

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

Effective Date: December 5, 2001.

Summary:

The amendments replace emergency regulations establishing that of the 200 hours of acupuncture training required for doctors of medicine, osteopathy, podiatry and chiropractic to practice acupuncture, 50 hours must be in clinical practice. Physician acupuncturists licensed prior to July 1, 2000, are not required to obtain the 50 hours of clinical practice.

Summary of Public Comments and Agency's Response: No public comment was received by the promulgating agency.

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

18 VAC 85-20-131. Requirements to practice acupuncture.

A. To be qualified to practice acupuncture, licensed doctors of medicine, osteopathy, podiatry, and chiropractic shall first have obtained at least 200 hours of instruction in general and basic aspects of the practice of acupuncture, specific uses and techniques of acupuncture, and indications and contraindications for acupuncture administration. *After [insert the effective date of this regulation] December 5, 2001, at least 50 hours of the 200 hours of instruction shall be clinical experience supervised by a person legally authorized to practice acupuncture in any jurisdiction of the United States. Persons who held a license as a physician acupuncturist prior to July 1, 2000, shall not be required to obtain the 50 hours of clinical experience.*

B. A podiatrist may use acupuncture only for treatment of pain syndromes originating in the human foot.

VA.R. Doc. No. R01-28, Filed October 16, 2001, 4:35 p.m.

Title of Regulation: 18 VAC 85-110. 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 Date: December 5, 2001.

Summary:

The amendment requires a standard form that recommends a diagnostic examination by a physician be provided to the patients of acupuncturists.

Summary of Public Comments and Agency's Response: No public comment was received by the promulgating agency.

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

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 The original] of the signed form shall be maintained in the patient's chart and [another a] copy provided to the patient.*

NOTICE: The forms used in administering 18 VAC 85-110, 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).

Recommendation for [a Diagnostic] Examination [by a Physician] (eff. [2004 12/01]).

Recommendation for Examination by a Physician

I, _____, recommend to you
(licensed acupuncturist)

_____ that you be examined by a
(patient)

physician regarding the condition for which you are seeking acupuncture treatment.

I understand this recommendation.

Patient

Date

Virginia law requires that I give this form to you if I do not have written evidence that you have received a diagnostic exam in the last six months from a licensed practitioner of medicine, osteopathy, chiropractic or podiatry regarding the condition for which you are seeking treatment. (*Code of Virginia* §54.1-2956.9, 18 VAC 85-110-10).

Acupuncturist

Date

(On a separate sheet)

Instructions to Licensed Acupuncturist:

- The patient must sign and date the form.
- Make a copy of this form and retain the original in the patient's chart. Give a copy of the signed form to the patient.
- If the patient does not understand English, make sure the form is translated to the patient or provide the form in the patient's language.

VA.R. Doc. No. R01-52; Filed October 16, 2001, 4:35 p.m.



TITLE 20. PUBLIC UTILITIES AND COMMUNICATIONS

STATE CORPORATION COMMISSION

REGISTRAR'S NOTICE: The State Corporation Commission is exempt from the Administrative Process Act in accordance with § 2.2-4002 A 2 of the Code of Virginia, which exempts courts, any agency of the Supreme Court, and any agency which by the Constitution is expressly granted any of the powers of a court of record.

Title of Regulation: 20 VAC 5-312. Rules Governing Retail Access to Competitive Energy Services (amending 20 VAC 5-312-10 [, 20 VAC 5-312-70] and 20 VAC 5-312-80).

Statutory Authority: §§ 12.1-13 and 56-35.8 of the Code of Virginia.

Effective Date: October 10, 2001.

Summary:

These amended final rules govern retail access to competitive energy services of the electricity and natural gas industries. The Virginia Electric Utility Restructuring Act, § 56-577 E of the Code of Virginia, directs the State Corporation Commission to promulgate regulations regarding electricity customer minimum stay periods.

The rules governing electricity customer minimum stay periods comprise a new defined term "minimum stay period" in 20 VAC 5-312-10, an amendment to subsection 20 VAC 5-312-70 C 3, and new subsections 20 VAC 5-312-80 Q, 20 VAC 5-312-80 R and 20 VAC 5-312-80 S of Title 20 of the Virginia Administrative Code. The rules pertain to the period an electricity customer is required to remain with the local distribution company upon return to capped rate service following receipt of electricity supply service from a competitive service provider. The revision made since publication of the proposed rule is the change of the threshold from 300 kW to 500 kW to minimize limitations on a customer's participation in the competitive energy market while recognizing the potential negative impact on the local distribution company of a large customer's short-term return to capped rate service during periods of high wholesale energy prices. Additional revisions include an amendment for competitive service providers to disclose potential minimum stay requirements within its customer service contracts and a new rule requiring electric local distribution companies to provide advanced written notice to affected customers. A further revision includes a rule to describe the requirements of the local distribution company to request expanded applicability of a minimum stay period. Copies of the amendment regarding minimum stay period are available on the State Corporation Commission's website at http://www.state.va.us/scc/caseinfo/orders.htm or may be obtained from the Clerk of the State Corporation Commission.

Agency Contact: David R. Eichenlaub, Division of Economics and Finance, State Corporation Commission, 1300 East Main Street, Fourth Floor, Richmond, Virginia 23219, telephone (804) 371-9295 or e-mail deichenlaub@scc.state.va.us.

AT RICHMOND, OCTOBER 9, 2001

COMMONWEALTH OF VIRGINIA

At the relation of the

State Corporation Commission

CASE NO. PUE010296

Ex Parte: In the matter of establishing rules and regulations pursuant to the Virginia Electric Utility Restructuring Act for customer minimum stay periods

FINAL ORDER

Section 56-577 E of the Virginia Electric Utility Restructuring Act (§ 56-576 et seq. of the Code of Virginia) ("the Act"), directs the State Corporation Commission ("Commission") to promulgate regulations establishing whether and, if so, for what minimum periods, customers who request service from an incumbent electric utility at capped rates pursuant to § 56-582 D or from a default service provider, after a period of receiving service from other suppliers of electric energy, shall be required to use such service from such incumbent electric utility or default service provider, as determined to be in the public interest (hereinafter, "minimum stay period").

The Commission initiated this proceeding on May 15, 2001, to consider regulations for minimum stay periods. To facilitate the development of possible regulations, we directed our Staff to reconvene the work group from the Commission proceeding that developed proposed rules governing retail access to competitive energy services ("Retail Access Rules"),¹ and we further directed the Staff to file proposed rules and a report.

The Staff filed on June 26, 2001, its Staff Report on Proposed Rules Governing Minimum Stay Periods ("Report"). The Report explained that the different pricing mechanisms existing for regulated, or capped rate, electricity supply service versus competitive electricity supply service, coupled with an electric local distribution company's ("LDC") statutory obligation to make service available at capped rates within its service territory, give rise to the potential need for minimum stay periods. In combination, these two factors create the economic incentives for astute retail customers to seek, as well as competitive service providers ("CSP") to offer, electricity supply service from the competitive market during low demand periods when prices in the wholesale market are below the LDC's capped rate service, and for such customers to return to capped rate service for periods when market

¹ Commonwealth ex rel. State Corp. Comm'n, Ex Parte: In the matter of establishing rules for retail access, Case No. PUE010013, Final Order, June 19, 2001. Rules codified at 20 VAC 5-312-10 et seq.

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demand is high and wholesale prices are expected to exceed such capped rates.²

The Staff stated that price-induced switching between the competitive and regulated markets is economically rational and, if allowed, should be expected; however, customers that return to capped rate service during high cost periods, paying only average cost, could impose significant additional economic costs on the LDC and/or its customers through higher fuel or power supply costs and/or reduced competitive or regulated sales margins. The Staff reported that LDCs generally desire a 12-month minimum stay period for all customers returning to capped rate service from the competitive market, whereas CSPs and large industrial customers generally oppose the establishment of any minimum stay period.

The Report reviewed minimum stay periods adopted in other states implementing retail access. Rules in those states vary from no minimum stay requirement at all to a one-year minimum stay period, with some accompanied by a market-based pricing option as an alternative to the specified minimum stay period. The majority of other states' minimum stay requirements apply to non-residential customers only.

The Staff sought to balance the concerns of LDCs regarding the financial impact of the short-term return of customers to capped rate service during high cost periods against efforts to advance the development of a competitive market and to encourage customers to exercise their right to choose a CSP.

The Staff found that the adoption of a simple 12-month minimum stay period is appropriate for large customers, whose return to capped rate service pose significant financial risks to the LDC or other customers, but it had difficulty in drawing the line to define such customers, especially prior to any actual market development. The Staff concluded it would be preferable to start with a less restrictive minimum stay period in terms of customer applicability and to closely monitor market development to ascertain what adjustments may be needed or desirable, based on actual experience. The Staff proposed a customer applicability threshold ranging between 200 kW and 500 kW of demand, and used a 300 kW annual peak demand threshold in its proposed rule.³

² The Staff noted that its discussion and proposal is limited in applicability to the LDC provision of capped rate service, including default service under capped rates, as the provision of all aspects of default service pursuant to § 56-585 has not yet been established.

³ The minimum stay period rule proposed by the Staff is set forth below as an amendment to the Commission's recently approved Retail Access Rules by adding a term to the "Definitions" section in 20 VAC 5-312-10 and a rule to the "Enrollment and Switching" provisions in 20 VAC 5-312-80:

20 VAC 5-312-10

"Minimum stay period" means the minimum period of time a customer who requests electricity supply service from the local distribution company, pursuant to § 56-582 D of the Code of Virginia, after a period of receiving electricity supply service from a competitive service provider, is required to use such service from the local distribution company.

20 VAC 5-312-80

Q. The local distribution company may require a 12-month minimum stay period for electricity customers with an annual peak demand of 300 kW or greater. Such customers that return to capped rate service provided by the local distribution company as a result of a competitive service provider's abandonment of service in the Commonwealth may choose another

The Staff further proposed that these minimum stay issues be re-evaluated in late 2002 to consider the experience gained during the 2002 summer peak demand period. Such re-evaluation could also include consideration of a market-based pricing option for a customer's short-term return to capped rate service that would allow a customer to avoid a required minimum stay period.

The following parties filed comments on the Report and the proposed minimum stay rules: Division of Consumer Counsel, Office of Attorney General; AES NewEnergy, Inc.; The New Power Company; the Virginia Committee for Fair Utility Rates and the Old Dominion Committee for Fair Utility Rates (the "Industrial Committees"); the Town of Wytheville and the VML/VACo APCo Steering Committee (collectively, "Public Authorities"); Appalachian Power Company, d/b/a American Electric Power ("AEP-VA"); Delmarva Power & Light Company ("Delmarva"); The Potomac Edison Company, d/b/a Allegheny Power; Virginia Electric and Power Company ("Dominion Virginia Power"); the Virginia, Maryland & Delaware Association of Electric Cooperatives, and thirteen member distribution cooperatives (collectively, the "Cooperatives"); and Washington Gas Light Company ("WGL").

The Consumer Counsel generally supports the Staff minimum stay proposal. It recommends that customers should receive written notification of minimum stay requirements before the restrictions become applicable, and suggests that notice be included in CSPs' written contracts with customers. AES NewEnergy recommends that minimum stay periods be adopted only when all other means of deterring seasonal contracting are exhausted; and that if minimum stay provisions are imposed, customers should be given more flexibility to contract with a CSP for supply service. The New Power Company states that it opposes minimum stay rules as harmful to customers, but it generally supports the Staff proposal. It, however, urges the Commission to adopt a 500 kW threshold instead of the 300 kW threshold proposed by Staff. New Power states that customers that would be subject to the minimum stay rule at this higher threshold are able to exercise some control over usage, and therefore price, and it notes that 500 kW is the cut-off for the standard tariff provision of interval metering in the case of Dominion Virginia Power.

The Industrial Committees oppose the Staff's proposed rule as being unduly restrictive of customer choice and the development of a retail competitive market in Virginia. They argue that the experience from electric retail access pilot programs in the Commonwealth does not provide the basis for concluding there is potential for significant impact on either the LDC or capped rate customers from not having a minimum stay requirement.

The Public Authorities are concerned that any limitation on retail customers to choose an alternative supplier will have a negative impact on the development of a competitive retail electricity market in Virginia. They urge the Commission to either defer establishment of a minimum stay period or to

competitive service provider at any time without the requirement to remain for the minimum stay period of 12 months.

raise the kW threshold for imposing such a requirement. They also contend any minimum stay requirement should be limited to periods of high cost and high demand.

AEP-VA, Delmarva, Allegheny Power, and the Cooperatives contend there should be a 12-month minimum stay requirement applicable to all customers. Dominion Virginia Power supports a 12-month requirement applicable to customers on a rate schedule, rather than a kW, basis.⁴ If the Commission were to adopt an explicit kW demand level, Dominion Virginia Power urges that it be imposed at 30 kW.

WGL noted that the proposed minimum stay rule would apply only to electric LDCs and their customers, and stated that such is not necessary or appropriate at this time for natural gas LDC retail access programs.

Several parties proposed various alternatives to the proposed rule to offer greater flexibility to customers, CSPs and LDCs. Such proposals include grace periods for returning customers before minimum stay provisions would become effective, limiting the minimum stay period to 6 months, and exit fees or market-based pricing alternatives that would allow a returning customer to leave an LDC before expiration of the minimum stay period.

NOW THE COMMISSION, upon consideration of the Staff Report, the parties' comments, and the requirements of the Restructuring Act, is of the opinion and finds that rules should be promulgated governing customer minimum stay periods. We make this finding with reluctance, however. We would prefer to allow all customers unfettered access to their choice of electricity suppliers so as to encourage the creation of a competitive market void of artificial constraints inhibiting economically rational behavior. In determining what rules, if any, to impose, we recognize the potential for material adverse financial impact on LDCs (and, in some instances, their capped rate customers) caused by significant customer switching between competitive and regulated markets with seasonal changes in wholesale prices of electricity.

The Staff sought in its proposal to strike a balance between concerns with the financial impact of the short-term return of customers to capped rate service during high cost periods versus efforts to advance the development of a competitive market and to encourage customers to exercise their right to choose alternative suppliers. We believe the Staff approach of a simple and limited rule is the correct approach at this time, and we will adopt its proposed rule, 20 VAC 5-312-80 Q, with modification. We will raise the customer annual peak demand threshold for imposing a minimum stay requirement from 300 kW to 500 kW.⁵ We retain a kW-based threshold rather than using a rate schedule basis since rate schedules differ among the LDCs and the kW-based threshold we adopt applies uniformly to only the largest customers.

⁴ AEP-VA, Allegheny Power, and Delmarva also support basing any threshold on rate service classifications if the Commission does not accept their proposal to impose minimum stay requirements on all customers.

⁵ While we do not alter the rule as proposed in other respects, we do note that the exception to the rule for customers dropped by a CSP that has abandoned service in Virginia would not extend to a CSP that only dropped its customers for a high cost period yet otherwise remains in business in the Commonwealth. The exception applies to CSPs that actually cease to be suppliers.

We considered strongly imposing no minimum stay requirement as there is insufficient evidence at this preliminary stage of retail competition in Virginia to demonstrate conclusively that it is warranted. We would rather permit retail competition in the Commonwealth to operate without regulatory restrictions on a customer's choice of electricity suppliers until there is clear evidence that some material harm to LDCs will indeed result absent a minimum stay requirement. However, we recognize that many large customers of the LDCs are sophisticated and may reasonably be expected to respond to economic opportunities that could expose the LDCs to potentially significant economic harm.

The rule we adopt should protect LDCs from the major loads that return for short-term capped rate service while minimizing regulatory obstacles to the development of a competitive market. To the extent the LDCs will be subject to some risk under the 500 kW threshold, this is simply a risk they will be required to incur as a partner in the incipient competitive marketplace for electricity in Virginia. We will, however, afford LDCs the opportunity to collect and furnish to the Commission data that would support alternative minimum stay requirements including making a minimum stay period applicable to customers with annual peak loads of less than 500 kW. Rule 20 VAC 5-312-80 R will permit any LDC to seek alternative requirements upon application to the Commission provided a request for such is supported with detailed information collected from the LDC's experience with retail choice in its Virginia service territory.⁶

To ensure that reasonably adequate data is available for an evaluation of any proposed expansion to the customer applicability of minimum stay period requirements, LDCs should include in any request for imposing such a more expansive requirement, at a minimum, the following information, or its equivalent, to demonstrate the specific scope, nature, and financial impact of customers' short-term return to capped rate service relative to potentially affected customers for the most recent summer peak demand switching cycle (April through November) and/or winter peak demand switching cycle (November through April):

- 1) The total number of the LDC's distribution service customers subject to the proposed expanded applicability of the rule and the respective corresponding load at the time of the filing, categorized by customer type (residential and non-residential) and size (reasonably-sized increments of annual peak demand);⁷
- 2) The total number and corresponding load of retail customers subject to the proposed expanded applicability

⁶ We recognize that the provisions of the rule we adopt will necessarily limit the scope of data available to be collected and studied once retail choice begins. Obviously, there will be no short-term switching back and forth among CSPs and LDCs by customers whose peak demand is at or above the threshold level adopted in the rule. The ability to monitor and analyze the activity of many customers unencumbered by restrictions in a competitive market further favors the setting of a higher threshold for minimum stay requirements.

⁷ We note that increment size based on certain rate schedules are too broad to allow adequate analysis for making a critical decision that potentially will limit the competitive choices of retail customers. For example, certain rate schedules encompass a customer demand range of over 400 kW. Generally we would expect the increment sizes to approximate 50 kW to 100 kW.

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of the rule that received competitive electricity supply service as of the end of each month, categorized by above customer type and size;

3) The total number and corresponding load of retail customers subject to the proposed expanded applicability of the rule that switched from capped rate service to competitive electricity supply service in each month, categorized by above customer type and size;

4) The number and corresponding load of retail customers subject to the proposed expanded applicability of the rule that returned to capped rate service from competitive electricity supply service in each month, categorized by above customer type and size:

a) With respect to each customer type and size category of retail customers that returned to capped rate service from competitive electricity supply service for each month of April through August, the number and corresponding load of retail customers within each such category and month subsequently returning to competitive electricity supply service in each of the months of August through November;

b) With respect to each customer type and size category of retail customers that returned to capped rate service from competitive electricity supply service for each month of November through February, the number and corresponding load of retail customers within each such category and month subsequently returning to competitive electricity supply service in each of the months of February through April; and

5) The estimated net financial impact on the LDC and/or its other capped rate customers resulting from the short-term return of retail customers subject to the proposed expanded applicability of the rule to capped rate service during peak demand periods, including all supporting assumptions, documentation, and calculations.

As noted, several parties proposed various alternatives to the proposed rule such as market-based pricing by LDCs in lieu of a minimum stay requirement, exit fees, grace periods, and a shorter 6-month minimum stay period. We will direct the Staff to study such alternatives that may offer flexibility to customers, CSPs and LDCs and to submit a report on its findings.

Although premature at this time, the applicability of customer minimum stay periods may be considered upon the Commission's determination of one or more default service providers pursuant to § 56-585 of the Code of Virginia.

Finally, we will adopt rules relative to the recommendation of the Consumer Counsel for customers to receive notice of the minimum stay period requirement. Specifically, we will amend Retail Access Rule 20 VAC 5-312-70 C 3 to add a requirement that CSP customer service contracts include disclosure of any potential minimum stay requirements of the LDC. We also adopt Rule 20 VAC 5-312-80 S requiring an LDC to give customers 30 days written notice of its minimum stay period requirements, and stating that customers who have selected a CSP prior to receiving notice from the LDC

will not be subject to a minimum stay period until the customer renews an existing contract or chooses a new CSP.

Accordingly, IT IS ORDERED THAT:

(1) Rules governing customer minimum stay periods are hereby adopted as set forth in the Attachment to this Order, amending the Commission's Rules Governing Retail Access to Competitive Energy Services.

(2) Electric local distribution companies shall conform their respective tariffs to comply with the requirements of the minimum stay rule adopted herein.

(3) Competitive service providers and electric local distribution companies shall provide written notice of minimum stay requirements to customers subject to the rule pursuant to Retail Access Rules 20 VAC 5-312-70 C 3 and 20 VAC 5-312-80 S as adopted and set forth in the Attachment to this Order.

(4) Any electric local distribution company desiring to impose a minimum stay requirement more expansive than Retail Access Rule 20 VAC 5-312-80 Q adopted herein must make an application to the Commission for approval of a different requirement. Any such application shall, at a minimum, be supported with the data detailed above in this Order.

(5) The Commission Staff shall investigate and give further consideration to alternatives to the minimum stay rule that would advance the development of competition in the Commonwealth. The Staff shall file a report with the Commission on or before March 31, 2003, detailing its re-evaluation of minimum stay issues.

(6) This matter is dismissed and the papers herein shall be placed in the file for ended causes.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to: John F. Dudley, Senior Assistant Attorney General, Division of Consumer Counsel, Office of Attorney General, 900 East Main Street, Second Floor, Richmond, Virginia 23219; Ron Sewell, P.E., Vice President, Utiliread, 1150 Northmeadow Parkway, Suite 100, Roswell, Georgia 30076; Philip J. Bray, Esquire, and Robert C. Carder, Jr., Allegheny Power Company, 10435 Downsview Pike, Hagerstown, Maryland 21740-1766; Eric Matheson, AES NewEnergy, #2 Penn Center, 1500 JFK Boulevard, Floor 2, Suite 222, Philadelphia, Pennsylvania 19102; Carter Glass IV, Esquire, Troutman Sanders Mays & Valentine, L.L.P., P.O. Box 1122, Richmond, Virginia 23218-1122; Louis R. Monacell, Esquire, Edward L. Petrini, Esquire, and Cliona M. Robb, Esquire, Christian & Barton, L.L.P., 909 East Main Street, Suite 1200, Richmond, Virginia 23219-3095; Anthony Gambardella, Esquire, and Ashley C. Beuttel, Esquire, Woods, Rogers & Hazlegrove, P.L.C., 823 East Main Street, Suite 1200, Richmond, Virginia 23219; Guy T. Tripp, III, Esquire, Hunton & Williams, Riverfront Plaza, East Tower, 951 East Byrd Street, Richmond, Virginia 23219-4074; Dennis McDowell, Conectiv, P.O. Box 9239, Newark, Delaware 19714-9239; Jack Greenhalgh, Energy Consultants, Inc., 421 South Lynnhaven Road, Suite 101, Virginia Beach, Virginia 23452; Emmett Kelly, Manager Regulatory Affairs, Itron, Inc., 2019 Hillcroft Drive, Forest Hill, Maryland 21050; Carolyn L. Conrad, Allegheny Energy Supply Co., LLC, 4350 Northern

Pike, Monroeville, Pennsylvania 15146; Deborah J. Henry, Esquire, Allegheny Energy Service Corporation, 800 Cabin Hill Drive, Greensburg, Pennsylvania 15601; Donald R. Hayes, Senior Attorney, Washington Gas Light Company, 1100 H Street, N.W., Washington, D.C. 20080; John A. Pirko, Esquire, LeClair Ryan, P.C., 4201 Dominion Boulevard, Suite 200, Glen Allen, Virginia 23060; Stephen H. Watts, II, Esquire, McGuireWoods L.L.P., One James Center, 901 East Cary Street, Richmond, Virginia 23219-4030; Karen L. Bell, Esquire, Dominion Resources Services, Inc., 120 Tredegar Street, Richmond, Virginia 23219; C. W. Sutherland, Jr., Manager, Town of Wytheville, P.O. Box 533, Wytheville, Virginia 23482; R. Lance Terpenney, Manager, Town of Christiansburg, 100 East Main Street, Christiansburg, Virginia 24073; Howard W. Dobbins, Esquire, and Thomas B. Nicholson, Esquire, Williams, Mullen, Clark & Dobbins, P.O. Box 1320, Richmond, Virginia 23210; James R. Bacha, Esquire, American Electric Power Service Corporation, One Riverside Plaza, Columbus, Ohio 43215; Kodwo Ghartey-Tagoe, Esquire, and Mark J. LaFratta, Esquire, McGuireWoods LLP, One James Center, 901 East Cary Street, Richmond, Virginia 23219-4030; James S. Copenhaver, Esquire, and Kenneth Christman, Esquire, Columbia Gas of Virginia, Inc., P.O. Box 35674, Richmond, Virginia 23235-0674; Robert A. Omberg, Esquire, Virginia, Maryland & Delaware Association of Electric Cooperatives, Innsbrook Corporate Center, 4201 Dominion Boulevard, First Floor, P.O. Box 2340, Glen Allen, Virginia 23058; Martha A. Duggan, The New Power Company, 3102 North 6th Street, Arlington, Virginia 22201; and the Commission's Division of Energy Regulation.

20 VAC 5-312-10. Applicability; definitions.

A. These regulations are promulgated pursuant to the provisions of the Virginia Electric Utility Restructuring Act (§ 56-576 et seq. of the Code of Virginia) and to the provisions of retail supply choice for natural gas customers, § 56-235.8 of the Code of Virginia. The provisions in this chapter apply to suppliers of electric and natural gas services including local distribution companies and competitive service providers, [,] and govern the implementation of retail access to competitive energy services in the electricity and natural gas markets, including the conduct of market participants. The provisions in this chapter shall be applicable to the implementation of full or phased-in retail access to competitive energy services in the service territory of each local distribution company.

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

"Affiliated competitive service provider" means a competitive service provider that is a separate legal entity that controls, is controlled by, or is under common control of, a local distribution company or its parent. For the purpose of this chapter, any unit or division created by a local distribution company for the purpose of acting as a competitive service provider shall be treated as an affiliated competitive service provider and shall be subject to the same provisions and regulations.

"Aggregator" means a person licensed by the State Corporation Commission that, as an agent or intermediary, (i) offers to purchase, or purchases, electricity or natural gas supply service, or both, or (ii) offers to arrange for, or arranges for, the purchase of electricity supply service or natural gas supply service, or both, for sale to, or on behalf of, two or more retail customers not controlled by or under common control with such person. The following activities shall not, in and of themselves, make a person an aggregator under this chapter: (i) furnishing legal services to two or more retail customers or competitive service providers; (ii) furnishing educational, informational, or analytical services to two or more retail customers, unless direct or indirect compensation for such services is paid by a competitive service provider supplying electricity or natural gas, or both; (iii) furnishing educational, informational, or analytical services to two or more competitive service providers; (iv) providing default service under § 56-585 of the Code of Virginia; (v) conducting business as a competitive service provider licensed under 20 VAC 5-312-40; and (vi) engaging in actions of a retail customer, acting in common with one or more other such retail customers, to issue a request for proposal or to negotiate a purchase of electricity supply service or natural gas supply service, or both, for consumption by such retail customers.

"Billing party" means a person [~~that~~ *who*] renders a consolidated or separate bill directly to a retail customer for competitive energy services, aggregation services, or distribution services, or both.

"Bill-ready" means the consolidated billing practice in which the nonbilling party calculates each retail customer's billing charges for services provided and forwards such charges to the billing party for inclusion on the consolidated bill.

"Business day" means any calendar day or computer processing day in the Eastern United States time zone in which the general office of the applicable local distribution company is open for business with the public.

"Competitive energy service" means the retail sale of electricity supply service, natural gas supply service, any other competitive service as provided by legislation and approved by the State Corporation Commission as part of retail access by an entity other than the local distribution company as a regulated utility. For the purpose of this chapter, competitive energy services include services provided to retail customers by aggregators.

"Competitive service provider" means a person, licensed by the State Corporation Commission, that sells or offers to sell a competitive energy service within the Commonwealth. This term includes affiliated competitive service providers, as defined above, but does not include a party that supplies electricity or natural gas, or both, exclusively for its own consumption or the consumption of one or more of its affiliates. For the purpose of this chapter, competitive service providers include aggregators.

"Competitive transition charge" means the wires charge, as provided by § 56-583 of the Code of Virginia, that is applicable to a retail customer that chooses to procure electricity supply service from a competitive service provider.

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"*Consolidated billing*" means the rendering of a single bill to a retail customer that includes the billing charges of a competitive service provider and the billing charges of the local distribution company.

"*Customer*" means retail customer.

"*Distribution service*" means the delivery of electricity or natural gas, or both, through the distribution facilities of the local distribution company to a retail customer.

"*Electricity supply service*" means the generation of electricity, or when provided together, the generation of electricity and its transmission to the distribution facilities of the local distribution company on behalf of a retail customer.

"*Electronic Data Interchange*" (EDI) means computer-to-computer exchange of business information using common standards for high volume electronic transactions.

"*Local Distribution Company*" means an entity regulated by the State Corporation Commission that owns or controls the distribution facilities required for the transportation and delivery of electricity or natural gas to the retail customer.

"*Minimum stay period*" means the minimum period of time a customer who requests electricity supply service from the local distribution company, pursuant to § 56-582 D of the Code of Virginia, after a period of receiving electricity supply service from a competitive service provider, is required to use such service from the local distribution company.

"*Natural gas supply service*" means the procurement of natural gas, or when provided together, the procurement of natural gas and its transportation to the distribution facilities of a local distribution company on behalf of a retail customer.

" [*Non-billing Nonbilling*] party" means a party that provides retail customer billing information for competitive energy services or regulated service to the billing party for the purpose of consolidated billing.

"*Person*" means any individual, corporation, partnership, association, company, business, trust, joint venture, or other private legal entity, and the Commonwealth or any city, county, town, authority or other political subdivision of the Commonwealth.

"*Price-to-compare*" means the portion of the electric local distribution company's regulated rate applicable to electricity supply service less the competitive transition charge rate or the portion of the natural gas local distribution company's regulated rate applicable to natural gas supply service.

"*Rate-ready*" means the consolidated billing practice in which the nonbilling party provides rate information to the billing party to calculate and include the nonbilling party's charges on the consolidated bill.

"*Residential customer*" means any person receiving retail distribution service under a residential tariff of the local distribution company.

"*Retail access*" means the opportunity for a retail customer in the Commonwealth to purchase a competitive energy service from a licensed competitive service provider seeking to sell such services to that customer.

"*Retail customer*" means any person [~~that~~ who] purchases retail electricity or natural gas for his or her own consumption at one or more metering points or nonmetered points of delivery located within the Commonwealth.

"*Separate billing*" means the rendering of separate bills to a retail customer for the billing charges of a competitive service provider and the billing charges of the local distribution company.

"*Transmission provider*" means an entity regulated by the Federal Energy Regulatory Commission that owns or operates, or both, the transmission facilities required for the delivery of electricity or natural gas to the local distribution company or retail customer.

"*Virginia Electronic Data Transfer Working Group*" (VAEDT) means the group of representatives from electric and natural gas local distribution companies, competitive service providers, the staff of the State Corporation Commission, and the Office of Attorney General whose objective is to formulate guidelines and practices for the electronic exchange of information necessitated by retail access.

[20 VAC 5-312-70. Marketing.

A. A competitive service provider shall provide, in any advertisements, solicitations, marketing materials, or customer service contracts, accurate, understandable information, in a manner that is not misleading. Any such materials specifying a price for electricity supply service or natural gas supply service shall include a statement to the effect that distribution service and other charges are not included.

B. A competitive service provider shall provide to a prospective residential customer, in writing or by electronic means, prior to, or contemporaneously with, the written contract, an estimated electricity supply service or natural gas supply service annual bill assuming average monthly usage of 1,000 kWh of electricity or 7.5 Mcf or 75 therms of natural gas, including all fees and minimum or fixed charges, exclusive of any nonrecurring financial or nonfinancial incentives, and the total average price per kWh, Mcf, or therm based on the annual bill. If a competitive service provider's offer cannot be adequately described in such a manner or if the prospective customer is other than a residential customer, the competitive service provider shall furnish similar information that will allow prospective customers to reasonably compare the price of electricity supply service or natural gas supply service, if purchased from a competitive service provider, to the price of equivalent service provided by the local distribution company.

C. Customer service contracts shall include:

1. Price or, if the exact price cannot feasibly be specified, an explanation of how the price will be calculated;
2. Length of the service contract, including any provisions for automatic contract renewal;
3. Provisions for termination by the customer and by the competitive service provider *including disclosure of any potential minimum stay requirements of the local distribution company*;

4. A statement of any minimum contract terms, minimum or maximum usage requirements, minimum or fixed charges, any other charges, and any required deposit;

5. Applicable fees including, but not limited to, start-up fees, cancellation fees, late payment fees, and fees for checks returned for insufficient funds;

6. A notice of billing terms and conditions;

7. A toll-free telephone number and an address for inquiries and complaints;

8. A clear and conspicuous caption: "CUSTOMER'S RIGHT TO CANCEL," that shall appear on the front side of the contract, or immediately above the customer's signature, in bold face type of a minimum size of 10 points, and a statement under such caption that a customer may cancel the contract, without penalty, with the competitive service provider by notifying the competitive service provider or local distribution company prior to the close of business on the tenth day following the mailing of notice by the local distribution company of an enrollment request. Such statement shall be modified as appropriate for those customers that have specifically agreed with the competitive service provider to a shorter cancellation period as provided by subsection D of this section;

9. In a conspicuous place, confirmation of the customer's request for enrollment and the approximate date the customer's service shall commence;

10. A notice that, upon request by the customer, the competitive service provider shall provide a copy of its dispute resolution procedure; and

11. A notice that, upon any change in the terms and conditions of the contract, including any provisions governing price or pricing methodology, or assignment of the contract to another competitive service provider, the competitive service provider shall communicate such changes to the customer at least 30 days in advance of implementing such changes.

D. A competitive service provider and a nonresidential customer that is subject to demand-based billing charges may contractually agree to a shorter cancellation period than stated in subdivision C 8 of this section. The competitive service provider shall inform the customer that although the customer has waived the right to the 10-day cancellation period, the customer will still receive notification from the local distribution company indicating a 10-day cancellation period.

E. A competitive service provider that claims its offerings possess unusual or special attributes shall maintain documentation to substantiate any such claims. Such documentation may be made available through electronic means and a written explanation shall be provided promptly upon request of any customer, prospective customer, competitive service provider, local distribution company, or the State Corporation Commission.

F. Prior to the enrollment of a customer with a competitive service provider, an aggregator shall provide written notice to the customer identifying the name, toll-free telephone

number, and address of the selected competitive service provider.

G. An aggregator that receives or expects to receive compensation from both a customer, or a prospective customer, and the customer's competitive service provider shall disclose in writing to the customer the existence or expectation of such an arrangement.]

20 VAC 5-312-80. Enrollment and switching.

A. A competitive service provider may offer to enroll a customer upon: (i) receiving a license from the State Corporation Commission; (ii) receiving EDI certification as required [*by from*] the VAEDT or completing other data exchange testing requirements as provided by the local distribution company's tariff approved by the State Corporation Commission, including the subsequent provision of a sample bill as required by 20 VAC 5-312-20 L; and (iii) completing registration with the local distribution company.

B. A competitive service provider may enroll, or modify the services provided to, a customer only after the customer has affirmatively authorized such enrollment or modification. A competitive service provider shall maintain adequate records allowing it to verify a customer's enrollment authorization. Examples of adequate records of enrollment authorization include: (i) a written contract signed by the customer; (ii) a written statement by an independent third party that witnessed or heard the customer's verbal commitments; (iii) a recording of the customer's verbal commitment; or (iv) electronic data exchange, including the Internet, provided that the competitive service provider can show that the electronic transmittal of a customer's authorization originated with the customer. Such authorization records shall contain the customer's name and address; the date the authorization was obtained; the name of the product, pricing plan, or service that is being subscribed; and acknowledgment of any switching fees, minimum contract terms or usage requirements, or cancellation fees. Such authorization records shall be retained for at least 12 months after enrollment and shall be provided within five business days upon request by the customer or the State Corporation Commission.

C. A competitive service provider shall send a written contract to a customer prior to, or contemporaneously with, sending the enrollment request to the local distribution company.

D. Upon a customer's request, a competitive service provider may re-enroll such customer at a new address under the existing contract, without acquiring new authorization records, if [*a the*] competitive service provider is licensed to provide service to the customer's new address.

E. The local distribution company shall advise a customer initiating new service of the customer's right and opportunity to choose a competitive service provider.

F. In the event that multiple enrollment requests are submitted regarding the same customer within the same enrollment period, the local distribution company shall process the first one submitted and reject all others for the same enrollment period.

G. Except as otherwise provided by the local distribution company's tariff approved by the State Corporation

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Commission, the competitive service provider shall submit an enrollment request to the local distribution company at least 15 days prior to the customer's next scheduled meter reading date for service to be effective on that meter reading date. For an enrollment request received less than 15 days prior to the customer's next scheduled meter reading date, service shall be effective on the customer's subsequent meter reading date, except as provided by subsection H of this section.

H. A competitive service provider may request, pursuant to the local distribution company's tariff, a special meter reading, in which case the enrollment may become effective on the date of the special meter reading. The local distribution company shall perform the requested special meter reading as promptly as working conditions permit.

I. Upon receipt of an enrollment request from a competitive service provider, the local distribution company shall, normally within one business day of receipt of such notice, mail notification to the customer advising of the enrollment request, the approximate date that the competitive service provider's service commences, and the caption and statement as to cancellation required by 20 VAC 5-312-70 C 8. The customer shall have until the close of business on the tenth day following the mailing of such notification to advise the local distribution company to cancel such enrollment without penalty.

J. In the event a competitive service provider receives a cancellation request within the cancellation period provided by 20 VAC 5-312-70 C 8 or 20 VAC 5-312-70 D, it shall notify, by any means specified by the VAEDT or as otherwise provided by the local distribution company's tariff approved by the State Corporation Commission, the local distribution company of the customer's cancellation in order to terminate the enrollment process.

K. In the event the local distribution company receives notice of a cancellation request from a competitive service provider or a customer within the cancellation period provided by 20 VAC 5-312-70 C 8 or 20 VAC 5-312-70 D, the local distribution company shall terminate the enrollment process by any means specified by the VAEDT or as otherwise provided by the local distribution company's tariff approved by the State Corporation Commission.

L. In the event a customer terminates a contract beyond the cancellation period as provided by 20 VAC 5-312-70 C 8 and 20 VAC 5-312-70 D, the competitive service provider or the local distribution company shall provide notice of termination other party by any means specified by the VAEDT or as otherwise provided by the local distribution company's tariff approved by the State Corporation Commission.

M. If a competitive service provider terminates an individual contract for any reason, including expiration of the contract, the competitive service provider shall provide notice of termination to the local distribution company by any means specified by the VAEDT or as otherwise provided by the local distribution company's tariff approved by the State Corporation Commission and also shall send written notification of such termination, for reasons other than [~~non-payment~~ nonpayment], to the customer at least 30 days prior to the date that service to the customer is scheduled to

terminate. A competitive service provider shall send written notification to the customer for termination for [~~non-payment~~ nonpayment] at least 15 days prior to the date that service to such customer is scheduled to terminate.

N. If the local distribution company is notified by a competitive service provider that the competitive service provider will terminate service to a customer, the local distribution company shall respond to the competitive service provider by any means specified by the VAEDT or as otherwise provided by the local distribution company's tariff approved by the State Corporation Commission to acknowledge (i) receipt of the competitive service provider's notice, and (ii) the date that the competitive service provider's service to the customer is scheduled to terminate. Additionally, the local distribution company shall send written notification to the customer, normally within five business days, that it was so informed and describe the customer's opportunity to select a new supplier. Absent the designation of a default service provider as determined by the State Corporation Commission pursuant to § 56-585 of the Code of Virginia, the local distribution company shall inform the affected customer that if the customer does not select another competitive service provider, the local distribution company shall provide the customer's electricity supply service or natural gas supply service.

O. If a competitive service provider decides to terminate service to a customer class or to abandon service within the Commonwealth, the competitive service provider shall provide at least 60 days advanced written notice to the local distribution company, to the affected customers, and to the State Corporation Commission.

P. If the local distribution company issues a final bill to a customer, the local distribution company shall notify, by any means specified by the VAEDT or as otherwise provided in the local distribution company's tariff approved by the State Corporation Commission, the customer's competitive service provider.

Q. The local distribution company may require a 12-month minimum stay period for electricity customers with an annual peak demand of [~~300~~ 500] kW or greater. [~~Such Electricity~~] customers that return to capped rate service provided by the local distribution company as a result of a competitive service provider's abandonment of service in the Commonwealth may choose another competitive service provider at any time without the requirement to remain for the minimum stay period of 12 months.

[R. The local distribution company may, upon a proper showing with evidence acquired by actual experience, apply for approval from the State Corporation Commission to implement alternative minimum-stay period requirements. If the applicant proposes to lower the applicability limit below 500 kW, such application shall include at a minimum, the detailed information prescribed by the State Corporation Commission in the text of its Final Order in Case No. PUE010296, or as may be revised in a subsequent order.

S. The local distribution company electing to implement a minimum-stay period in conformance with this chapter shall notify, in writing, applicable customers at least 30 days in

advance of such implementation date and within each subsequent notification letter as required by 20 VAC 5-312-80 I. Electricity customers who have selected a competitive service provider prior to the local distribution company's notice of implementing a minimum-stay period will not be subject to the minimum-stay period until such time as the customer renews an existing contract or chooses a new competitive service provider.]

VA.R. Doc. No. R01-242; Filed October 10, 2001, 1:31 p.m.

REGISTRAR'S NOTICE: The State Corporation Commission is exempt from the Administrative Process Act in accordance with § 2.2-4002 A 2 of the Code of Virginia, which exempts courts, any agency of the Supreme Court, and any agency which by the Constitution is expressly granted any of the powers of a court of record.

The distribution lists referenced as Appendices A and B in the following order are not being published. However, the lists are available for public inspection at the State Corporation Commission, Document Control Center, Tyler Building, 1st Floor, 1300 East Main Street, Richmond, Virginia 23219, from 8:15 a.m. to 5 p.m., Monday through Friday; or may be viewed at the Virginia Code Commission, General Assembly Building, 2nd Floor, 910 Capitol Street, Richmond, Virginia 23219, during regular office hours.

Title of Regulation: 20 VAC 5-400. Telecommunications (repealing 20 VAC 5-400-10 through 20 VAC 5-400-60, 20 VAC 5-400-100 through 20 VAC 5-400-170, 20 VAC 5-400-190, and 20 VAC 5-400-200.)

20 VAC 5-401. Rules Governing the Provision of Network Interface Devices (adding 20 VAC 5-401-10 through 20 VAC 5-401-50; replacing 20 VAC 5-400-10).

20 VAC 5-403. Rules Governing Small Investor-Owned Telephone Utilities (adding 20 VAC 5-403-10 through 20 VAC 5-403-70; replacing 20 VAC 5-400-30).

20 VAC 5-409. Rules Governing the Sharing or Resale of Local Exchange Service (Shared Tenant Service) (adding 20 VAC 5-409-10 through 20 VAC 5-409-70; replacing 20 VAC 5-400-40 and 20 VAC 5-400-50).

20 VAC 5-411. Rules Governing the Certification of Interexchange Carriers (adding 20 VAC 5-411-10 through 20 VAC 5-411-90; replacing 20 VAC 5-400-60 and 20 VAC 5-400-100 through 20 VAC 5-400-150).

20 VAC 5-413. Rules Governing Disconnection of Local Exchange Telephone Service (adding 20 VAC 5-413-10 through 20 VAC 5-413-40; replacing 20 VAC 5-400-151 and 20 VAC 5-400-160).

20 VAC 5-415. Rules Governing Telecommunications Relay Service (adding 20 VAC 5-415-10 and 20 VAC 5-415-20; replacing 20 VAC 5-400-170).

20 VAC 5-419. Procedural Rules for Implementing §§ 251 and 252 of the Telecommunications Act of 1996, 47 USC §§ 251 and 252 (adding 20 VAC 5-419-10 through 20 VAC 5-419-40; replacing 20 VAC 5-400-190).

20 VAC 5-421. Rules Governing Exemption from Providing Physical Collocation Pursuant to § 251(C)(6) of the Telecommunications Act of 1996 (adding 20 VAC 5-421-10 and 20 VAC 5-421-20; replacing 20 VAC 5-400-200).

Statutory Authority: § 12.1-13 of the Code of Virginia.

Effective Date: October 17, 2001.

Summary:

The State Corporation Commission is taking regulatory action regarding certain regulations relating to telecommunications currently contained in Chapter 400 of Title 20 of the Virginia Administrative Code (VAC).

Amendment or repeal is required to bring these regulations into conformance with the requirements of the Virginia Register Form, Style and Procedure Manual. In several instances, the regulations are amended to reflect changes in the Code of Virginia enacted by the General Assembly, orders subsequently issued by the commission, or changes in federal law. In two cases, the existing regulations need not be codified as regulations in the VAC.

The following regulations are repealed:

1. Regulation governing telephone cooperative rate applications, 20 VAC 5-400-10. Chapter 252 of the 1998 Acts of Assembly rescinded the commission's jurisdiction over the rates, service quality, and types of service offerings of telephone cooperatives.

2. Experimental plan for alternative regulation of Virginia telephone companies, 20 VAC 5-400-50. This regulation was superseded by a subsequent regulation, Modified plan for alternative regulation of Virginia local exchange telephone companies, 20 VAC 5-400-100.

3. Modified plan for alternative regulation of Virginia local exchange telephone companies, 20 VAC 5-400-100. This regulation has been superseded by plans for alternative regulation that are individually tailored for each local exchange company, and which need not appear in the VAC.

4. Investigation of the resale or sharing of intrastate Wide Area Telephone Service, 20 VAC 5-400-110. This regulation, among other things, states that services provided by resellers of intrastate WATS are not the type intended to be subject to regulation under the principles enunciated in VEPCO v. SCC, 219 Va. 894 (1979). It need not be published as a regulation in the VAC.

5. Interim Order respecting investigation of competition for intraLATA, interexchange telephone service, 20 VAC 5-400-120. The commission in Commonwealth of Virginia ex rel., State Corporation Commission ex parte: In the matter of implementation of toll dialing parity pursuant to provisions of 47 USC § 251(b)(3), Case No. PUC970009, 1999 SCC Ann. Rpts. 232 (April 14, 1999), eliminated the necessity for this regulation as each local exchange company is now required to provide intraLATA presubscription.

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6. Order relating to compensation by interLATA carriers to local exchange carriers for incidental traffic, 20 VAC 5-400-130. This regulation was superseded by Rules governing the certification of interexchange carriers, 20 VAC 5-400-60.

7. Investigation of the resale or sharing of foreign exchange and dedicated channel services, 20 VAC 5-400-140. This regulation concluded the investigation of whether resellers of interexchange telecommunications service using dedicated channels should be treated differently from those reselling or sharing intrastate WATS. It need not be in the form of a regulation, or published in the VAC.

8. Investigation of deregulation of telephone company billing and collection services, 20 VAC 5-400-150. This regulation was superseded by rules governing Disconnection of local exchange telephone service, 20 VAC 5-400-151.

9. Rulemaking concerning treatment of telephone company simple inside wiring, 20 VAC 5-400-160. The commission's Final Order in Commonwealth of Virginia *ex rel.*, State Corporation Commission *ex parte*: Rulemaking concerning treatment of telephone company simple inside wiring, Case No. PUC860045, 232 1997 SCC Ann. Rpts. (December 11, 1997), deregulated inside wire maintenance and superseded this regulation.

The amendments are housekeeping and ministerial changes. The substantive content of the regulations is not changed. Issues contained within these regulations, which were previously addressed in proceedings before the commission, were not reopened for consideration.

The existing regulations are amended and renumbered as follows:

1. Rules Governing the Provision of Network Interface Devices, 20 VAC 5-401-10 *et seq.* (existing 20-VAC 5-400-20).
2. Rules Governing Small Investor-Owned Telephone Utilities, 20 VAC 5-403-10 *et seq.* (existing 20 VAC 5-400-30).
3. Rules Governing the Sharing or Resale of Local Exchange Service (Shared Tenant Service), 20 VAC 5-409-10 *et seq.* (existing 20 VAC 5-400-40).
4. Rules Governing the Certification of InterLATA, Interexchange Carriers, 20 VAC 5-411-10 *et seq.* (existing 20 VAC 5-400-60).
5. Rules Governing Disconnection of Local Exchange Telephone Service, 20 VAC 5-413-10 *et seq.* (existing 20 VAC 5-400-151).
6. Rules Governing Telecommunications Relay Service, 20 VAC 5-415-10, *et seq.* (existing 20 VAC 5-440-170).
7. Procedural Rules for the Implementation of §§ 251 and 252 of the Telecommunications Act of 1996, 20 VAC 5-419-10 *et seq.* (existing 20 VAC 5-400-190).

8. Rules Governing Exemption from Providing Physical Collocation, 20 VAC 5-421-10 *et seq.* (existing 20 VAC 5-400-200).

Certain existing regulations are not revised in this matter: Regulation governing service standards for local exchange telephone companies; penalty, 20 VAC 5-400-80; Regulations for payphone service and instruments, 20 VAC 5-400-90; and Rules governing the offering of competitive local exchange telephone service, 20 VAC 5-400-180. These regulations are being amended in separate proceedings before the commission.

Agency Contact: Katharine A. Hart, State Corporation Commission, Office of General Counsel, P.O. Box 1197, Richmond, VA 23218-1197, telephone (804) 371-9671 or e-mail khart@scc.state.va.us.

AT RICHMOND, OCTOBER 17, 2001

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

CASE NO. PUC010122

Ex Parte: In the matter of updating certain regulations relating to telecommunications

FINAL ORDER

On June 26, 2001, the State Corporation Commission ("Commission") issued an Order for Notice and Comment or Requests for Hearing in the above-captioned matter stating that we had determined that certain of our regulations relating to telecommunications required amendment or repeal to: (1) bring the regulations into conformance with the requirements of the Virginia Code Commission's Virginia Register Form, Style and Procedure Manual; (2) reflect changes in the Code of Virginia ("Code") enacted by the General Assembly, orders subsequently issued by the Commission, or changes in federal law; (3) eliminate certain existing regulations that need not be codified in the Virginia Administrative Code ("VAC"); and (4) make any necessary clarifications that are not substantive in nature.

Interested persons were given the opportunity to comment or request a hearing on the proposed regulations. Verizon Virginia Inc. and Verizon South Inc. (jointly "Verizon"), Cox Virginia Telecom, Inc. ("Cox"), and the Virginia Cable Telecommunications Association ("VCTA") submitted comments. No party requested a hearing.

NOW UPON CONSIDERATION of the comments filed herein, the Commission is of the opinion and finds that we should revise the proposed regulations as described below, adopt such regulations appended to this Order as Attachment 1 as final rules, and cause this Order and the final regulations to be published in the Virginia Register of Regulations.

We revise the following proposed regulations to correct grammatical errors, to correct omissions or other editorial mistakes made in drafting the proposed rules, or to clarify the existing rules without changing substance: 20 VAC 5-401-10, 20 VAC 5-401-20 B, 20 VAC 5-401-30 B, 20 VAC 5-401-40 C and D, and 20 VAC 5-401-50 A and C of the Rules Governing

the Provision of Network Interface Devices, 20 VAC 5-401-10 et seq. (currently codified as 20-VAC 5-400-20); 20 VAC 5-403-50 D 1 and 20 VAC 5-403-70 of the Rules Governing Small Investor-Owned Telephone Utilities, 20 VAC 5-403-10 et seq. (currently 20 VAC 5-400-30); 20 VAC 5-411-50 A of the Rules Governing the Certification of Interexchange Carriers, 20 5-411-10 et seq. (currently 20 VAC 5-400-60); 20 VAC 5-413-10 of the Rules Governing Disconnection of Local Exchange Telephone Service, 20 VAC 5-413-10 et seq. (currently 20 VAC 5-400-151); 20 VAC 5-415-20 B of the Rules Governing Telecommunications Relay Service, 20 VAC 5-415-10 et seq. (currently 20 VAC 5-440-170); and 20 VAC 5-421-20 B of the Rules Governing Exemption from Providing Physical Collocation, 20 VAC 5-421-10 et seq. (currently 20 VAC 5-400-200 B).

We do not adopt or address the merits of the remaining suggested substantive revisions from the parties as those revisions go beyond the scope of this case. However, we find it necessary to address the comments offered by Cox and VCTA regarding the applicability to competitive local exchange carriers ("CLECs") of the amendments being made in this proceeding to rules adopted prior to 1995. These parties argue that, since such rules were promulgated before there were CLECs, the rules do not apply to CLECs unless expressly incorporated by reference in the Rules Governing the Offering of Competitive Local Exchange Telephone Service, 5 VAC 2-400-180 ("Local Rules"). Cox and VCTA express concern that, since the rules are being amended post-1995, it may be construed that these amended rules would now apply not just to incumbent local exchange carriers ("ILECs"), but also to CLECs, and that this may be impractical or inappropriate.

The Commission finds no support for the position that rules promulgated prior to 1995, unless expressly identified in the Local Rules, are inapplicable to CLECs, and so rejects it. When we grant a certificate to a CLEC, we require the CLEC to comply with the Local Rules, § 56-265.4:4 of the Code, and any other conditions that may be contained within our order approving certification. These requirements were never intended to be an exhaustive list of provisions of the Code and the VAC with which a CLEC must also comply.

In this proceeding, we are adopting simple housekeeping changes and will not address substantive issues that are outside the scope of this proceeding. If the parties have concerns regarding compliance with certain rules promulgated by this Commission and codified in the VAC, the parties may petition for appropriate relief in a separate matter.

Accordingly, IT IS ORDERED THAT:

- (1) We hereby adopt as final the regulations appended hereto as Attachment 1.
- (2) A copy of this Order and the rules adopted herein shall be forwarded promptly to the Registrar of Regulations for publication in the Virginia Register of Regulations.
- (3) There being nothing further to come before the Commission, this case shall be dismissed and the papers filed herein placed in the file for ended causes.

AN ATTESTED COPY HEREOF shall be served by the Clerk of the Commission to: David W. Ogburn, Jr., Assistant General Counsel, Virginia, Verizon, 600 E. Main Street, Suite 1100, Richmond, Virginia 23219-2441; Robert M. Gillespie, Esquire, Christian & Barton, L.L.P., 909 E. Main Street, Suite 1200, Richmond, Virginia 23219-3095; Peter E. Broadbent, Jr. Esquire, Christian & Barton, L.L.P., 909 E. Main Street, Suite 1200, Richmond, Virginia 23219-3095; all local exchange carriers certificated in Virginia, as shown on Appendix A attached hereto; all interexchange carriers certificated in Virginia, as shown on Appendix B attached hereto; John F. Dudley, Senior Assistant Attorney General, Division of Consumer Counsel, Office of Attorney General, 900 East Main Street, Second Floor, Richmond, Virginia 23219; and the Commission's Divisions of Communications, Public Utility Accounting, and Economics and Finance.

REGISTRAR'S NOTICE: The proposed regulation was adopted as published in 17:22 VA.R. 3274-3307 July 16, 2001, with the additional changes shown below. Therefore, pursuant to § 2.2-4031 A of the Code of Virginia, the text of the final regulation is not set out at length; however, the changes from the proposed regulation are printed below.

CHAPTER 400.
TELECOMMUNICATIONS.

20 VAC 5-400-10. [No change from proposed.]

*CHAPTER 401.
RULES GOVERNING THE PROVISION OF NETWORK
INTERFACE DEVICES.*

~~20 VAC 5-400-20. Regulation governing the provision of network interface devices. 20 VAC 5-401-10. Definitions and applicability.~~

~~A. The "Network termination interface" or "standard demarcation device," hereinafter referred to as a "network interface device" or "NID, shall be defined as" means a device which readily permits the disconnection of all Customer Premises Wiring, hereinafter referred to as "CPW," from the telephone company network and provides access to the telephone company network through an industry registered jack [7] of a type provided for in FCC regulation 47 CFR Part 68 for testing purposes.~~

~~B. New installations for telephone service using outside NIDs effective as of May 1, 1984. This chapter is applicable to all installations for telephone service on and after May 1, 1984 [7] which use outside NIDs] .~~

~~Subdivisions 1 through 4 apply to 20 VAC 5-401-20. Simple one- or two-line installations in single or duplex residence or business structures.~~

- ~~4. A. All wiring on the customer's premises that is connected to the telephone network shall connect to the telephone company network through the telephone company-provided NID.~~
- ~~2. B. Maintenance of the NID shall be the responsibility of the telephone company [installing that installed] the NID.~~
- ~~3. C. 1. The NID used for the termination of CPW shall be located outside the customer premises unless an outside~~

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location is impractical or the customer requests that it be located inside the premises.

2. When the NID is located inside the premises, it shall be located at a point closest to the protector that is convenient to the customer. Any additional cost associated with placing the NID inside when requested by the customer shall be at customer expense.

4- D. The telephone company shall instruct the customer as to the location, purpose and use of the NID.

~~Subdivisions 5 through 8 apply to 20 VAC 5-401-30. Simple one- and two-line installations in multi-story or multi-occupancy buildings, campuses, malls, etc.~~

~~5- A. All wiring on the customer's premises that is connected to the telephone network shall connect to the telephone company network through the NID.~~

~~6- B. Maintenance of the NID shall be the responsibility of the telephone company [~~installing that installed~~] the NID.~~

7- C. 1. The NID shall be located at a point between the CPW and the telephone company network. This location may be the telephone equipment room, wiring closet, inside or outside the customer premises, or other designated location that is accessible to the customer.

2. If a customer requests that the NID be placed in a location which is other than that selected by the telephone company and which conforms to the criteria set out in this ~~rule~~ section, the customer must pay any additional expense associated with so placing the NID.

~~8- D. The telephone company shall instruct the customer as to the location, purpose and use of the NID.~~

~~Subdivisions 9 through 12 apply to 20 VAC 5-401-40. Simple one- and two-line residence and business installations.~~

~~These rules govern~~ A. This section governs when a NID is installed on visits to the customer premises for reasons other than the initial installation of telephone service by a network installer-repair person.

9- B. A NID shall be installed on all maintenance visits to the customer premises by a network installer-repair person. The NID must be installed in a location accessible to the customer. The only exceptions to this ~~rule~~ section are as follows:

~~a- 1. For residential customers who subscribe to an optional wire maintenance plan, ~~providing~~ provided all existing telephone sets are modular.~~

~~b- 2. For residential customers who subscribe to an optional wire maintenance plan with all or some hard-wired telephone sets, ~~providing~~ provided there is no maintenance visit charge for troubles located in hard-wired telephone sets.~~

~~c- 3. Where no access to the telephone company station protector exists.~~

~~d- 4. Where excessive work load, including labor force shortage, excessive troubles, storms, strikes, emergencies,~~

or acts of God would [~~not~~] make it [~~not~~] feasible for the telephone company to immediately install a NID.

~~e- 5. A suitable NID is not available in the marketplace to accommodate the existing installation.~~

10- C. It will be the [~~telephone company's~~] decision [~~of the telephone company installing the NID~~] whether to place the NID inside or outside the customer premises. This decision should be the one that will best accommodate the installation of the NID at the least cost to [~~the that~~] telephone company.

11- D. The maintenance of the NID shall be the responsibility of the telephone company [~~that installed the NID~~].

12- E. If the customer requests that the NID be placed in a location other than the location selected by the telephone company and which conforms to the criteria set out in this section, any additional cost to the telephone company will be at customer expense.

13- F. The telephone company shall instruct the customer as to the location, purpose and use of the NID.

~~Subdivisions 14 through 16 apply to the 20 VAC 5-401-50. Termination of all telephone company network facilities in all [~~new~~] multi-story, multi-occupancy buildings, campuses, malls, etc., beginning construction after May 1, 1986. [that began construction after May 1, 1986.]~~

A. [~~Beginning~~] Construction shall be deemed to [~~occur~~ have begun] when the telephone companies [~~have had~~] initial contact with the architect and/or owners respecting a building, or both.

14- B. The telephone company network facilities will terminate inside the building at a point of minimum penetration to the building. This location will be arranged through the building owner or architect. Normally, this location will be the same location as the termination for riser, house, or building distribution cable.

~~15. The telephone company will not be responsible for the provision of telephone riser, house or building distribution cable as a regulated service. This section does not restrict the telephone company from installing riser, house or building distribution cable under contract.~~

16- C. 1. The telephone company shall terminate [~~the its~~] telephone network facilities at an appropriate [~~telephone company provided~~] NID [~~installed by the telephone company~~].

2. The NID shall permit premises wiring to be readily connected or disconnected from the telephone company network facilities.

D. 1. The telephone company will not be responsible for the provision of telephone riser, house, or building distribution cable as a regulated service.

2. This section does not restrict the telephone company from installing riser, house, or building distribution cable under contract.

CHAPTER 403.
 RULES GOVERNING SMALL INVESTOR-OWNED
 TELEPHONE UTILITIES.

~~20 VAC 5-400-30. Regulation governing small investor-owned telephone utilities. 20 VAC 5-403-10. Applicability.~~

~~A. The following regulation~~ This chapter applies to any small investor-owned public utility (other than a cooperative) having a gross annual operating revenue not in excess of \$10 million and owning, managing or controlling plant or equipment or any part thereof within the Commonwealth for the conveyance of telephone messages, either directly or indirectly to or for the public as defined by Chapter 19 (§ 56-531 et seq.) of Title 56 of the Code of Virginia. Hereafter [These companies This company] shall be referred to as [a] "small telephone [companies company]" or "applicant."

B. [A] small telephone [companies company] should perform [their its] own tariff justification analysis in-house prior to changing [their] rates, tolls, charges, fees, or regulations (hereinafter, collectively referred to as "tariffs."). As a part of its in-house tariff justification, [a] small telephone [companies company] should consider whether the tariff change is necessary and whether such the change is dictated by the cost of providing the tariffed service. All tariff changes of [a] small telephone [companies company] must be "just and reasonable" as that standard is defined in § 56-235.2 of the Code of Virginia.

C. This section chapter applies when any small telephone company subject to the act Chapter 19 (§ 56-531 et seq.) of Title 56 of the Code of Virginia changes any rate, toll, charge, fee, rule, or regulation applicable to any customer (or customers) and this change results in increased rates paid by that customer (or customers). Changes not increasing customer rates may be done in the traditional manner without application of this section chapter.

B. 20 VAC 5-403-20. Timing of filing of tariff changes.

[A] small telephone [companies company] shall file all changes in [their its] tariffs with the Division of Communications of the State Corporation Commission at least 15 days in advance of the notice to the public required in ~~subsection C below~~ by 20 VAC 5-403-30.

C. 20 VAC 5-403-30. Notice.

[A] small telephone companies shall complete notice to its customers 30 days prior to the effective date of changes in its tariffs. This notice shall at a minimum use the following format to the extent applicable:

NOTICE OF (INCREASES IN, CHANGES IN) RATES,
 TOLLS, CHARGES, RULES AND REGULATIONS OF
 SERVICE OF (INSERT NAME OF SMALL TELEPHONE
 COMPANY)

(Insert name of [small] telephone company) plans to change its (tariffs) on file with the State Corporation Commission, effective for service rendered on and after (effective date). As a result of this change, (insert name of [small] telephone company) expects its (tariffs) to produce an additional \$_____ in gross annual operating revenues,

representing an increase of _____% in local operating revenues.

(If applicable) The telephone company also proposes to change the following portions of its rules and regulations of service: (Summarize changes).

Any interested party may review (insert name of small [investor-owned] telephone [utility company]) proposed changes during regular business hours at the telephone company office where consumer bills may be paid and at the commission's Division of Communications located on the 9th Floor of the Tyler Building, 1300 East Main Street, Richmond, Virginia.

Any interested party may file written comments in support of or objecting to the proposed changes, or requests for hearing, with the Division of Communications, State Corporation Commission, P.O. Box 1197, Richmond, Virginia 23218. Requests for hearing must state the reason for the request. Such comments or requests must be filed with the Division of Communications on or before (name date 10 days before the effective date of tariff).

(NAME OF SMALL TELEPHONE COMPANY)

[A] small telephone [companies company] shall mail the foregoing notice to any customer subject to the tariff change, including other common carriers utilizing the utilities' facilities when the proposed changes directly affect other common carriers.

20 VAC 5-403-40. State Corporation Commission action.

~~D. A. Whenever the lesser of 5.0% or 150 customers subject to a small [investor-owned] telephone [utility's company's] tariffs file a protest or objection to any change in any a schedule of that utility's tariffs, or if the commission acts on its own motion to investigate the utility's tariffs, the commission may suspend the enforcement of any or all of the proposed tariffs for a period not exceeding 150 days from the date of the filing of the revised tariff. Notice of the suspension shall be given by the commission to the small telephone company prior to the expiration of the 30 days' notice to the public.~~

~~E. B. Whenever the lesser of 5.0% or 150 customers subject to a small [investor-owned] telephone [utility's company's] tariffs file a protest or objection to any change in any a schedule of that utility's tariffs, or if the commission, acting on its own motion, determines to investigate the utility's change in a tariff, an order will be issued by the commission setting a date by which the [small] telephone [utility company] shall file an application which shall contain the information set forth in ~~subsections F or G below~~ 20 VAC 5-403-50 and 20 VAC 5-403-60, as applicable. This order shall also specify a filing schedule for applicant, protestants, and staff and shall establish a hearing date.~~

20 VAC 5-403-50. Contents of application for a rate increase by a company having more than \$3 million in gross annual operating revenue, or [which that] is a subsidiary of a telecommunications company.

~~F. A. An application for a rate increase filed pursuant to ~~subsection E hereof~~ this chapter by a small telephone company, having more than \$3 million in gross annual~~

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operating revenue, or which is a subsidiary of a telecommunications company, ~~(a telecommunications company is which means a corporation [which that] owns, manages, or controls any plant or equipment for the conveyance of voice or data messages, either directly or indirectly to or for the public),~~ shall include:

1. The name and post office address of the applicant and the name and post office address of its counsel (if any);
2. A clear description of the proposed tariff changes, and a narrative explaining why an increase in rates is needed, as well as the overall percentage increase in rates proposed;
3. All direct testimony by which the applicant expects to support the rate increase. In lieu of prefiling direct testimony, the applicant may submit an affidavit which certifies that the information in the application is correct and that the applicant adopts the information contained in the schedules as its evidence in support of the application.
4. Exhibits consisting of Schedules 1 through 16 shown in the Appendix to ~~these rules~~ *this chapter* shall be submitted with the applicant's direct testimony or affidavit adopting the information contained in the schedules.
5. Exhibits consisting of additional schedules may be submitted with the applicant's direct testimony. Such schedules shall be identified as Schedule 17 et seq.

~~6- B.~~ All applications shall be filed in an original and 15 copies with the exception of Schedule 12. Two copies of Schedule 12 shall be filed directly with the commission's Division of Public Utility Accounting. Additional copies of Schedule 12 shall be made available to parties upon request. An application shall not be deemed filed with the commission for the purposes of §§ 56-238 and 56-240 of the Code of Virginia [] unless all information required ~~by the rules and accompanying schedules are~~ is filed in conformity with ~~these rules and schedule instructions this chapter and accompanying schedules.~~

~~7- C.~~ The selection of a test period is up to the applicant. However, the use of overlapping test periods shall not be permitted.

~~8- D. 1.~~ The applicant shall serve a copy of the information required in subdivisions ~~F4 A 1 and F2 A 2 of this section~~ upon the Commonwealth's Attorney and Chairman of the Board of Supervisors of each county (or equivalent officials in counties having alternate forms of government) in this Commonwealth affected by the proposed rate increase and upon the mayor or manager and the attorney of every city and town (or on equivalent officials in towns and cities having alternate forms of government) in this Commonwealth affected by the proposed rate increase.

2. The applicant shall also serve each such official with a statement that a copy of the complete application may be obtained at no cost by making a request ~~therefor~~ either orally or in writing to a specified officer of *the* applicant.

~~In addition,~~ 3. *The* applicant shall serve a copy of its complete application upon the Division of Consumer Counsel, Office of the Attorney General of Virginia.

4. All service specified by this section shall be made either by (i) personal delivery, or (ii) by first-class mail, postage prepaid, to the customary place of business or the residence of the person served.

20 VAC 5-403-60. Contents of an application for a rate increase by a small telephone company having less than \$3 million in gross annual operating revenues and [which that] is not a subsidiary of a telecommunications company.

~~G- A.~~ An application for a rate increase filed pursuant to ~~subsection E hereof~~ *this chapter* by a small telephone company, having less than \$3 million in gross annual operating revenues and [which that] is not a subsidiary of a telecommunications company as that term is defined in ~~subsection F above~~ *20 VAC 5-403-50 A* [] need only file exhibits consisting of Schedules 1 - 4 [] and 7 - 16, shown in the Appendix to this ~~section~~ *chapter*, but shall otherwise comply with the requirements of ~~subsection F~~ *20 VAC 5-403-50*.

B. A company having less than \$3 million in gross annual operating revenue and [which that] is not a subsidiary of a telecommunications company may use its ~~SCC~~ *State Corporation Commission* Annual Operating Report filed with the commission as the data base for its Capital Structure and Cost of Capital Statement (Schedule 1). Schedules 9 and 10 for these companies should reflect total company, per books amounts. Jurisdictional separations included in columns 2 and 3 of Schedules 9 and 10 are not required for these companies.

H- 20 VAC 5-403-70. Exemptions.

[*A*] small [~~investor-owned~~] telephone [~~companies~~ *company*] subject to the Small Investor-Owned Telephone Utility Act, (§ 56-531 et seq. of the Code of Virginia), shall be exempt, for all purposes, from ~~the Rules Governing Utility Rate Increase Applications and Annual Informational Filings, adopted in Case No. PUE850022 (20 VAC 5-200-30) and [this chapter the Rules Governing Utility Rate Increase Applications and Annual Informational Filings, 20 VAC 5-200-30,]~~ as [they #] may be modified from time to time.

APPENDIX

Schedule 1 Capital Structure and Cost of Capital Statement

Instructions: This schedule shall state the amount of each capital component per balance sheet, the amount for ratemaking purposes, the percentage weight in the capital structure, the component cost, and the weighted capital cost, using the format of the attached schedule. This information shall be provided for the test period. In Part A, the test period information should be compatible with the [*SCC State Corporation Commission*] Annual Operating Report. The methodology used in constructing the capital structure should be consistent with that approved in the applicant's last rate case. If the applicant wishes to use a different methodology (including a change in cost of equity) in constructing its capital structure in a rate application, it may prepare an additional schedule labelled as Schedule 1(a) explaining the

methodology used and justifying any departure from applicant's last rate case.

The amounts and costs for short-term debt, revolving credit agreements, and similar arrangements shall be based on a 13-month average over the test year, or, preferably, a daily average during the test year, if available. All other test period amounts are end-of-year. The component weighted cost rates equal the product of each component's capital structure weight for ratemaking purposes times its cost rate. The weighted cost of capital is equal to the sum of the component weighted cost rates.

Schedule 1

Capital Structure and Cost of Capital Statement

Test Period

A. Capital Structure Per Balance Sheet (\$)

- Short-Term Debt
- Customer Deposits
- Other Current Liabilities
- Long-Term Debt
- Common Equity
- Investment Tax Credits
- Other Tax Deferrals
- Other Liabilities
- Total Capitalization

B. Capital Structure Approved for Ratemaking Purposes (\$)

- Short-Term Debt
- Long-Term Debt
- Job Development Credits
- Cost-Free Capital
- Common Equity
- Total Capitalization

C. Capital Structure Weights for Ratemaking Purposes (%)

- Short-Term Debt
- Long-Term Debt
- Job Development Credits
- Cost-Free Capital
- Common Equity
- Total Capitalization (100%)

D. Component Capital Cost Rates (%)

- Short-Term Debt
- Long-Term Debt
- Job Development Credits
- Cost-Free Capital

Common Equity (Authorized)

E. Component Weighted Cost Rates (%)

- Short-Term Debt
- Long-Term Debt
- Job Development Credits
- Cost-Free Capital
- Common Equity (Authorized)
- Weighted Cost of Capital

Schedule 2

Schedule of Bonds, Mortgages, Other Long-Term Debt, and Cost-Free Capital

Instructions: Provide a description of each issue, amount outstanding, percentage of total capitalization, and annualized cost based on the embedded cost rate. These data shall support the debt cost contained in Schedule 1. Provide a detailed breakdown of all cost-free capital items contained in Schedule 1.

Schedule 3

Schedule of All Short-Term Debt, Revolving Credit Agreements [,] and Similar Arrangements

Instructions: Provide data and explain the methodology used to calculate the cost and balance contained in Schedule I for short-term debt, revolving credit agreements [,] and similar arrangements.

Schedule 4

Stockholders ['] Annual Report

Instructions: Provide a copy of the most recent stockholders' annual report and SEC Form 10K (if SEC Form 10K is available).

Schedule 5

Company Profitability and Capital Markets Data

Instructions: This schedule shall be prepared by companies having more than \$3 million in gross annual operating revenue which are not a subsidiary of a telecommunications company, using the definitions provided below and the format of the attached schedule. These companies shall provide data for the two most recent calendar years plus the test period. This information shall be compatible with the latest Stockholders' Annual Reports (including any restatements).

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Definitions

Return on Year End Equity* = $\frac{\text{Earnings Available for Common Stockholders}}{\text{Year-End Common Equity}}$

Return on Average Equity = $\frac{\text{Earnings Available for Common Stockholders}}{\text{The Average of Year-End Equity for the Current \& Previous Year}}$

Earnings Per Share (EPS) = $\frac{\text{Earnings Available for Common Shareholders}}{\text{Average No. Common Shares Outstanding}}$

Dividends Per Share (DPS) = $\frac{\text{Common Dividends Paid Per Share During the Year}}{\text{Common Shares Outstanding}}$

Payout Ratio = $\frac{\text{DPS}}{\text{EPS}}$

Average Market Price** = $\frac{\text{Yearly High} + \text{Yearly Low Price}}{2}$ (if known)

* Job Development Credits shall not be included as part of equity capital nor shall a deduction be made from earnings for a capital charge on these Job Development Credits.

** An average based on monthly highs and lows is also acceptable. If this alternative is chosen, provide monthly market prices and sufficient data to show how the calculation was made.

Schedule 5

Company Profitability and Capital Market Data
 19__ 19__ Test Period

A. Ratios

Return on Year-End Equity

Return on Average Equity

Earnings Per Share

Dividends Per Share

Payout Ratio

Market Price of Common Stock:

Year's High

Year's Low

Average Price

B. External Funds Raised

External Funds Raised - All Sources (itemized)

Dollar Amount Raised

Coupon Rate (if applicable)

Rating Service (if applicable)

Average Offering Price (for Stock)

Schedule 6 Coverage Ratios and Cash Flow Profile Data

Instructions: This schedule shall be prepared using the definitions and instructions given below and using the format of the attached schedule for the past two calendar years plus the test period.

- Interest (lines 3, 4, 5) shall include amortization of discount expense and premium on debt without deducting an allowance for borrowed funds used during construction.

- Income taxes (line 2) include federal and state income taxes (in Virginia gross receipts tax should be considered State income tax).

- Earnings before interest and taxes (line 6) equals net income plus income taxes plus total interest = (line 1) + (line 2) + (line 5).

- IDC (line 8), where applicable, is total IDC - allowance for borrowed and other funds.

- Cash flow generated (line 14) = (line 1) + (line 9) + (line 10) + (line 11) + (line 12) - (line 8) - (line 13).

- Construction expenditures (line 15) is net of IDC.

Coverage definitions for Schedule 6

Pre-Tax Interest Coverage =	Earnings before Interest & Taxes ----- Interest	=	line 6 ----- line 5
Common Dividend Coverage =	Cash Flow Generated ----- Common Dividends	=	line 14 ----- line 16
[Cash] Coverage of Construction Expenditures =	Cash Flow Generated ----- Construction	=	line 14 ----- line 15

Schedule 6

Coverage Ratios and Cash Flow Data
 19__ 19__ Test Period

Interest Coverage Ratios

a. Pre-Tax Method

Cash Flow Coverage Ratios

a. Common Dividend Coverage

b. Cash Flow Coverage of Construction Expenditures

Data for Interest Coverage

1. Net Income
2. Income Taxes
3. Interest on Mortgages
4. Other Interest
5. Total Interest

- 6. Earnings Before Interest and Taxes
- 7. Estimated Rental Interest Factor (SEC)

- 15. Construction Expenditures
- 16. Common Dividends Paid

Data for Cash Flow Coverage

- 1. Net Income
- 8. Interest During Construction (IDC)
- 9. Amortization
- 10. Depreciation
- 11. Change in Deferred Taxes
- 12. Change in Investment Tax Credits
- 13. Preferred Dividends Paid
- 14. Cash Flow Generated

Schedule 7
Comparative Balance Sheets

Instructions: Provide a comparative balance sheet for the test period and the corresponding 12 month period immediately preceding the test period.

Schedule 8
Comparative Income Statement

Instructions: Provide a comparative income statement for the test period and the 12 month period immediately preceding the test period.

Schedule 9
Rate of Return Statement

Instructions: Use the format of the attached schedule. Column 1 should state the Applicant's total Company per books results for the test period. Non-jurisdictional amounts will be shown in Column 2, and Column 3 will reflect Virginia jurisdictional amounts. Adjustments to test period per books results shall be shown in Column 4. These adjustments shall be explained in Schedule 11. If a calendar year test period is used, Column 1 can be prepared from information filed by Applicant in its annual report to the commission. If a calendar year test period is used, operating revenue line items can be found in Schedule 34 at page 58 of the Annual Report. "Depreciation and Amortization" is set forth on Line 23 of Schedule 35 at page 60 of the Annual Report. "Operating and Maintenance Expense" can be derived by subtracting the amount of depreciation and amortization expense from total operating expenses (Schedule 35, line 68). Interest on customer deposits must be calculated from Applicant's books. Column 6 should show the increase requested by Applicant.

Schedule 9 Rate of Return Statement

Test Period

Total

Company Per Books	Virginia Non-Jurisdic. Amounts	Jurisdic. Amounts	Amounts Adjustments	Effect of After Adjustments	After Proposed Increase	Proposed Increase
Col. (1)	Col. (2)	Col.(3)	Col. (4)	Col. (5)	Col. (6)	Col. (7)

Operating Revenues

- Local Service
- Toll Service
- Access Charges
- Miscellaneous
- Less: Uncollectible

Total Revenues

Operating Expenses

- Operating and Maintenance Expense
- Depreciation and Amortization
- Income Taxes
- Taxes Other than Income Taxes
- Gain/Loss on Property Disposition

Total Expenses

Operating Income

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Less: Charitable Donations
Interest Expense on Customer Deposits
Net Operating Income - Adjusted
Plus: Other Income (Expense)
Less: Interest Expense
Preferred Dividend Expense
JDC Capital Expense
Income Available for Common Equity
Allowance for working capital
Net Utility Plant
Total Rate Base
Total Capital for Ratemaking
Common Equity Capital
Rate of Return Earned on Rate Base
Rate of Return Earned on Common Equity

Schedule 10

Statement of Net Original Cost of Utility Plant and Allowances for Working Capital for the Test Year

Instructions: This schedule should be constructed using the ratemaking policies, procedures, and guidelines last prescribed for Applicant by the commission. The schedule should indicate all property held for future use by account number and the date of the planned use should be shown. In a footnote, applicant should identify the amount of plant and working capital devoted to non-regulated business activities, if any. Such plant shall not be included in the rate base. Applicants should use the format described below. The unamortized balance of investment tax credits shall be deducted from the rate base if the telephone company is subject to Option 1 treatment under I.R.S. Code § 46(f). Column (4) adjustments should be explained and detailed in Schedule 11. Columns (2) and (3) only apply to companies with over \$3,000,000 in gross annual operating revenues which are subsidiaries of telecommunications companies.

Schedule 10

NET ORIGINAL COST OF UTILITY PLANT AND ALLOWANCES

Total Company Per Books	Non-Jurisdic. Amounts	Jurisdic. Amounts	Adjustments	Amounts After Adjustments
Col. (1)	Col. (2)	Col. (3)	Col.(4)	Col. (5)
Telephone Plant in Service				
Telephone Plant under construction				
Property held for future use				
Gross Plant				
Less: Reserve for Depreciation				
Net Telephone Plant				
Allowance for Working Capital				
Materials and supplies (13 month average)				
Cash (20 days of O&M expenses)				
Total Allowance for Working Capital				
Other Rate Base Deductions:				
Customer Deposits				
Deferred Federal Income Taxes				

Customer Advances for Construction

Option 1 Investment Tax Credits

Total Other Rate Base Deductions

Rate Base

Schedule 11

Explanation of Adjustments to Book Amounts

Instructions: All ratemaking adjustments to test period operations (test period and proforma) are to be fully explained in a supporting schedule to the applicant's Schedules 9 and 10. Such adjustments shall be numbered sequentially beginning with operating revenues. Supporting data for each adjustment, including the details of its calculation, should be provided. Examples of adjustments include:

1. Adjustments to annualize changes occurring during the test period.
2. Adjustments to reflect known and certain changes in wage agreements and payroll taxes occurring in the test period and proforma period (the 12- month period following the test period).
3. Adjustments to reflect depreciation and property taxes based on end-of-period plant balances.
4. Adjustments relating to other known changes occurring during the test period or proforma period.
5. Amounts relating to known and certain changes in company operations that take place in the proforma period can be adjusted through the end of the rate year. The rate year shall be defined as the 12 months following the effective date of new rates. The proforma period shall be defined as the 12 months immediately following the test year.

Schedule 12

Working Papers

Instructions: Provide detailed work papers and supporting schedules of all proposed adjustments. Two copies of this exhibit shall be filed with the commission's ~~Division~~ *Divisions of Public Utility Accounting and Economics and Finance*. Copies shall be provided to other parties on request. Each schedule shall identify sources of all data. Data shall be clearly identified as actual or estimated.

Schedule 13

Revenue and Expense Schedule

Instructions: The applicant shall provide information about revenues by primary account (consumer classification) and operating and maintenance expenses by primary account during the test period.

The applicant shall also provide a detailed explanation of all revenue and expense item increases and decreases of more than 10% during the test period as compared to the 12-month period immediately preceding the test period. Worksheets used to compute the percentage change should be available for review upon request.

Schedule 14

Explanation of Proposed Revenue Requirement Calculation

Instructions: Provide a schedule describing the methodology used to determine the revenue requirement shown on Schedule 9, Column 6.

Schedule 15

Additional Revenues

Instructions: Show the calculations of the additional gross revenues and percentage increases by customer classes that would be produced by the new rates during the test period.

Schedule 16

Statement of Compliance

Instructions: Include the following statement signed by the person(s) sponsoring the application:

I, (Name of Sponsoring Party), (Title), affirm that this application complies with the commission's rules for small investor-owned telephone utilities' applications for increases in rates, and I further affirm that the schedules filed to support the application comply with the instructions for the schedules set forth in the Appendix to those rules.

(Signature of Sponsoring Party)

(Date)

~~**20 VAC 5-400-40. Rules governing sharing or resale of local exchange service (shared tenant service).**~~

CHAPTER 409.

RULES GOVERNING SHARING OR RESALE OF LOCAL EXCHANGE SERVICE (SHARED TENANT SERVICE).

20 VAC 5-409-10. Shared tenant service permissible.

A. The tariffs of Virginia local exchange companies shall not prohibit any persons from subscribing to local exchange business telecommunications ~~service~~ *services* and facilities and privately reoffering those communication services and facilities to persons or entities occupying buildings or facilities that are within specifically identified contiguous property areas (even if the contiguous area is intersected by public thoroughfares or rights-of-way) and are either: (i) under common ownership, which is either the same owners, common general partners, or common principal equity investor; or (ii) within a common development which is either an office or commercial complex, a shopping center, an apartment or condominium or cooperative complex, an airport, a hotel or motel, a college or university, or a complex consisting of mixed uses of the types ~~heretofore~~ described above, but not to include residential subdivisions consisting of single-family detached dwellings.

B. Such private reoffering shall ~~hereinafter~~ be referred to as "shared tenant service."

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~~B. To the extent that a shared tenant service system would not meet the requirements of subsection A of this section, the person or persons desiring to provide the shared tenant service system shall have the right to petition the Commission to obtain a waiver of that Rule. Notice of this petition shall be given to the local exchange telephone company serving the area proposed to be affected by the proposal and to any other persons designated by the Commission. The Commission may grant any such petition upon finding that the public interest is thereby served.~~

20 VAC 5-409-20. Applicability.

~~C. A. This shared tenant service section chapter shall apply only to those shared tenant service systems sharing more than 16 access lines or more than 32 stations.~~

~~B. Sharing of smaller systems shall not be prohibited by local exchange companies [7] and shall be governed by joint user tariffs where in effect.~~

20 VAC 5-409-30. [No change from proposed.]

20 VAC 5-409-40. [No change from proposed.]

20 VAC 5-409-50. [No change from proposed.]

20 VAC 5-409-60. [No change from proposed.]

~~K. 20 VAC 5-409-70. [No change from proposed.]~~

20 VAC 5-400-50. [No change from proposed.]

20 VAC 5-400-60. [No change from proposed.]

CHAPTER 411.

RULES GOVERNING THE CERTIFICATION OF INTEREXCHANGE CARRIERS.

20 VAC 5-411-10. [No change from proposed.]

20 VAC 5-411-20. [No change from proposed.]

20 VAC 5-411-30. Application requirements.

A. Applicants shall attest that they will abide by the provisions of § 56-265.4:4 B of the Code of Virginia.

B. Applicants shall submit information which identifies the applicant including (i) its name, address and telephone number [7 ;] (ii) its corporate ownership [7 ;] (iii) the name, address, and telephone number of its corporate parent or parents, if any [7 ;] (iv) a list of its officers and directors or, if applicant is not a corporation, a list of its principals and their directors if said principals are corporations [7 ;] and (v) the names, addresses, and telephone numbers of its legal counsel.

~~D. C. Each incorporated applicant for a certificate shall demonstrate that it is authorized to do business in the Commonwealth as a public service company.~~

~~E. D. Applicants shall be required to show their financial, managerial, and technical ability to render interexchange telecommunication service. telecommunications services as follows:~~

(i) 1. As a minimum requirement, a showing of financial ability shall be made by attaching the applicant's most recent stockholder's annual report and its most recent [

~~SEC- () Securities and Exchange Commission ()] Form 10-K or, if the company is not publicly traded, its most recent financial statements.~~

(ii) 2. To demonstrate managerial experience, each applicant shall attach a brief description of its history of providing interexchange telecommunication service telecommunications services and shall list the geographic areas in which it has been and is currently being provided. Newly created companies shall list the experience of each principal or officer in order to show its ability to provide service.

(iii) 3. Technical abilities shall be indicated by a description and map of the applicant's owned or leased facilities within the Commonwealth. An additional map should be filed showing the applicant's points of presence within its proposed service area.

E. Each application for a certificate to provide interexchange telecommunications services shall include the carrier's proposed initial tariffs, rules, regulations, [and] terms and conditions. If the commission finds those tariffs reasonable, they shall be approved with the granting of the certificate. Any subsequent request to increase rates shall be submitted pursuant to Chapter 10 (§ 56-232 et seq.) of Title 56 of the Code of Virginia, unless the requesting carrier has been granted authority by the commission to set rates and charges pursuant to § 56-481.1 of the Code of Virginia.

F. Any applicant desiring to have rates based upon competitive factors shall petition the commission to be granted such authority pursuant to the provision of § 56-481.1 of the Code of Virginia. This petition may be included in the applicant's petition for a certificate of public convenience and necessity. The commission shall consider the criteria set out in § 56-481.1 of the Code of Virginia in making any determination that interexchange telecommunications services will be provided on a competitive basis.

20 VAC 5-411-40. [No change from proposed.]

20 VAC 5-411-50. Reports to State Corporation Commission.

~~G. A. Each interexchange carrier annually shall file a current financial report with the commission, shall maintain Virginia books, and shall maintain such books in accordance with generally accepted accounting principles and, in any event, [and] as shall be required by the commission to facilitate its assessment of all taxes and to facilitate the performance of its regulatory responsibilities.~~

B. Carriers shall file with the commission on a monthly basis, a report showing monthly usage of local exchange telephone services and facilities as required by §§ 56-482.1 and 56-482.2 of the Code of Virginia.

20 VAC 5-411-60. Suspension or revocation of certificate.

~~H. A. No carrier shall unreasonably discriminate among subscribers requesting service. Any finding of such discrimination shall be grounds for suspension or revocation of the certificate of public convenience and necessity granted by the commission.~~

B. Excessive subscriber complaints against an interexchange carrier, [~~which that~~] the commission has found to be meritorious [~~;~~] may also be grounds for suspension or revocation of the carrier's certificate of public convenience and necessity.

C. In all proceedings pursuant to this ~~Subsection H~~ *section*, the commission shall give notice to the carrier of the allegations against it and provide the carrier with an opportunity to be heard concerning those allegations prior to the suspension or revocation of the carrier's certificate of public convenience and necessity.

~~I. Each application for a certificate to provide interexchange telecommunication service shall include the carrier's proposed initial tariffs, rules, regulations, terms and conditions. If the commission finds those tariffs reasonable, they shall be approved with the granting of the Certificate. Any subsequent request to increase rates shall be submitted pursuant to Chapter 10 (§ 56-232 et seq.) of Title 56 of the Code of Virginia, unless the requesting carrier has been granted authority by the commission to set rates and charges pursuant to § 56-481.1 of the Code of Virginia.~~

~~J. Any carrier desiring to have rates based upon competitive factors shall petition the commission to be granted such authority pursuant to the provision of § 56-481.1 of the Code of Virginia. Such petition may be filed simultaneously with the applicant's petition for a certificate of public convenience and necessity. The commission shall consider the criteria set out in § 56-481.1 of the Code of Virginia in making any determination that interexchange telecommunication service will be provided on a competitive basis.~~

20 VAC 5-411-70. [No change from proposed.]

20 VAC 5-411-80. [No change from proposed.]

20 VAC 5-411-90. [No change from proposed.]

20 VAC 5-400-100. [No change from proposed.]

20 VAC 5-400-110. [No change from proposed.]

20 VAC 5-400-120. [No change from proposed.]

20 VAC 5-400-130. [No change from proposed.]

20 VAC 5-400-140. [No change from proposed.]

20 VAC 5-400-150. [No change from proposed.]

20 VAC 5-400-151. [No change from proposed.]

CHAPTER 413.
RULES GOVERNING DISCONNECTION OF LOCAL
EXCHANGE TELEPHONE SERVICE.

20 VAC 5-413-10. Disconnection for failure to pay.

A. A Local Exchange Company Carrier ("LEC") may terminate local exchange service only for a customer's failure to pay for noncompetitive services billed on behalf of the LEC when the local exchange services are in tariffs on file with the Virginia State Corporation Commission and there is no bona fide dispute concerning such the services. [~~After intraLATA dialing parity has been implemented,~~] A LEC may not

terminate local exchange service for a customer's failure to pay for the LEC's intraLATA toll services.

20 VAC 5-413-20. [No change from proposed.]

20 VAC 5-413-30. [No change from proposed.]

20 VAC 5-413-40. [No change from proposed.]

20 VAC 5-400-160. [No change from proposed.]

20 VAC 5-400-170. [No change from proposed.]

CHAPTER 415.
RULES GOVERNING TELECOMMUNICATIONS RELAY
SERVICE.

20 VAC 5-415-10. Applicability.

This chapter applies to the assessment, collection, and disbursements of the rate surcharges authorized by § 56-484.6 of the Code of Virginia. Accordingly,

IT IS THEREFORE ORDERED:

1. That this matter is hereby docketed and assigned Case No. PUC900029;

[~~20 VAC 5-445-20~~ 20 VAC 5-415-20]. Imposition and collection of surcharge.

2. That A. Commencing with telephone service rendered on and after ~~November 15, 1990~~ *September 1, 1998*, each Virginia local exchange company carrier ("LEC") shall impose a ~~\$.40~~ *\$.16* per month surcharge on each access line or equivalent centrex access line and shall continue ~~such~~ *the* surcharge monthly until further order of the commission.

B. [~~Direct distance dialed Direct-dialed long distance~~] *calls placed through the Relay Center shall receive at least a 40% daytime discount and at least a 60% evening, night, weekend, and holiday discount.*

C. Customers shall be notified of the surcharge by a bill insert and the surcharge shall be identified on each customer bill as the "Virginia Relay Center surcharge."

D. *Virginia LECs should place information facilitating use of the Relay Center in their published white pages directories.*

~~3. That~~ E. Each Virginia LEC, on ~~December 15, 1990~~ *October 1, 1998*, and monthly thereafter, shall, pursuant to instructions from the Director of the Division of Public Service Taxation, pay over to the commission's Division of Public Service Taxation the funds collected from the surcharge, less a ~~3.0%~~ *2.0%* commission as authorized by § 56-484.6 B of the Code of Virginia;

~~4. That~~ F. The commission shall make payments to the provider of the relay service pursuant to the terms and conditions of the provider's contract and shall make any other payments necessary to operate the Relay Center;

~~5. That,~~ G. Beginning in January, 1991, the commission's Division of Communications shall monitor the monthly expenses associated with providing ~~dual-party telecommunications~~ relay service to assure that the revenue received from the LECs is sufficient to cover the costs of the service;

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~~6. Direct distance dialed calls placed through the Relay Center shall receive at least a 40% daytime discount and at least a 60% evening, night, weekend, and holiday discount;~~

~~7. Virginia LECs should place information facilitating use of the Relay Center in their next published white pages directories; and~~

~~8. That this matter is continued generally and this docket shall remain open to address any additional concerns in the operation of the dual party relay service.~~

~~**20 VAC 5-400-190. Virginia State Corporation Commission Procedural Rules for Implementing §§ 251 and 252 of the Telecommunications Act of 1996, 47 USC §§ 251 and 252.**~~

~~A. Preliminary matters.~~

~~CHAPTER 419.~~

~~PROCEDURAL RULES FOR IMPLEMENTING §§ 251 AND 252 OF THE TELECOMMUNICATIONS ACT OF 1996, 47 USC §§ 251 AND 252.~~

~~**20 VAC 5-419-10. General procedure.**~~

~~1. A. Any reference in these procedural rules this chapter to "interested parties" shall initially refer to the service list attached to the Order Prescribing Notice and Inviting Comments entered in this Case, No. PUC960059. Any other person who wishes to be included on this service list as an "interested party" under this section chapter may file such a request with the Clerk of the State Corporation Commission ("commission"). A master list shall be kept by the clerk of the Commission and shall be updated as necessary. Any A reference in this section chapter to service upon interested parties shall subsequently mean service on all parties included on this master service list as updated by the clerk's office, unless this service list has been modified in accordance with subdivisions B3, C5, and D3 of this section chapter. Any reference in this section chapter to a person shall include a person or an entity.~~

~~2. Any B. An arbitration request which has issues resolved through negotiations, but not filed as a separate agreement, will be considered as one proceeding through the arbitration procedure set out in subsection C of this section 20 VAC 5-419-30. The resolved portions of the agreement shall be reviewed under 47 USC § 252(e)(2)(A), and arbitrated portions of the agreement shall be reviewed under 47 USC § 252(e)(2)(B). Any An arbitration request having issues resolved through negotiations and filed as a separate agreement will be considered as two proceedings. The separate negotiated agreement shall be considered under subsection B of this section 20 VAC 5-419-20 and any unresolved issues will be considered under subsection C of this section 20 VAC 5-419-30.~~

~~3. C. The commission may deviate from the provisions of this section chapter as it deems necessary to fulfill its obligations under 47 USC §§ 251 and 252.~~

~~4. D. The filing of an arbitration request shall not preclude the parties from continuing negotiations on unresolved issues. Those issues that are resolved after an arbitration request has been filed with the commission shall be considered~~

negotiated provisions, subject to appropriate notice requirements under the proposed arbitration procedures.

~~5. E. To the extent there is conflict between this section chapter and the State Corporation Commission's Rules of Practice and Procedure (5 VAC 5-10-10 et seq.) (hereinafter referred to as "Practice and Procedure Rules" 5 VAC 5-20-10 et seq.), this section chapter shall control.~~

~~6. F. No provision of this section chapter shall interfere with the commission's power to direct a hearing examiner to consider any issue or issues which arise during these proceedings.~~

~~7. G. The provisions of this section chapter [which that] require the filing of supporting documentation or evidence shall require strict compliance. Failure to file supporting documentation or evidence as required by this section chapter may result in denial of the relief sought by the party failing to comply [,] or in a decision adverse to that party's position on the merits.~~

~~8. H. The commission may, in its discretion, order an evidentiary hearing to address issues that arise in these proceedings or may deny a hearing request when a hearing is not necessary to resolve the issues at hand. The commission may also consolidate proceedings or common issues from two or more proceedings.~~

~~**B. 20 VAC 5-419-20. Agreements arrived at through negotiation.**~~

The following procedure shall be observed when parties who have negotiated and entered into a binding agreement for interconnection, services, or network elements under 47 USC § 252(a)(1) submit their voluntarily negotiated agreement for review by the commission under 47 USC § 252(e):

1. The parties shall file the agreement with the commission and on or before that same day shall serve a notice of filing, which describes the terms and conditions of the agreement or a copy of the negotiated agreement itself, on all interested parties and the commission staff, in accordance with Practice and Procedure Rule 5:13 (5 VAC 5-10-390) 5 VAC 5-20-140. If a person specifically requests a copy of the negotiated agreement, the parties shall promptly serve a copy of the agreement on the person making the request.

2. Within 21 days of the filing of the negotiated agreement, any person may submit comments regarding the agreement. Such These comments shall include all supporting documentation. The comments shall be limited to the criteria for review under 47 USC § 252(e)(2)(A). Any A request for hearing must be filed with the comments. Absent a showing of good cause for a hearing, the commission may review the negotiated agreement without a hearing. Any person filing comments or a request for hearing, or both, shall, on or before the date of filing of such comments or request, serve a copy on the parties to the negotiation and the commission staff in accordance with Practice and Procedure Rule 5:13 (5 VAC 5-10-390) 5 VAC 5-20-140. Upon the request of any other another person, a person shall promptly serve a copy of the comments or

request for hearing, or both, on the persons making the request.

3. After the deadline for comments or requests for hearing, the service list for the case shall be limited to the parties to the negotiations, the commission staff and any persons filing comments or requests for hearing, or both (~~hereinafter referred to as~~ "modified service list").

4. Within 35 days of the filing of the negotiated agreement, the parties to the negotiated agreement may file a response to any comments filed. ~~Such a~~ This response shall include all supporting documentation, and shall be served on the modified service list and the commission staff [] on or before the filing date [] in accordance with ~~Practice and Procedure Rule 5-13 (5 VAC 5-10-390) 5 VAC 5-20-140.~~

G. 20 VAC 5-419-30. Agreements arrived at through compulsory arbitration.

The following procedure shall be followed when a party to a negotiation petitions the commission to arbitrate [any] unresolved issues under 47 USC § 252(b):

1. Any party to a negotiation may petition ("petitioning party") the commission to arbitrate any unresolved issue in accordance with the deadlines set out in 47 USC § 252(b)(1). The arbitration request shall be filed as a petition, including all supporting documentation, and must conform with 47 USC § 252(b)(2). Along with its petition, the petitioning party shall file any request for hearing along with any prefiled direct testimony and all materials it will rely on to support its case at the hearing, including all evidence it intends to present. In its petition, the petitioning party shall certify its compliance with the duty to negotiate in good faith provision of 47 USC § 251(c)(1). In addition to its obligation to serve a copy of the petition on the other party or parties to the negotiation, the petitioning party shall serve a notice of filing which describes the contents of the arbitration petition or a copy of the petition itself on all interested parties and the commission staff, on or before the same day it is filed with the commission, in accordance with ~~Practice and Procedure Rule 5-13 (5 VAC 5-10-390) 5 VAC 5-20-140.~~ If a person specifically requests a copy of the petition, the petitioning party shall promptly serve a copy of the petition on the person making the request.

2. Within 25 days after the petition requesting arbitration is filed with the commission, the nonpetitioning party to the negotiation ("responding party") may file a response and any additional information as provided under 47 USC § 252(b)(3). In addition, with its response, if a request for hearing was filed by the petitioning party, the responding party shall file any prefiled direct testimony and all materials it will rely on to support its case at the hearing, including all evidence it intends to present. If no request for hearing was filed by the petitioning party, the responding party may file, with its response, a request for hearing along with any prefiled direct testimony and all materials it will rely on to support its case at the hearing, including all evidence it intends to present. The response shall include any supporting documentation and shall be served on the petitioning party and commission staff, and a notice of filing which describes the contents of the response or a copy of

the response itself shall be served on all interested parties, on or before the date the response is filed with the commission, in accordance with ~~Practice and Procedure Rule 5-13 (5 VAC 5-10-390) 5 VAC 5-20-140.~~ If a person specifically requests a copy of the response, the responding party shall promptly serve a copy of the response on the person making the request. If no timely request for hearing is received, the commission may arbitrate the unresolved issues and review the resolved issues without a hearing.

3. Comments on the petition and response may be filed no more than 45 days after the petition is filed with the commission. Comments relating to unresolved issues in the petition shall be limited to the standards for reviewing arbitrated agreements under 47 USC § 252(c) and 47 USC § 252(e)(2)(B). Comments relating to the issues resolved in the negotiation which is the subject of the arbitration petition shall be limited to the standards for reviewing negotiated agreements under 47 USC § 252(e)(2)(A). Comments shall include all supporting documentation.

4. If a hearing request has been filed by either the petitioning or the responding party, ~~any~~ a person wishing to participate in the hearing shall file, by the deadline for filing comments, a notice of participation which shall contain (i) a precise statement of the party's interest in the proceeding; (ii) a full and clear statement of the facts which the interested party is prepared to prove by competent evidence, the proof of which will warrant the relief sought; and (iii) a statement of the specific relief sought and legal basis therefor. Along with the notice of participation, the person wishing to participate in the hearing shall also file all supporting documentation, including testimony and evidence it will rely on to support its position at the hearing. ~~Any~~ A person filing comments or a notice of participation, or both, shall, on or before the day of the filing, serve a copy on the petitioning and responding parties and the commission staff in accordance with ~~Practice and Procedure Rule 5-13 (5 VAC 5-10-390) 5 VAC 5-20-140.~~ Upon the request of ~~any other~~ another person, a person filing comments or a notice of participation, or both, shall promptly serve a copy of the comments or notice on the person making the request. In addition, if the responding party filed a hearing request, the petitioning party's prefiled direct testimony, if any, and all materials it will rely on to support its case at the hearing, including all evidence it intends to present shall be filed and served on the responding party and the commission staff by the deadline for filing comments by persons.

5. After the deadline for comments or notices of participation, the service list for the case shall be the modified service list, limited to the parties to the arbitration petition, the commission staff [,] and any persons filing comments or notices of participation, or both.

6. Nine months or sooner after the request for interconnection, services, or network elements was received by the incumbent local exchange ~~company~~ carrier, the commission shall issue its decision resolving the unresolved issues. In its order, the commission shall

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provide a deadline for the parties to the negotiation to provide the commission with a formalized agreement.

7. The parties shall submit the formalized agreement as an agreement adopted by arbitration for commission review under 47 USC § 252(e), in compliance with the deadlines set by the commission. On or before submission of the formalized agreement, the parties will serve a copy of the agreement on the parties on the modified service list, and the commission staff [7] in accordance with ~~Practice and Procedure Rule 5-13 (5 VAC 5-10-390) 5 VAC 5-20-140.~~

8. Within 10 days after the formalized agreement is filed with the commission, any person may file comments on the agreement. Such comments shall be limited to the grounds for rejection as listed in 47 USC § 252(e)(2) and shall include all supporting documentation. Simultaneously with their filing, comments shall be served on the parties to the agreement and the commission staff by next day delivery [7] and to the parties on the modified service list [7] in accordance with ~~Practice and Procedure Rule 5-13 (5 VAC 5-10-390) 5 VAC 5-20-140.~~

9. Within 15 days after the formalized agreement is filed with the commission, any party to the agreement may file reply comments in direct response to ~~any~~ comments filed under subdivision 7 of this subsection. Such reply shall include all supporting documentation, and shall be served on the modified service list and the commission staff [7] on or before the filing date [7] in accordance with ~~Practice and Procedure Rule 5-13 (5 VAC 5-10-390) 5 VAC 5-20-140.~~

D. 20 VAC 5-419-40. Statement of generally available terms.

The following procedure shall be followed when a Bell Operating Company ("BOC") files a statement of generally available terms and conditions:

1. The BOC shall, on or before the day the statement is filed with the Clerk of the Commission, serve a notice of filing which generally describes the terms and conditions of the statement or a copy of the statement itself on all interested parties in accordance with ~~Practice and Procedure Rule 5-13 (5 VAC 5-10-390) 5 VAC 5-20-140.~~ If a person specifically requests a copy of the statement, the BOC shall promptly serve a copy of the statement on the person making the request. The BOC shall, on or before the date of filing, serve a copy of the statement on the commission staff in accordance with ~~Practice and Procedure Rule 5-13 (5 VAC 5-10-390) 5 VAC 5-20-140.~~ The filing shall include a detailed explanation of how the statement complies with 47 USC § 252(d) and 47 USC § 251 and the regulations thereunder [7] and shall include all supporting documentation.

2. Comments may be filed within 21 days of the filing of the statement. Comments shall be limited to whether the statement complies with 47 USC § 252(d) and 47 USC § 251 and the regulations thereunder [7] and shall include all supporting documentation. Any request for hearing shall be filed with the comments. The commission will grant a hearing request only if good cause is shown. Comments or requests for hearing, or both, shall, on or before the date of filing, be served upon the BOC and the commission staff in

accordance with ~~Practice and Procedure Rule 5-13 (5 VAC 5-10-390) 5 VAC 5-20-140.~~ Upon the request of [~~any other another~~] person, a person shall promptly serve a copy of the comments or request for hearing, or both, on the person making the request.

3. After the deadline for comments or requests for hearing has passed, the service list for the case shall be the modified service list, limited to the BOC, the commission staff, and ~~an~~ any persons filing comments or requests for hearing, or both.

20 VAC 5-400-200. Procedural rules governing exemption from providing physical collocation pursuant to § 251(c)(6) of the Telecommunications Act of 1996.

CHAPTER 421.

RULES GOVERNING EXEMPTION FROM PROVIDING PHYSICAL COLLOCATION PURSUANT TO §§ 251([6 c]) (6) OF THE TELECOMMUNICATIONS ACT OF 1996.

20 VAC 5-421-10. [No change from proposed.]

20-VAC 5-421-20. Contents of exemption request.

~~B. 1. Any~~ A. A request submitted by an ILEC for an exemption from physical collocation shall specifically identify the ~~promise premises~~ premises (including exchange, wire center, CLLI code, brief description, V&H coordinates, and address) where the exemption is requested, the expected duration of the exemption, and the criteria for which the request is being made, i.e., space limitation and/or technical reason.

2. B. The ILEC shall submit current, clearly labeled floor plans/diagrams of the ~~promise premises~~ premises of at least a 1/8"=1' scale which, at a minimum, identifies the following:

- a. 1. Equipment *that is* in use and its function, i.e., mechanical, power, switching, transmission, etc.
- ~~b. 2. Equipment *that is* being phased out, *is not* in use ~~and/or~~, or *is being* stored.~~
- e. 3. Space reserved by the ILEC for future use as of the preparation date of the floor plan/diagram.
 - (1) a. Within six months (imminent equipment placement).
 - (2) b. After six months but within two years.
 - (3) c. After two years.
- d. 4. Physical collocation space.
- e. 5. Administrative and other nonequipment space.

~~3. C. For any equipment being phased out, not in use and/or stored,~~ identified in subdivision ~~2-b~~ B 2 of this subsection, the ILEC shall provide the expected retirement and removal date or dates.

4. D. For ~~any~~ space reserved in subdivision ~~2-e~~ B 3 of this subsection, the ILEC shall include the specific use or uses for which it is planned. In addition, for space reserved for more than two years, the ILEC shall specify the timeframes reserved and provide a detailed explanation of why alternative space (i.e., building additions, expected retirements,

rearrangements) would not accommodate future space needs.

~~5-~~ E. For collocation space identified in subdivision ~~2-d~~ B 4 of this subsection, the ILEC shall identify the amount of space utilized by each available type of collocation arrangement. In addition, the ILEC shall identify the amount of space utilized and/or reserved by each carrier.

~~6-~~ F. The ILEC shall submit a detailed description and analysis of ~~any~~ all equipment rearrangements, administrative space relocation, and ~~or~~ building expansion plans, including timelines of each project for the [~~premise~~ premises in which the exemption is requested.

~~7-~~ G. The ILEC shall provide a detailed description of ~~any~~ efforts or plans to avoid space exhaustion in the ~~premise~~ premises for which the exemption is requested. Such description should include the proposed timeline of ~~any such~~ these plans and estimation of the duration of the exemption.

~~8-~~ H. To the extent that an ILEC claims that space is unavailable due to security or access constraints, an explanation of ~~any~~ efforts the ILEC has undertaken to overcome such constraints shall be submitted.

VA.R. Doc. No. R01-243; Filed October 17, 2001, 11:39 a.m.



EMERGENCY REGULATIONS

TITLE 12. HEALTH

STATE BOARD OF HEALTH

Title of Regulation: 12 VAC 5-218. Rules and Regulations Governing Outpatient Health Data Reporting.

Statutory Authority: §§ 32.1-12 and 32.1-276.6 of the Code of Virginia.

Effective Dates: November 1, 2001, through October 31, 2002.

Agency Contact: Ron Hyman, Director, Virginia Center for Health Statistics, Department of Health, 1500 E. Main Street, Richmond, VA, telephone (804) 662-6275, FAX (804) 371-4800 or e-mail rhyman@vdh.state.va.us.

Preamble:

The emergency regulation is necessary as Virginia statutory law requires that the regulation be effective within 280 days from its enactment. The regulation is not otherwise exempt under the provisions of § 2.2-4006 A 4. The Board of Health will promulgate regulations to implement outpatient patient level data reporting.

Sections 32.1-276.3, 32.1-276.6, 32.1-276.8 and 32.1-276.9 of the Code of Virginia direct the State Board of Health to implement an outpatient patient level data system in association with the nonprofit, tax-exempt organization established in accordance with § 32.1-276.2 et seq. of the Code of Virginia.

The outpatient patient level data system will collect information on up to five surgical procedures from hospitals and other health care providers. The information will be collected utilizing existing nationally adopted billing forms including but not limited to the UB-92 and HCFA 1500 forms. The nonprofit, tax-exempt organization established in accordance with § 32.1-276.2 et seq. of the Code of Virginia will edit and verify the data submitted. The first 12 months of operation will be a pilot period used to evaluate the impact and cost-benefit of this data collection system.

CHAPTER 218

RULES AND REGULATIONS GOVERNING OUTPATIENT HEALTH DATA REPORTING.

12 VAC 5-218-10. Definitions.

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

"Board" means the State Board of Health.

"Inpatient hospital" means a hospital providing inpatient care and licensed pursuant to Article 1 (§ 32.1-123 et seq.) of Chapter 5 of Title 32.1 of the Code of Virginia, a hospital licensed pursuant to Chapter 8 (§ 37.1-179 et seq.) of Title 37.1 of the Code of Virginia, a hospital operated by the Department of Mental Health, Mental Retardation and Substance Abuse Services for the care and treatment of the mentally ill, or a hospital operated by the University of Virginia

or Virginia Commonwealth University Health System Authority.

"Nonprofit organization" means a nonprofit, tax-exempt health data organization with the characteristics, expertise and capacity to execute the powers and duties set forth for such entity in Chapter 7.2 (§ 32.1-276.2 et seq.) of Title 32.1 of the Code of Virginia and with which the Commissioner of Health has entered into a contract as required by the Code of Virginia.

"Outpatient processed, verified data" means data on outpatient records that have been subjected to edits. These edits shall be applied to data elements which are on the UB-92 Billing Form, HCFA 1500 Billing Form or a nationally-adopted successor Billing Form used by reporting entities. The edits shall have been agreed to by the board and the nonprofit organization. Outpatient records containing invalid UB-92 codes, HCFA 1500 codes, another nationally adopted billing form codes or all blank fields for any of the data elements subjected to edits shall be designated as error records. To be considered processed and verified, a complete filing of outpatient surgical procedures specified by the board submitted by a reporting entity in aggregate per calendar year quarter and which are subjected to these edits must be free of error at a prescribed rate. The overall error rate shall not exceed 5%. A separate error rate shall be calculated for patient identifier, and it shall not exceed 5%. The error rate shall be calculated on only those fields approved by the board through the process specified in 12 VAC 5-218-40.

"Outpatient surgery" means all surgical procedures performed on an outpatient basis in a general hospital, ordinary hospital, outpatient surgical hospital or other facility licensed or certified pursuant to Article 1 (§ 32.1-123 et seq.) of Chapter 5 of this title or in a physician's office. Outpatient surgery refers only to those surgical procedure groups on which data are collected by the nonprofit organization as a part of a pilot study.

"Physician" means a person licensed to practice medicine or osteopathy in the Commonwealth pursuant to Chapter 29 (§ 54.1-2900 et seq.) of Title 54.1 of the Code of Virginia.

"Physician's office" means a place (i) owned or operated by a licensed physician or group of physicians practicing in any legal form whatsoever or by a corporation, partnership, limited liability company or other entity that employs or engages physicians, and (ii) designed and equipped solely for the provision of fundamental medical care, whether diagnostic, therapeutic, rehabilitative, preventive or palliative, to ambulatory patients.

"Reporting entity" means every general hospital, ordinary hospital, outpatient surgical hospital or other facility licensed or certified pursuant to Article 1 (§ 32.1-123 et seq.) of Chapter 5 of Title 32.1 of the Code of Virginia and every physician performing surgical procedures in his office.

"Surgical procedure group" means at least five procedure groups, identified by the nonprofit organization designated pursuant to § 32.1-276.4 in compliance with regulations adopted by the board, based on criteria that include, but are not limited to, the frequency with which the procedure is

Emergency Regulations

performed, the clinical severity or intensity, and the perception or probability of risk. The nonprofit organization shall form a technical advisory group consisting of members nominated by its Board of Directors' nominating organizations to assist in selecting surgical procedure groups to recommend to the board for adoption.

"System" means the Virginia Patient Level Data System.

12 VAC 5-218-20. Statutory authority.

§§ 32.1-276.3, 32.1-276.6, 32.1-276.8 and 32.1-276.9 of the Code of Virginia.

12 VAC 5-218-30. Historical notes.

This is a new section added to implement HB-2763 as approved by the General Assembly during its 2001 session.

12 VAC 5-218-40. Reporting requirements for outpatient data elements.

Every reporting entity performing outpatient surgical procedures shall submit each patient level data element listed below for each patient for which an outpatient surgical

procedure is performed and for which the data element is collected on the standard claim form utilized by the reporting entity. Most of these data elements are currently collected from a UB-92 Billing Form or HCFA 1500 Form. In the table below, the column for a field description indicates where the data element is located on the UB-92 and HCFA 1500 forms. An asterisk (*) indicates when the required data element is either not on the UB-92 or the HCFA 1500. The instructions provided under that particular data element should then be followed. If a successor billing form to the UB-92/HCFA 1500 form is adopted nationally, information pertaining to the data elements listed below should be derived from that successor billing form. The nonprofit organization will develop detailed record layouts for use by reporting entities in reporting outpatient surgical data. This detailed record layout will be based upon the type of base electronic or paper-billing form utilized by the reporting entity. Outpatient surgical procedures reported will be those adopted by the Board of Health as referred by the nonprofit organization. The nonprofit organization may recommend changes to the list of procedures to be reported not more than annually.

Data Element Name	Instructions	UB-92 Form Locator	HCFA 1500 Field Number
Hospital identifier	Hospitals and ambulatory care centers enter the six-digit Medicare provider number or, when adopted by the Board of Health, the National Provider Identifier or other number assigned by the board. Physicians, leave blank.	N/A-see Instructions	N/A see instructions
Operating physician identifier	Enter the nationally assigned physician identification number, either the Uniform Physician Identification Number (UPIN), National Provider Identifier (NPI) or its successor as approved by the Board of Health for the physician identified as the operating physician for the principal procedure reported.	83 A & B	17a but with NPI
Payor identifier	Enter the Board of Health approved payor designation, which will be the nationally assigned PAYERID, its successor, or English description of the payor.	50 A, B, C 50-1 through 50-11 as described in instructions	9d as described in instructions
Employer identifier	Enter the federally approved EIN or employer name, whichever is adopted by the Board of Health.	65 A with name/codes noted in instructions	9c with name/codes noted in instructions
Patient identifier	Enter the nine-digit social security number of the patient. If a social security number has not been assigned, leave blank. The nine-digit social security number is not required for patients under four years of age.	Not specified as to patient	Not specified as to patient
Patient sex		15	3
Date of birth	Enter the code in MM/DD/YYYY format.	14 must be in format specified in instructions	3 must be in format specified in instructions
Zip code		13	5
Patient relationship to insured		59 A, B, C	6

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Employment status code		64 A, B, C	8
Status at discharge		22	Use outpatient UB-92 codes
Admission date	Admission/start of care date	17	24A
Admission hour	Hour of admission in military time 00-24	18	See instructions
Admission diagnosis	Code sets- ICD 9 or CPT 4 or their successors to be specified in detailed record layouts.	76	*
Principal diagnoses	Code sets- ICD 9 or CPT 4 or their successors to be specified in detailed record layouts.	67	21-1
Secondary diagnoses	Code sets- ICD 9 or CPT 4 or their successors to be specified in detailed record layouts.	68 to 75t	21-2 to 21-4
External cause of injury	(E-code). Record all external cause of injury codes in secondary diagnoses position after recording all treated secondary diagnoses.	77	*
Co-morbid condition existing but not treated	Enter the code for any co-morbid conditions existing but not treated. Code sets- ICD 9 or CPT 4 or their successors to be specified in detailed record layouts.	*	*
Procedures	Code sets- ICD 9 or CPT 4 or their successors to be specified in detailed record layouts.	80	24d:1 to 24d:6
Procedure dates		81	24a:1 to 24a:6
Revenue center codes	As specified for UB -92 completion, not available for HCFA 1500	42	N/A
Revenue center units		46	24g:1 to 24g:6
Revenue center charges		47	24f:1 to 24f:6
Total charges		(R.C. Code 001 is for total charges.	28

12 VAC 5-218-50. Options for filing format.

Reporting entities that perform on an annual basis 100 or more of the specified outpatient surgical procedures shall submit patient level data in an electronic data format. Reporting entities performing fewer than 100 of the specified outpatient surgical procedures annually that submit patient level data directly to the board or the nonprofit organization may directly submit it in electronic data format or in hard copy. If hard copy is utilized, the reporting entity shall submit, for each outpatient discharged, a copy of the UB-92/HCFA 1500 and an addendum sheet for those data elements not collected on the UB-92/HCFA 1500, or nationally adopted billing form. These reporting entities performing specified outpatient surgical procedures must submit all outpatient patient level data in electronic data format by January 1, 2004.

12 VAC 5-218-60. Options for submission.

Each reporting entity shall submit the outpatient patient level data to the board for processing and verification. If data is submitted in this fashion, the board will transmit it to the

nonprofit organization along with any fees submitted by the reporting entity to the board for the processing and verification of such data.

As an alternative to submitting the outpatient patient level data to the board, a reporting entity may submit the outpatient patient level data to the office of the nonprofit organization for processing and verification. If this alternative is chosen, the reporting entity reporting the outpatient patient level data shall notify the board and the nonprofit organization of its intent to follow this procedure.

In lieu of submitting the patient level data to the board or to the nonprofit organization, a reporting entity may submit already processed, verified data to the nonprofit organization. If a reporting entity chooses this alternative for submission of patient level data, it shall notify the board and the nonprofit organization of its intent to utilize this procedure.

If a reporting entity decides to change the option it has chosen, it shall notify the board of its decision 30 days prior to the due date for the next submission of patient level data.

12 VAC 5-218-70. Contact person.

Each reporting entity shall notify in writing the board and the nonprofit organization of the name, address, telephone number, email (where available) and fax number (where available) of a contact person. If the contact person changes, the board and the nonprofit organization shall be notified in writing as soon as possible of the name of the new person who shall be the contact person for that reporting entity.

12 VAC 5-218-80. Frequency of submission.

A. Reporting entities shall submit the data required by 12 VAC 5-218-40 at least on a calendar year quarterly basis.

B. If the data is submitted to the board or to the nonprofit organization for processing and verification, it shall be received at the office of the board or the office of the nonprofit organization within 45 days after the end of each calendar year quarter.

C. If a reporting entity chooses to submit processed, verified data directly to the nonprofit organization, it shall be received at the office of the nonprofit organization within 120 days after the end of each calendar year quarter.

12 VAC 5-218-90. Establishment of annual fee.

There shall be no fees levied for outpatient surgical data submitted for the first four calendar quarters of data submission.

/s/ James S. Gilmore, III
Governor
Date: September 5, 2001

VA.R. Doc. No. R02-45; Filed October 16, 2001, 1:07 p.m.



GOVERNOR

EXECUTIVE ORDER 84 (01)

ESTABLISHING THE VIRGINIA POST-ATTACK ECONOMIC RESPONSE TASK FORCE AND OFFERING AID TO DISPLACED WORKERS

By virtue of the authority vested in me by § 44-146.17 of the Code of Virginia, as Governor and as Director of Emergency Management, and by virtue of the authority vested in me by Article V, Section 7 of the Constitution of Virginia, and subject always to my continuing and ultimate authority and responsibility to act in such matters, I hereby establish the Virginia Post-Attack Economic Response Task Force.

Preamble

The terrorist attacks of September 11, 2001 on the World Trade Center in New York City and on the Pentagon in Arlington, Virginia, resulted in significant loss of life and property. President George W. Bush declared a state of emergency in the affected areas, and I declared a state of emergency to exist within the Commonwealth. In addition to the immediate devastating impact of these terrorist attacks, there has been a significant disruption of national and state economic systems. Financial, transportation, trade, and tourism activities have all been impacted to varying degrees. As the consequences of this catastrophe continue to unfold, it is imperative that the Commonwealth be positioned to respond.

To assist the businesses and workforce of the Commonwealth in dealing with the adverse impacts of these terrorist attacks, I am establishing the Virginia Post-Attack Economic Response Task Force. This group will be comprised of individuals from business, government, labor, public interest and professional associations from across the Commonwealth and will work strategically to coordinate Virginia's economic response to the September 11 terrorist attacks.

Immediate Assistance for Displaced Workers

Thousands of workers have been displaced by the September 11 attack and the subsequent closure of Reagan National Airport. Accordingly, I hereby suspend the requirements that claimants for unemployment benefits serve a one-week waiting period after becoming unemployed before becoming eligible for benefits for those claimants whose job loss or suspension resulted from the September 11 terrorist attacks.

I further direct the Virginia Employment Commission to take all appropriate additional steps to assist workers displaced as a result of the closure of Reagan National Airport. Immediately, the Virginia Employment Commission shall:

1. Establish an office at Reagan National Airport to assist workers in securing benefits;
2. Allow employees to file a short form for unemployment insurance;
3. Waive the work search requirement until a decision is made with regard to the status of Reagan National Airport; and

4. Allow for backdating of unemployment claims to September 9, 2001.

Virginia Economic Response Taskforce

I hereby create the Virginia Post-Attack Economic Response Task Force (the "Task Force"), which shall advise the Governor on the development and implementation of an updated comprehensive statewide strategic economic development plan. The Task Force is classified as a gubernatorial advisory board, in accordance with § 9-6.25 of the Code of Virginia. The Task Force shall:

1. Assess the level and nature of impacts on the state's economy, businesses and workforce;
2. Develop and implement a long-term economic response strategy;
3. Coordinate the provision of federal, state and private funding;
4. Provide technical assistance to affected business and communities; and
5. Serve as a catalyst for public and private community partnerships to promote economic growth.

The Chairman of the Task Force shall be the Secretary of Commerce and Trade, with legal counsel provided by the Office of the Attorney General. The Task Force shall be comprised of work groups organized around the areas of economic development, tourism, workforce, ground transportation, aviation, financial, agriculture, ports, legal services and such other groups as determined either by myself or the Task Force Chairman. Each work group will include representatives from appropriate state agencies and institutions of the Commonwealth as determined by the Task Force Chairman. The private sector and local governments shall be represented on the Task Force, including, but not limited to, a representative from the following entities: County of Arlington, City of Alexandria, Loudoun County, Fairfax County, Virginia Chamber of Commerce, Virginia Manufacturers Association, Northern Virginia Coalition of Chambers of Commerce, Greater Washington Board of Trade, Hampton Roads Partnership, Hampton Roads Maritime Association, International Longshoreman's Association, Virginia State AFL-CIO, Metropolitan Washington Airports Authority, Virginia NAACP, Virginia Agribusiness Council, Virginia Bar Association, Virginia Farm Bureau, Virginia Economic Developers Association and Virginia Hospitality and Travel Association. The Task Force Chairman may add additional entities to the Task Force that will assist in accomplishing the Task Force activities.

The Chairman of the Task Force is authorized to create a Steering Committee composed of between 12 and 25 members, which shall be drawn from the membership of the Task Force. Members of the Task Force and the Steering Committee shall serve without compensation, but may be reimbursed for expenses incurred in the discharge of their official duties only upon prior approval of the Secretary of Commerce and Trade or his designee.

Staff support necessary for the conduct of work of the Task Force during the term of its existence shall be provided by the Office of the Governor, the Secretariat of Commerce and Trade, public institutions of higher education, public authorities, and other executive branch agencies with closely and definitely related purposes as the Governor may from time to time designate.

Upon my approval, the costs incurred by the Task Force in performing its mission as described herein shall be paid out of the sum sufficient appropriation for Disaster Planning and Operations contained in Item 45 of Chapter 1073, 2000 Virginia Acts of Assembly, or any other funds available for such purpose. The Office of the Secretary of Finance, in conjunction with the Secretary of Commerce and Trade, shall coordinate the fiscal activities for any monies received or expenses related to the activities associated with the economic response.

The Task Force shall complete its work and issue a final report to the Governor as directed by the Governor. It shall also issue such interim reports and recommendations, as it deems appropriate or upon the Governor's request.

This Executive Order shall be effective retroactive to September 19, 2001 and shall remain in full force and effect until June 30, 2002, unless sooner amended or rescinded by further executive order.

Given under my hand and under the Seal of the Commonwealth of Virginia this the 27th day of September, 2001.

/s/ James S. Gilmore, III, Governor

GENERAL NOTICES/ERRATA

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Guidelines for Enforcement Virginia Animal Pound and Shelter Civil Penalty Assessment Decision Matrix

AUTHORITY TO ASSESS CIVIL PENALTIES

The Board of Agriculture and Consumer Services shall implement a civil penalties program for Virginia's animal pounds and shelters through the Commissioner of Agriculture and Consumer Services (Commissioner) and Virginia Department of Agriculture and Consumer Services staff, to include the Director of the Division of Animal Industry Services (State Veterinarian) and Division of Animal Industry Services staff.

STATEMENT OF PURPOSE

This guideline provides direction to the State Veterinarian and the State Veterinarian's Representative in evaluating the civil penalty that may be considered to be appropriate for various violations pursuant to §§ 3.1-796.96 (H) and 3.1-796.120(C), Code of Virginia. It is designed to insure (based upon the evidence collected by the State Veterinarian's representative while inspecting the facilities or vehicles, including but not limited to the inspection evaluation form and other documentation) that violations committed by pounds and animal shelters of the Comprehensive Animal Laws will be evaluated, and penalties will be uniformly assessed, to the extent practicable, by the Board of Agriculture and Consumer Services.

1.1. DEFINITIONS

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

Animal shelter means a facility which is used to house or contain animals and which is owned, operated, or maintained by a duly incorporated humane society, animal welfare society, society for the prevention of cruelty to animals, animal rescue group, or any other organization devoted to the welfare, protection, and humane treatment of animals.

Board means the Board of Agriculture and Consumer Services.

Civil Penalty Assessment Report means a written analysis, which includes an evaluation of the inspections reports and supporting documentation as well as a recommendation for civil penalties based on the penalty point system, and is prepared by the Program Supervisor, Office of Veterinary Services.

Commissioner means the Commissioner of Agriculture and Consumer Services.

Comprehensive Animal Laws mean Chapter 27.4, Title 3.1 of the Code of Virginia of 1950, as amended.

Isolation area means an area that provides separation from or no contact with all other animals and the general public.

Non-compliant item means a deficiency found in a pound or animal shelter that is not in accordance with the Comprehensive Animal Laws, any other state law governing the care or protection of animals applicable to shelters, any regulations promulgated by the Board of Agriculture and Consumer Services (applied to counties and independent cities only), and directives issued by the Department of Agriculture and Consumer Services.

Letter of Information means a written notification to the responsible party that non-compliant issues or items have been identified during the pound or shelter inspection process.

Notice of Violation and Penalty Assessment means a written notification from the State Veterinarian to the responsible party, that identifies the specific violation(s) committed and indicates the amount of the civil penalties based on the penalty point system.

Pound means a facility operated by the Commonwealth, or any locality, for the purpose of impounding or harboring seized, stray, homeless, abandoned, or unwanted animals; or a facility operated for the same purpose under a contract with any county, city, town, or incorporated society for the prevention of cruelty to animals.

Previous violation means any violation, that has occurred within the two-year period preceding the current violation, of (i) the Comprehensive Animal Laws (Chapter 27.4, Title 3.1 of the Code of Virginia), (ii) any regulations adopted pursuant thereto, or (iii) any other state law governing the care or protection of animals.

Program Coordinator means a veterinarian employed by the Virginia Department of Agriculture and Consumer Services, Division of Animal Industry Services, Office of Veterinary Services who is under the direction of the State Veterinarian.

Program Supervisor means an individual employed by the Virginia Department of Agriculture and Consumer Services, Division of Animal Industry Services, Office of Veterinary Services who is under the direction of the Program Coordinator.

Regional Veterinary Supervisor means a veterinarian employed by the Virginia Department of Agriculture and Consumer Services, Division of Animal Industry Services, Office of Veterinary Services who is under the direction of the Program Coordinator.

State Veterinarian means the veterinarian employed by the Commissioner of Agriculture and Consumer Services as provided in § 3.1-723 of the Code of Virginia.

State Veterinarian's representative means an employee of the Department of Agriculture and Consumer Services who is under the direction of the State Veterinarian.

Violation means a failure to correct any noncompliant item identified by the State Veterinarian or a State Veterinarian's representative.

1.2. PROVISION FOR CIVIL PENALTIES GENERALLY

Any pound violating a provision of the Comprehensive Animal Laws or any regulations adopted pursuant thereto, in accordance with § 3.1-796.96 (H) may be assessed a civil penalty by the Board in an amount not to exceed \$1,000 per violation. Any animal shelter violating the Comprehensive Animal Laws or any laws governing the care or protection of animals in accordance with § 3.1-796.120 (C) may be assessed a civil penalty by the Board in an amount not to exceed \$1,000 per violation. Pounds and animal shelters will be inspected and non-compliant items evaluated by the State Veterinarian or a State Veterinarian's representative.

1.3. INSPECTION PROCESS AND CORRECTIVE ACTION

A. Semi-annual Inspections of animal pounds and shelters are performed by a State Veterinarian's representative. Each noncompliant item will be documented during the inspection. Within a reasonable time after the inspection, the responsible personnel involved with the pound or animal shelter will be provided copies of the inspection report and, except as provided in B., a Letter of Information. The Letter of Information will include substantiating documentation, an explanation of the deficiency and relevant section(s) of the Code of Virginia, regulation(s) or directive(s) along with specific recommendations for corrective measures and a timetable for such corrections. In no instance will a Letter of Information make any determination of violation.

B. In cases related to death or suffering of the animals, the State Veterinarian's representative may:

- i. Immediately refer the case along with supporting documentation to the Program Supervisor, Office of Veterinary Services, for assessment of civil penalties or,
- ii. The State Veterinarian's representative will re-inspect the facility at an appropriate time based on the impact of the deficiencies on the health of the animals in the pound/shelter.

1.6. PENALTY POINT SYSTEM

The point system shown on the following pages will be used to determine the amount of the civil penalty.

A. Violations

Authority	Type of Violation	Point Range (1 point = \$100)
§ 3.1-796.112	Failure to comply with any order from a State Veterinarian's representative.	7-10 points per violation
§ 3.1-796.111	Interference with the State Veterinarian or designated representatives in the performance of their duties.	7-10 points per violation
§ 3.1-796.96 § 3.1-796.119 2 VAC 5-110-80	Failure to comply with any Directive of the State Veterinarian, including, but not limited to, Division Administration Directive 79-1, "Methods Prescribed or Approved for Animal Euthanasia and Competency Certification Requirements." Such violations include, but are not limited to:	7-10 points per violation

If the legally responsible entity has not adequately corrected noncompliant items within the assigned timetable, the State Veterinarian's representative may refer the inspection reports and supporting documentation to the Program Supervisor for assessment of civil penalties.

1.4. ASSESSMENT OF SEPARATE VIOLATIONS

Each violation of

- (i) the Comprehensive Animal Laws,
- (ii) any regulations adopted pursuant thereto, and
- (iii) any other state law governing the care or protection of animals,

may be assessed separately for the purpose of determining the total civil penalty assessment.

1.5. CRITERIA IN DETERMINING THE AMOUNT OF CIVIL PENALTY

Sections 3.1-796.96(H) and 3.1-796.120(C) of the Comprehensive Animal Laws direct that in determining the amount of any civil penalty, the Board shall consider

- (i) the history of previous violations at either the pound or animal shelter;
- (ii) whether the violation has caused injury to, death or suffering of an animal; and
- (iii) the demonstrated good faith of the locality [§ 3.1-796.96(H)] or the operator [§ 3.1-796.120(C)] to achieve compliance after notification of the violation.

Any violations that occurred previously (either exactly the same violation or violations of the same type) within a two-year period, may receive an additional penalty of twice the penalty previously assessed for such violation. Any violation, which has caused injury to, death or suffering of an animal, may be more heavily weighted within the range of points which can be assessed for such violation. Good faith efforts may be rewarded with positive points under § 1.6 (B).

General Notices/Errata

Directive 79-1	<p><u>By injection:</u></p> <ul style="list-style-type: none"> • Failure to administer euthanasia by injection in accordance with Division Administration Directive 79-1. • Failure of individuals performing euthanasia to be competency certified to administer drug. <p><u>Use of firearms for circumstances other than:</u></p> <ul style="list-style-type: none"> • Animal showing active signs of rabies and confinement is impossible or impracticable. • Dog in act of killing or injuring livestock/poultry. • Conditions do not permit euthanasia by injection or carbon monoxide. <p><u>Carbon Monoxide:</u></p> <ul style="list-style-type: none"> • Failure to operate chamber in accordance with Directive 79-1. • Failure of individual(s) operating chamber to be competency certified. 	
§ 3.1-796.96 2 VAC 5-110-80 Directive 79-1	Failure to positively determine animals to be dead before carcass disposal.	7-10 points per violation
§ 3.1-796.96 2 VAC 5-110-80 Directive 79-1	Failure of individual(s) performing confirmation of death to be competency certified.	7-10 points per violation
§ 3.1-796.96 § 3.1-796.122	Premature euthanasia for reasons other than improper record keeping.	7-10 points per violation
§ 3.1-796.67 § 3.1-796.68 2 VAC 5-150	Failure of pounds to comply with 2 VAC 5-150, "Rules and Regulations Governing the Transportation of Companion Animals" which directly results in suffering or death to an animal. (This does not apply to animal shelters.)	7-10 points per violation
§ 3.1-796.68 §3.1-796.122	Failure of animal shelters to comply with the Comprehensive Animal Laws that directly results in suffering or death of an animal.	7-10 points per violation
§ 3.1-796.126:1	Failure to execute a Sterilization Agreement between the adopting agency and the new owner of an adopted animal.	5-10 points per violation
§ 3.1-796.66 § 3.1-796.68 2 VAC 5-110-10 2 VAC 5-110-20 §3.1-796.66 2 VAC 5-110-70 2 VAC 5-110-40 2 VAC 5-110-50	<p>Failure to provide adequate care and handling of animals as established by Title 9, Code of Federal Regulations, Part 3 – Standards, or by the Code of Virginia definitions of "Adequate care," "Adequate exercise," "Adequate water," "Adequate feed," "Adequate shelter," "Adequate space," "Treatment or adequate treatment," or any other definition within such regulations or the Code of Virginia that applies to the care and handling of animals, including but not limited to:</p> <ul style="list-style-type: none"> • Failure to provide an adequate quantity and quality of water in a clean, cleanable, non-corrosive, durable, non-toxic container, • Failure to provide an adequate quantity and quality of feed in a clean, cleanable, non-corrosive, durable, non-toxic container, • Failure to provide a reasonably comfortable climate appropriate for the age, species, condition, size and type of animal, • Failure to provide a safe environment. 	5-10 points per violation
§ 3.1-796.68 2 VAC 5-110-100	<p>Failure to provide adequate veterinary care as necessary to prevent suffering, including, but not limited to:</p> <ul style="list-style-type: none"> • Failure to provide veterinary care for injured or diseased animals not immediately euthanized. • Failure to provide an adequate isolation area, • Failure to put animals in an isolation area. 	5-10 points per violation

General Notices/Errata

§ 3.1-796.105	<p>Failure to maintain proper records which results in the premature euthanasia or the premature adoption of animals such as the failure to record the following information for any animal taken into custody:</p> <ul style="list-style-type: none"> • Date on which animal was taken into custody, • Date of creation of record, • Description of the animal including species, color, breed, sex, approximate age and approximate weight, • Reason for taking custody of animal and location where custody was taken, • Name and address of owner, if known, • Any license/rabies tag, tattoo, collar or other identification number carried by or appearing on the animal, and • Disposition of animal. 	5-10 points per violation
§ 3.1-796.104:1	Failure of Animal Control Officer to successfully complete an approved basic animal control officer training course within two (2) years after hire date as an animal control officer.	5-10 points per violation
§ 3.1-796.68 2 VAC 5-110-40 2 VAC 5-110-60 2 VAC 5-110-70	<p>Failure to properly clean facility, including, but not limited to:</p> <ul style="list-style-type: none"> • Failure to properly clean and disinfect due to structural deficiencies such as cracked floors and peeling paint on walls and floors, • Failure to clean and properly disinfect at least once a day – more frequently if animals are ill or diseased – the floors, walls, cages, pallets, resting surfaces, and any other areas that animals occupy. • Failure to prevent insect and/or rodent infestation. 	3-8 points per violation
§ 3.1-796.66 § 3.1-796.68 2 VAC 5-110-50	Failure to provide adequate space for animals in enclosure in violation of the standards established by Title 9, Code of Federal Regulations, Part 3 – Standards, or by provisions of the Code of Virginia definition of ‘Adequate space.’	3-8 points per violation
2 VAC 5-110-40	Failure to separate animals by species, age, sex, and temperament.	3-8 points per violation
2 VAC 5-110-70	Failure to properly store feed.	3-8 points per violation
§ 3.1-796.105	<p>Failure to maintain record keeping and identification that does not result in the premature euthanasia or premature adoption of animals such as lack of any of the following:</p> <ul style="list-style-type: none"> • Date on which animal was taken into custody, • Date of creation of record, • Description of the animal, including species, color, breed, sex, approximate age and approximate weight, • Reason for taking custody of animal and location where custody was taken, • Name and address of owner, if known, • Any license/rabies tag, tattoo, collar or other identification number carried by or appearing on the animal, and • Disposition of animal. 	3-8 points per violation
2 VAC 5-110-40	Failure to take reasonable steps to prevent theft or escape of animals.	3-8 points per violation
§ 3.1-796.67 § 3.1-796.68 2 VAC 5-150	<p>Failure of pounds to comply with 2 VAC 5-150, “Rules and Regulations Governing the Transportation of Companion Animals.” *</p> <p>*[Parts I and II of 2 VAC 5-150 apply to both pounds and humane societies.]</p>	3-8 points per violation
§ 3.1-796.104:1	Failure of Animal Control Officer to successfully complete 15 hours of continuing education every three (3) years.	3-5 points per violation

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<p>§ 3.1-796.96 2 VAC 5-110-80 Directive 79-1</p> <p>§ 3.1-796.96</p>	<p>Disposal of animals by any method other than:</p> <ul style="list-style-type: none"> • Humane euthanasia according to Directive 79-1, "Methods Prescribed or Approved for Animal Euthanasia and Competency Certification Requirements." • Gift or sale to a federal agency, licensed federal dealer, agency of the Commonwealth or another state, or state supported institution. • Delivery to a humane society in Virginia or in another state, if out-of-state facility has been approved by the State Veterinarian. • Adoption to a resident of the city or county or adjacent city/county in Virginia for which a pound is operated. No more than two (2) animals or families of animals may be adopted to any one person within a 30-day period. • Return to owner. • Adoption to any person if the animal is first sterilized. 	<p>3-5 points per violation</p>
<p>§ 3.1-796.105</p> <p>§ 3.1-796.115</p> <p>§ 3.1-796.119 Directive 83-1</p> <p>§ 3.1-796.122</p>	<p>Failure to:</p> <ul style="list-style-type: none"> • Provide required annual summary reports to the State Veterinarian. • Complete and submit required agricultural animal seizure reports to the State Veterinarian, as appropriate. • Use drugs and drug administering equipment approved by the State Veterinarian to capture companion animals. • Comply with any other provision of the Comprehensive Animal Laws not mentioned elsewhere in this matrix. 	<p>1-10 points per violation</p>
<p>§ 3.1-796.96</p> <p>§ 3.1-796.92:2</p>	<p>Previous violation documented within two years.</p>	<p>Twice the previous point assessment for the violation</p>
<p>§ 3.1-796.96</p> <p>§ 3.1-796.96:2</p>	<p>Failure to pay any civil penalty assessed.</p>	<p>Total amount of civil penalty is added for each day original penalty is not paid</p>

B. Credit for good faith in attempting to achieve compliance.

Authority	Good Faith Credit Category	Points
<p>§ 3.1-796.96</p> <p>§ 3.1-796.96:2</p>	<p>Immediate action taken to abate the violation and correct any violative conditions during the time of inspection.</p> <p>Actions taken in response to violations caused by circumstances beyond the control of the pound or shelter.</p>	<p>Up to Full Value</p>
<p>§ 3.1-796.96:2</p>	<p>Prompt and diligent efforts made within 30 days of the inspection to abate the violation and correct any violative conditions within a reasonable period of time, not to exceed 60 days.</p>	<p>Up to Half Value</p>

Note: Failure to comply with state laws/regulations or local ordinances governing the disposal of solid waste or dead animals will be reported to appropriate authorities. The Department of Agriculture and Consumer Services will not assess civil penalties in such cases.

1.7. CIVIL PENALTY ASSESSMENT PROCEDURE

A. Regional veterinary supervisor forwards inspection reports and supporting documentation to the Program Supervisor, Office of Veterinary Services, for review and analysis. The

Program Supervisor shall consider any information relating to the "Good Faith Effort" to correct deficiencies, such as, but not limited to, copies of all relevant contractual obligations, letters of intent and a written commitment to bring the facility into compliance within a specified period of time.

B. The Program Supervisor reviews inspection reports and supporting documentation.

C. The Program Supervisor prepares a proposed "Civil Penalty Assessment Report" including any documentation of

"Good Faith Effort" and sends the proposed assessment to the Program Coordinator, Office of Veterinary Services.

D. The Program Coordinator reviews and adjusts, if indicated, the proposed assessment, based on the facts and merits of the case. The Program Coordinator forwards the proposed assessment and supporting documentation to the State Veterinarian.

E. If a civil penalty is warranted, the State Veterinarian will send to the responsible party:

- (i) A proposed "Notice of Violation and Penalty Assessment,"
- (ii) The completed "Civil Penalty Assessment Report," and
- (iii) An explanation of the fact basis for the civil penalty.

Such notice will inform the responsible party that he or she:

- (i) May agree to the assessment, sign a consent resolution, and pay the civil penalty (due within 30 days after the date of the notice), or
- (ii) May attend an informal fact finding conference pursuant to § 2.2-4019 of the Code of Virginia (1950) as amended.¹

F. Following the informal fact finding conference, the State Veterinarian will send to the responsible party a written final notice (certified mail) of the findings, along with the fact basis for the findings, and the civil penalty.

G. The State Veterinarian will report to the Board all findings in which civil penalties are assessed:

- (i) In cases disposed of by consent resolution with the State Veterinarian, the Board shall ratify the findings of the State Veterinarian.
- (II) In cases that have not been disposed of through consent resolution with the State Veterinarian, the responsible party may appear before the Board to present information as to the appropriateness of the civil penalty. He or she may do so at the next meeting of the Board, or if that meeting is less than 30 days following receipt of the State Veterinarian's findings, then at the next meeting thereafter that is at least 30 days after receipt of the findings. However, the responsible party has no right to retry the matter before the Board. The Board may establish limits on how much time the responsible party will be afforded to address the Board with respect to the State Veterinarian's findings and the civil penalty. After the responsible party has appeared before the Board (or after his opportunity to appear before the Board has expired), the Board shall either ratify the findings of the State Veterinarian or issue its own findings.

H. If the civil penalty is not paid within the allowed time period, the case will be referred to the Office of the Attorney General for further action. All civil penalties assessed shall be recovered in a civil action brought by the Attorney General in

¹ The notice of informal fact finding conference shall include a proposed time, date, and place for holding the informal fact finding conference. Once the time, date, and place have been set, the responsible party will have one opportunity to arrange for a different time, date, and place.

the name of the Commonwealth. Such civil penalties shall be paid into a special fund in the state treasury to the credit of the Department to be used in carrying out the purposes of the Comprehensive Animal Laws.

Division of Animal Industry Services

Registrar's Notice: Appendices A through H referenced in the following directive are not being published in *The Virginia Register of Regulations*. The appendices are available for public inspection at the Department of Agriculture and Consumer Services, 1100 Bank Street, Richmond, VA 23219, telephone (804) 786-2373 or at the Office of the Registrar of Regulations, General Assembly Building, 2nd Floor, 910 Capitol Street, Richmond, VA 23219, telephone (804) 786-3591.

Division Administration Directive Number 79-1

Date: November 29, 1979

Revision: August 1, 2001

Effective: August 1, 2001

Methods Prescribed or Approved for Animal Euthanasia and Competency Certification Requirements

I. PURPOSE

This Directive sets forth methods that are currently prescribed and approved by the State Veterinarian for the euthanasia of animals by any person pursuant to the provisions of Title 3.1, Chapter 27.4 of the Code of Virginia (1950), as amended.

II. AUTHORITY

Title 3.1, Chapter 27.4, Article 4, § 3.1-796.96 D of the Code of Virginia states, in part, ". . . Any animal destroyed pursuant to the provisions of this chapter shall be euthanized by one of the methods prescribed or approved by the State Veterinarian."

Title 54.1, Chapter 34, § 54.1-3425 of the Code of Virginia states, in part, that the Board of Pharmacy ". . . may issue, upon such terms and conditions as it finds proper, to any humane society making application, a limited permit only for the purpose of buying, possessing, and using any drug approved by the State Veterinarian for the purpose of euthanizing injured, sick, homeless, and unwanted domestic pets and animals. . . ."

III. APPROVED METHODS

All euthanasia must be performed humanely, by a competency-certified individual, (See Appendix A - Euthanasia Competency Certification for further details.) and use one of the approved methods listed below:

A. Routine Euthanasia. All situations – possible exceptions indicated under Emergency Euthanasia.

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1. Sodium Pentobarbital, with or without lidocaine. Humanely administered intravenously or intraperitoneally, with or without prior sedation by an approved pre-euthanasia method. Intracardiac administration may be used only when the animal is anesthetized or comatose. (See Appendix B for dosages and further details.)
 2. Carbon Monoxide Gas. Humanely administered, commercial-grade gas dispensed from a cylinder into an appropriately constructed and functioning chamber, with or without prior sedation of the animal with acepromazine (See Section III, C. under pre-euthanasia). **NOT APPROVED FOR YOUNG ANIMALS, PUPPIES OR KITTENS UNDER 8 WEEKS OF AGE.** (See Appendix C for chamber and operating requirements and further details.)
 3. Drugs and/or Methods. Drugs and/or methods considered and recommended as humane by the most recent report of the American Veterinary Medical Association's Panel on Euthanasia.
- B. Emergency Euthanasia.** When euthanasia is required, but no other method of routine euthanasia is possible, and all other conditions for use of the following methods are met:
1. Sodium Pentobarbital, with or without lidocaine. Humanely administered intravenously or intraperitoneally, with or without prior sedation by an approved pre-euthanasia method. Intracardiac administration may be used only when the animal is anesthetized or comatose. (See Appendix B for dosages and further details.)
 2. Firearms. Approved for use only when all of the following conditions are met:
 - a. Euthanasia is performed pursuant to:
 - (1) § 3.1-796.98 when an animal is "showing active signs of rabies or suspected of having rabies" and for which "confinement is impossible or impracticable," or
 - (2) § 3.1-796.116 when dogs are "in the act of killing or injuring livestock or poultry";
 - b. Approved methods of humane capture have been unsuccessfully attempted or are not possible (e.g., a dog which is in the act of killing or injuring livestock or poultry, animals that are an immediate danger to the public or a police or animal control officer, such as but not limited to, an animal that is loose on a road and is causing an immediate danger to the public, or an animal running at large that is exhibiting active symptoms of rabies.);
 - c. Conditions permit the safe utilization and discharge of a rifle or pistol without jeopardy to the public or other non-targeted animals;
 - d. All local and state laws, rules and regulations or ordinances governing the use of firearms are followed;
 - e. Euthanasia is performed by a person that is trained and competency-certified in the:
 - (1) Use of the firearm to be used,
 - (2) Accurate placement of the projectile (i.e., the bullet) in the brain or heart* of the animal at the appropriate

location for the species so as to cause instant unconsciousness or death.

*NOTE: Only for animals in field situations in which locating and hitting the brain of the animal by gunshot is not possible or is inappropriate (as in the case of a rabid animal for which the intact brain may be required).

f. Any animal that can reasonably be considered to be, or is capable of being, under the direct control or custody of an animal control officer (including critically ill, critically injured or unweaned animals) are to be euthanized **ONLY** by means of an approved method of routine euthanasia, i.e., sodium pentobarbital or carbon monoxide, **NOT** by the use of firearms.

Firearms are also approved for use, by Virginia State Police and local law enforcement officers in emergency situations; i.e., when an animal is placing the public or the officer in immediate danger, or, when an animal control officer is not available and humane euthanasia is necessary.

C. Pre-Euthanasia. The following methods are approved for use **ONLY** as a means of preliminary sedation of an animal in preparation for and as an aid in the humane euthanasia of an animal, but **NOT** for use as the primary means of euthanasia.

1. Acepromazine Maleate. Administered intramuscularly, subcutaneously or orally. See Appendix D for dosages and further details.
2. Xylazine Hydrochloride (e.g., trade name Rompun). Administered intramuscularly (in dogs and cats) or subcutaneously (in dogs only). See Appendix D for dosages and further details.
3. Ketamine Hydrochloride-Xylazine Hydrochloride Combination. **CARNIVORES ONLY.** Administered intramuscularly only. See Appendix D for dosages and further details.
4. Sodium Pentobarbital, with or without lidocaine. Administered intravenously or intraperitoneally. See Appendix D for dosages and further details.

IV. GENERAL CONSIDERATIONS FOR EUTHANASIA

A. According to the 2000 Report of the American Veterinary Medical Association's Panel on Euthanasia, "The need to minimize animal distress, including fear, anxiety, and apprehension, must be considered in determining the method of euthanasia. Distress vocalizations, fearful behavior, and release of certain odors or pheromones by a frightened animal may cause anxiety and apprehension in other animals. Therefore, whenever possible, other animals should not be present when euthanasia is performed, especially euthanasia of the same species."

B. According to Regulation 2 VAC 5-110-90 B, issued pursuant to § 3.1-796.96 of the Code of Virginia, after euthanasia of an animal, death must be positively confirmed before disposal of the carcass. Therefore, each animal is to be carefully examined for:

1. Lack of heartbeat*,

2. Lack of respiration*, and
3. Lack of corneal (i.e., eye) and/or toe-pinch reflexes.

*The use of a stethoscope to check for lack of heartbeat and respiration is quick and easy to learn. It is also more reliable than visual observation or palpation of the thorax, and should be used.

C. The approval of any drug, drug combination, euthanizing agent, method of euthanasia or pre-euthanasia medication does NOT sanction the procurement or use of such drugs, agents or methods by any person in violation of state or federal law.

V. COMPETENCY CERTIFICATION REQUIREMENTS

Detailed information on the competency certification requirements can be found in the following appendices:

- A. Appendix A – Euthanasia Competency Certification
- B. Appendix B - Sodium Pentobarbital
- C. Appendix C - Carbon Monoxide
- D. Appendix D - Pre-euthanasia Methods
- E. Appendix E - Competency Certification Form – Injectable Euthanasia and Capture Drugs
- F. Appendix F - Competency Certification Form – Carbon Monoxide
- G. Appendix G - Competency Certification Form – Firearms and Capture Systems (Part I & Part II)
- H. Appendix H - Competency Certification Form – Positive Determination of an Animal's Death

VI. APPROVAL OF ADDITIONAL METHODS AND PROCEDURES

The State Veterinarian reviews animal euthanasia research. New or improved methods, which are proven to be acceptable, will be added to the approved list.

Local authorities or individuals seeking approval of specific alternative methods of animal euthanasia must submit a written request for consideration of the proposal to:

State Veterinarian/Director
Division of Animal Industry Services
P.O. Box 1163
Richmond, VA 23218

The request must include a detailed explanation of the proposed alternative method, substantive justification for the request, substantive reasons why the currently approved or prescribed methods cannot be used, and how the proposed deviation or alternative will resolve the reasons/problems, and sufficient objective and supportable evidence that the proposed deviation or alternative is at least as humane as the currently approved methods of euthanasia identified in this directive.

Reviewed and approved this 1st day of August 2001.

/s/ William M. Sims, Jr., DVM, MS
State Veterinarian

Division Administration Directive Number 83-1

Date: January 3, 1983

Revision: August 1, 2001

Effective: August 1, 2001

Approved Capture Drugs and Drug Administering Equipment

I. PURPOSE

This Directive sets forth capture drugs and drug administering equipment approved by the State Veterinarian for use in the capture of companion animals by animal wardens and other officers as defined in § 3.1-796.66 of the Comprehensive Animal laws (i.e., Title 3.1, Chapter 27.4 of the Code of Virginia, 1950, as amended).

II. AUTHORITY

Title 3.1, Chapter 27.4, § 3.1-796.119 of the Code of Virginia states, in part, “. . . All drugs and drug administering equipment used by animal control officers and other persons to capture companion animals pursuant to this chapter shall have been approved by the State Veterinarian.”

III. APPROVED DRUGS

The following drugs are approved for use in the capture of companion animals only when (i) the drug is administered by individuals appropriately trained and competency-certified to humanely administer the drug; (ii) the drug is used only in a species in which the U. S. Department of Health and Human Services, Food and Drug Administration (FDA) has approved the drug for use; and (iii) the drug is administered via an approved route of administration and in accordance with the manufacturer's recommendations: (See Appendix A for further details.)

A. Acepromazine maleate. Administered orally (tablet form only), subcutaneously, intramuscularly, or intravenously. (See Appendix A for further details.)

DO NOT USE IN ANIMALS (ESPECIALLY CATS) POTENTIALLY EXPOSED TO ORGANOPHOSPHATES SUCH AS INSECTICIDES, DIPS, OR FLEA COLLARS BECAUSE THIS DRUG MAY POTENTIATE SUCH POISONS.

B. Xylazine hydrochloride (e.g., trade name Rompun). Administered intramuscularly only. (See Appendix A for further details.)

C. Ketamine hydrochloride. Administered intramuscularly only.

NOTE: This drug is approved by the FDA for use only in cats and non-human primates. (See Appendix A for further details.)

D. Ketamine hydrochloride-Xylazine hydrochloride combination. Administered intramuscularly only.

NOTE: This drug may be used in all carnivores. (See Appendix A for further details.)

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E. Drugs and/or methods prescribed by a licensed veterinarian for use in the species involved, but ONLY if performed by or under the direct and immediate supervision of the licensed veterinarian so prescribing the method.

IV. APPROVED DRUG ADMINISTERING EQUIPMENT*

Equipment manufactured by the following named firms are approved for the humane capture of companion animals on the condition that:

- A. The users of the equipment are appropriately trained in the proper and humane use of the approved capture equipment;
- B. The users of the equipment follow the operating instructions prescribed by the manufacturer of the equipment;
- C. The equipment is well maintained and kept in a high state of repair at all times; and
- D. The animal is humanely captured.

CAP-CHUR Equipment
Palmer Chemical & Equipment Co., Inc.
P. O. Box 867, Palmer Village
Douglasville, GA 30133

DIST-INJECT Equipment
Glasgow Veterinary Supply
Fort Peck Route
Glasgow, MT 59230

PAXARMS Equipment
Telonics
932 East Impalla Avenue
Mesa, AZ 85204-6699

PNEU-DART Equipment
Pneu-Dart, Inc.
P.O. Box 1415
Williamsport, Pa 17703-1415

SHERIDAN Equipment
Benjamin Sheridan Corporation
Routes 5 & 20
East Bloomfield, NY 14443

SIMMONS Equipment
Zoolu Arms of Omaha
10315 Wright Street
Omaha, NE 68124

TELINJECT Equipment
Telinject, USA, Inc.
16133 Ventura Boulevard, Suite 635
Encino, CA 91436

*NOTE: THE STATE VETERINARIAN DOES NOT RECOMMEND THE EQUIPMENT PRODUCED BY ONE MANUFACTURER OVER THAT PRODUCED BY ANOTHER.

V. WRITTEN PROTOCOL FOR ANIMAL HANDLING AND CARE POST CAPTURE

Persons approved to use capture equipment and drug-administering equipment must have a written post capture protocol, which will include:

- A. The procedure for removing the dart from a captured animal,
- B. First aid care of the dart wound,
- C. The procedure for providing veterinary care to the animal immediately upon capture, and
- D. Appropriate location and handling of the animal during recovery from anesthesia.

VI. APPROVAL OF ADDITIONAL DRUGS AND DRUG ADMINISTERING EQUIPMENT

The Office of the State Veterinarian will monitor advances in research relative to drugs and drug administering equipment for use in capturing companion animals on a continuing basis. Chemical restraint drugs (i.e., capture drugs) and drug administering equipment which are proven to be acceptable will be added to the approved list.

Firms or individuals seeking approval of specific drugs or drug administering equipment for use in capturing companion animals must submit a written request for the consideration of such proposals to:

State Veterinarian/Director
Division of Animal Industry Services
P.O. Box 1163
Richmond, VA 23218

Requests to deviate from, or to use an alternative to the approved drugs or drug administering equipment, must be sent in writing to the State Veterinarian at the above address. The request must include a detailed explanation of the proposed deviation or alternative, substantive justification for the request, substantive reasons why the currently approved drugs or drug administering equipment cannot be used, and how the proposed deviation or alternative will resolve the reasons/problems, and sufficient objective and supportable evidence that the proposed deviation or alternative is at least as humane as the currently approved drugs or drug administering equipment identified in this directive.

Reviewed and approved this 1st day of August 2001.

/s/ William M. Sims, Jr., DVM, MS
State Veterinarian

Attachment: Appendix A

APPENDIX A

I. APPROVED DRUGS

APPROVED DRUG	APPROVED FOR	ROUTE OF ADMINISTRATION	DOSAGE
Acepromazine maleate	Dogs	Intra-muscular or subcutaneous Orally	0.25 to 0.5 mg/lb. 0.25 to 1 mg/lb.
	Cats	Intra-muscular or subcutaneous Orally	0.5 to 1 mg/lb. 0.5 to 1 mg/lb.

Xylazine hydrochloride	Dogs less than 50 lbs.	Intra-muscular or subcutaneous	1 mg./lb.*
	Dogs more than 50 lbs.	Intra-muscular	0.5 mg/lb.*
	Cats	Intra-muscular	1 mg/lb.
Ketamine hydrochloride	Cats	Intra-muscular	5 to 15 mg/lb.
	Non-human primates	Intra-muscular	3 to 15 mg/lb.
Ketamine HCL, Xylazine HCL, combination **	Carnivores	Intra-muscular	0.3 ml/10 lb.

*Species, routes and dosages approved by the FDA and listed in the manufacturer's recommendations. See also Section IV. of Appendix A.

**Use of this drug must be under the general supervision of a licensed veterinarian.

II. COMPETENCY CERTIFICATION REQUIRED

A. Any companion animal captured is only to be captured by a person or by persons that have been certified in writing by a Virginia-licensed veterinarian or other qualified individual as being properly trained and competent in the humane capture of animals by use of the specified approved capture drug(s) and equipment being used.

B. See Appendices A. through H. of Division of Animal Industry Services Division Administration Directive 79-1 for competency certification requirements and competency certification forms.

III. ADMINISTRATION OF CAPTURE DRUGS

A. Capture drugs are to be administered only by individuals that are appropriately trained and competency-certified to humanely use and administer the approved drug(s).

B. Capture drugs are to be administered only in the species in which the FDA has approved the drug(s) for use.

C. Capture drugs are to be administered only when administered via an approved route of administration for the species being given the approved drug and in accordance with the manufacturer's recommendations.

IV. GENERAL CONSIDERATIONS

A. If xylazine is to be given alone, the dosage and dose of the xylazine must be determined by a supervising, licensed veterinarian. As a rule, dogs weighing under 25 pounds should NOT be captured by chemical means using remote injection (e.g., by use of a dart gun).

B. According to author Leon Nielson, in his book Chemical Immobilization in Urban Animal Control Work,

"The dosage suggested...for the ketamine/xylazine combination of 5.0 mg of ketamine/kg* of body weight and 1.0 mg of xylazine/kg of body weight...for intramuscular injection in dogs only."

Nielson further states that,

"This regimen has produced immobilization (recumbency) in dogs in 2.6 – 3.6 minutes, with a recovery time of 131 and 110 minutes, respectively. The most practical way of preparing the mixture is to add 2 ml (200 mg) of xylazine to a 10 ml (1,000 mg) vial of ketamine. Testing has shown that this pre-mixed solution will remain stable with undiminished potency for 6 months. The dosage to use of the 5:1 combination is 6.0 mg/kg...."

The above dosage of the drug combination is calculated to be 0.027 ml per pound of body weight, or 0.81 ml per 30 pounds of body weight, using a 10% concentration of xylazine.

***Remember: 1.0 kilogram (1 kg) = 2.2 pounds.**

NOTE: Currently, ketamine hydrochloride has NOT been approved by the FDA for use in carnivores. Therefore, although the combination of xylazine and ketamine hydrochloride given at the dosages described above and using the appropriate drug administering equipment for the drug, animal and situation involved, is considered effective for use in the chemical capture of carnivores, the State Veterinarian can only acknowledge the effectiveness of this drug combination, but DOES NOT sanction the procurement or use of ketamine or any other drug in violation of state or federal law. Therefore, should this drug combination be used, it would be approved for use only if done under the lawful supervision of a licensed veterinarian.

C. According to the Virginia Board of Pharmacy, § 54-524.59 of the Code of Virginia authorizes animal wardens/animal control officers and law-enforcement officers "...in the employ of the United States government or of any state, territorial, district, county, municipal, or insular government..." to purchase, receive or possess any approved capture drug for use in the lawful capture of animals pursuant to Title 3.1, Chapter 27.4 of the Code of Virginia, "...by reason of his official duties."

STATE CORPORATION COMMISSION

Bureau of Insurance

AT RICHMOND, OCTOBER 5, 2001

COMMONWEALTH OF VIRGINIA

At the relation of the

STATE CORPORATION COMMISSION

CASE NO. INS010258

Ex Parte, In re: Assessment upon certain insurers to maintain the Virginia Birth-Related Neurological Injury Compensation Fund for Fund program year 2002 and subsequent Fund program years

ASSESSMENT ORDER

WHEREAS, pursuant to Virginia Code § 38.2-5021 A, the Bureau of Insurance has caused to be issued and filed herein an actuarial evaluation report of the Virginia Birth-Related

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Neurological Injury Compensation Fund ("Fund") for the 2000-2001 biennium together with projections for Fund program years 2002 and 2003;

WHEREAS, Virginia Code § 38.2-5020 E authorizes the Commission to assess annually all insurers licensed to write and engaged in writing the classes of insurance defined in Virginia Code §§ 38.2-117 through 38.2-119 and the liability portions of the classes of insurance defined in Virginia Code §§ 38.2-124, 38.2-125, and 38.2-130 through 38.2-132, if required to maintain the Fund on an actuarially sound basis, having taken into account the assessments collected pursuant to Virginia § 38.2-5020 D;

WHEREAS, based on the report filed herein, the Bureau of Insurance has recommended to the Commission that, for Fund program year 2002 and subsequent Fund program years and until further order of the Commission, the aforementioned insurers be assessed at the maximum rate of 1/4 of 1% of such insurers' net direct liability insurance premiums written in the Commonwealth of Virginia in the manner required in Virginia Code § 38.2-5020 E. Moreover, based on the report filed herein, the Bureau of Insurance has further recommended that the persons set forth in Virginia Code § 38.2-5021 B be notified that the Fund cannot be maintained on an actuarially sound basis subject to the maximum assessments set forth in Virginia Code § 38.2-5020 for at least Fund program years 2002 and 2003;

AND THE COMMISSION, having considered the report filed herein and the recommendations of the Bureau of Insurance, is of the opinion and finds that (i) an assessment upon certain insurers pursuant to Virginia Code § 38.2-5020 E as recommended by the Bureau of Insurance is required; and (ii) the Fund cannot be maintained on an actuarially sound basis subject to the maximum assessments set forth in Virginia Code § 38.2-5020 for Fund program years 2002 and 2003.

THEREFORE, IT IS ORDERED THAT:

(1) all insurers licensed to write and engaged in writing the classes of insurance defined in Virginia Code §§ 38.2-117 through 38.2-119 and the liability portions of the classes of insurance defined in Virginia Code §§ 38.2-124, 38.2-125, and 38.2-130 through 38.2-132 be, and they are hereby, ASSESSED, for Fund program year 2002 and subsequent Fund program years, and until further order of the Commission, at the maximum rate of 1/4 of 1% of their net direct liability insurance premiums written in the Commonwealth of Virginia, the exact amount of each insurer's assessment to be determined by the Bureau of Insurance in the manner required in Virginia Code § 38.2-5020 E;

(2) the Bureau of Insurance shall provide each affected insurer notice of the exact amount of its assessment together with a copy of this order; and

(3) the Bureau of Insurance shall cause a copy of this order and a copy of the report filed herein to be sent to those persons set forth in Virginia Code § 38.2-5021 B as and for the notice therein required.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to Elinor J. Pyles, Executive Director, Virginia

Birth-Related Neurological Injury Compensation Fund, 9100 Arboretum Parkway, Suite 365, Richmond, Virginia 23236; and the Bureau of Insurance in care of Mary M. Bannister, Deputy Commissioner and Brian P. Gaudiose, Administrative Services Manager.

* * * * *

AT RICHMOND, OCTOBER 5, 2001

COMMONWEALTH OF VIRGINIA

At the relation of the

STATE CORPORATION COMMISSION

CASE NO. INS010257

Ex Parte: In the matter of determining to reinstate the \$250 annual non-participating physician assessment for the Virginia Birth-Related Neurological Injury Compensation Fund pursuant to Virginia Code § 38.2-5020 G

ORDER REINSTATING NON-PARTICIPATING PHYSICIAN ASSESSMENT

WHEREAS, by order dated August 11, 1992, in Case No. INS920265, the Commission suspended the annual \$250 non-participating physician assessment for the Virginia Birth-Related Neurological Injury Compensation Fund ("Fund") pursuant to Virginia Code § 38.2-5020 G;

WHEREAS, pursuant to Virginia Code § 38.2-5021, the Bureau of Insurance caused to be issued and filed herein an actuarial evaluation report of the Fund for the biennium 2000-2001 and projections for Fund program years 2002-2003;

WHEREAS, based on the findings of the report filed herein, the Bureau of Insurance has recommended to the Commission that, pursuant to Virginia Code § 38.2-5020 G, the \$250 annual non-participating physician assessment be reinstated for Fund program year 2002 and subsequent Fund program years and until further order of the Commission;

AND THE COMMISSION, having considered the actuarial evaluation report filed herein and the recommendation of the Bureau of Insurance, is of the opinion, finds and ORDERS that the \$250 annual non-participating physician assessment for the Fund be, and it is hereby, REINSTATED for Fund program year 2002 and subsequent Fund program years and until further order of the Commission.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to Elinor Pyles, Executive Director, Virginia Birth-Related Neurological Injury Compensation Fund, 9100 Arboretum Parkway, Suite 365, Richmond, Virginia 23236; and the Bureau of Insurance in care of Deputy Commissioner of Insurance Mary M. Bannister.

Administrative Letter 2001-8

September 28, 2001

TO: ALL INSURERS LICENSED IN VIRGINIA

RE: EVENTS OF SEPTEMBER 11, 2001

In the aftermath of the tragic and horrific events of September 11, 2001, insurers and reinsurers will be called upon to respond expeditiously to claims for unforeseen and devastating losses of life and property. During the many months to follow, the insurance industry (the Industry) may be impacted yet again by the active engagement of U.S. Armed Forces, Reserves and National Guard. My staff and I are committed to ensuring that Virginia policyholders affected by the events of September 11th, as well as those events which may ensue, are provided with prompt and efficient service, and that the Industry will respond with sensitivity. I am confident that the Industry shares this same commitment and I have been pleased and gratified by its prompt and efficient response thus far to this disaster. Nevertheless, it is important to convey to the Industry that the Bureau of Insurance (the Bureau) expects continued cooperation in all efforts to assist affected consumers and to ensure compliance with all state and federal requirements relating to or resulting from these tragic events.

The following are the expectations of the Bureau with regard to carriers' actions in response to the events of September 11th. This list is not necessarily all-inclusive, but it highlights the Bureau's major areas of concern.

- Carriers intending to invoke war clauses, terrorism clauses, or the like, whether in Property and Casualty contracts or in Life and Health contracts, must immediately contact my office. Carriers must also contact my office if they become aware that a reinsurer intends to invoke such clauses.
- We expect all insurers to liberalize, to the fullest extent possible, any administrative requirements that may otherwise delay or impede the handling of claims, the collection of premiums, or any other functions relating to the administration or servicing of insurance contracts or plans. All carriers should make provisions for extending time limits, whether for payment of premium, election of policy options, submission of claims, or the like. Because of mail and transportation delays resulting from the events of September 11th, this extension of time limits should be applied generally to all contracts.
- Life insurers should adopt liberal proof of death requirements, particularly in circumstances where the survivors are unable to obtain a formal death certificate. Companies are encouraged to adopt the Affidavit form promulgated by the New York Insurance Department in 2001 Circular Letter No. 28.
- Property and Casualty insurers should adopt liberal proof of loss requirements.
- All carriers should implement immediate procedures to ensure compliance with President Bush's Executive Order

of September 24, 2001, blocking property and prohibiting transactions with persons who commit, threaten to commit, or support terrorism.

With respect to the active engagement of U.S. Armed Forces, National Guard and Reserves, carriers should review again the protections in §§ 38.2-508.1 and 38.2-2205.1 of the Code of Virginia and in 14 VAC 5-140-50 E, for those in military service or those in military reserves called to active duty, and implement any necessary procedures to ensure compliance.

My staff and I have every expectation that insurers operating in Virginia will of their own volition meet or exceed the above expectations, and that the Industry will respond to this challenge with full cooperation and appropriate sensitivity. We encourage carriers to contact my office with any questions or comments and to provide the Bureau with any other measures undertaken to ensure a rapid and efficient response to this tragedy.

/s/ Alfred W. Gross
Commissioner of Insurance

October 10, 2001

Administrative Letter 2001-9

TO: All Insurers Licensed to Market Accident and Sickness Insurance in Virginia, all Health Maintenance Organizations, and all Health Services Plans Licensed in Virginia

RE: SCC ADVISES AGENTS TO BEWARE WHEN SELLING HEALTH INSURANCE COVERAGE

NOTE: EACH INSURER, HEALTH MAINTENANCE ORGANIZATION OR HEALTH SERVICES PLAN RECEIVING THIS ADMINISTRATIVE LETTER IS INSTRUCTED TO PROVIDE A COPY TO EACH OF ITS CURRENTLY APPOINTED AGENTS, AND TO EACH NEWLY APPOINTED AGENT COMMENCING IMMEDIATELY.

Nationwide, the health insurance marketplace is facing tougher times. Across the country, the cost of health insurance is increasing and consumers cope with difficult choices. Into this climate enter shady operators seeking to take advantage of consumers. Calling themselves "ERISA exempt," "ERISA plans," "union plans," "association plans," or some variation thereof, these entities boast low rates and minimal or no underwriting.

These entities claim that they are not subject to state insurance regulation because of "ERISA." Some claim that agents are used only as "labor consultants" or "business agents" to "enroll" or "negotiate" with potential members, and not to sell. Such claims should be viewed with skepticism. It is a violation of Virginia law for a licensed or unlicensed individual or agency to solicit or sell an unauthorized insurance product.

Legitimate ERISA plans (plans governed by the federal Employee Retirement Income Security Act of 1974) and union plans may be exempt from state insurance regulation, which

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is why some individuals try to fool people by making these claims. However, legitimate ERISA or union plans are established by unions for their own members or by an employer for the employer's own employees. They are not sold by insurance agents.

A typical fraudulent health insurance scam attempts to recruit as many local insurance agents as possible to market the coverage. The health coverage is not approved by the Bureau of Insurance. Agents are told it is regulated by federal, not state law. In fact, it may be totally illegal. The coverage is typically offered regardless of the applicant's health condition and at lower rates and with better benefits than can be found from licensed insurers. The scam seeks to collect a large amount of premium as rapidly as possible. While claims may be paid initially, the scam will soon begin to delay payment and offer excuses for failure to pay. Unsuspecting consumers who thought they were covered for their medical needs are left responsible for huge medical bills. Employers may be liable for the medical bills of their employees as well.

Read all materials and websites carefully. Be suspicious, ask hard questions and do your homework. Make sure that the coverage is a state licensed insurance product by contacting the Bureau of Insurance. Ask for the name of the insurer and check the benefit booklet to see whether it names a licensed insurer that is fully insuring the coverage.

Consider the following list of some circumstances and plan characteristics that should prompt your very careful investigation, including contacting the Bureau of Insurance:

- Coverage that boasts low rates, generous benefits, and minimal or no underwriting.
- Coverage that indicates a license is not required because the coverage is not insurance or is exempt from regulation.
- Coverage that indicates it is an "employee leasing" arrangement with self-funded health coverage.
- Plans marketed as "ERISA" plans, "union" plans, or "association" plans.
- Plans that operate like insurance but claim that it is not.
- Plans covered only by "stop loss insurance" or "reinsurance."
- Plans that target individuals or groups with employees that have pre-existing conditions.

If you are approached to sell health coverage and it is represented as exempt from insurance regulation under "ERISA" or as a "union," you should check very carefully before agreeing to sell such a product. The insurance agent who does not check with the Bureau of Insurance takes an enormous risk. Pursuant to §§ 38.2-1802 of the Code of Virginia, representing an unlicensed insurer is a Class 1 misdemeanor. In addition to criminal penalties, the agent is subject to license revocation or suspension, civil fines, and may be subject to personal liability for any claims incurred under the unlicensed coverage. Insurance agents should contact the Bureau of Insurance at any time they are approached by an entity that seems suspicious.

In addition, the Bureau of Insurance has an informative website at <http://www.state.va.us/scc/division/boi/>. The website provides information on companies licensed to do business in the state, tips for buying insurance, consumer guides, and consumer alerts.

Questions regarding whether an AGENT is licensed, appointed, or needs to be licensed should be directed to:

Agents Licensing Section
Bureau of Insurance
P.O. Box 1157
Richmond, Virginia 23218
(804) 371-9631

Questions regarding whether a COMPANY is licensed or approved should be directed to:

Financial Regulation Division
Bureau of Insurance
P.O. Box 1157
Richmond, Virginia 23218
(804) 692-0467

/s/ Alfred W. Gross
Commissioner of Insurance

DEPARTMENT OF ENVIRONMENTAL QUALITY

Total Maximum Daily Load (TMDL) for Fecal Coliform on a 6.37 Mile Segment of Moore's Creek

The Department of Environmental Quality (DEQ) and the Department of Conservation and Recreation (DCR) seek written and oral comments from interested persons on the development of a Total Maximum Daily Load (TMDL) for fecal coliform on a 6.37 mile segment of Moore's Creek. This impaired segment is located in Albemarle County and the City of Charlottesville. The segment begins at the intersection of U.S. Route 29 and Route 1106 and extends to the confluence of the Rivanna River. The Virginia's 1998 303(d) TMDL Priority List and Report identified this segment as impaired due to violations of the State's water quality standard for fecal coliform.

Section 303(d) of the Clean Water Act and § 62.1-44.19:7 C of the Code of Virginia require DEQ to develop TMDLs for pollutants responsible for each impaired water contained in Virginia's 303(d) TMDL Priority List and Report.

The second public meeting on the development of the Moore's Creek TMDL will be held on Thursday, November 15, 2001, from 7 to 9 p.m. at the Jefferson Pre-school Center located at 201 4th Street, NW, Charlottesville, VA (across from the Vinegar Hill Shopping Center).

The public comment period will end on November 30, 2001. A fact sheet on the development of the TMDL for fecal coliform bacteria on Moore's Creek is available upon request. Questions or information requests should be addressed to Sandra Mueller. Written comments should include the name, address, and telephone number of the person submitting the comments and should be sent to Sandra Mueller, Department of Environmental Quality, 4411 Early Road, Harrisonburg, VA

22801, telephone (540) 574-7848, FAX (540) 574-7844 or e-mail stmueller@deq.state.va.us.

STATE LOTTERY DEPARTMENT

The following Director's Orders of the State Lottery Department were filed with the Virginia Registrar of Regulations on October 10, 2001. The orders may be viewed at the State Lottery Department, 900 E. Main Street, Richmond, Virginia or at the office of the Registrar of Regulations, 910 Capitol Street, 2nd Floor, Richmond, Virginia.

Final Rules for Game Operation:

Director's Order Number Forty-Seven (01)

Virginia's Instant Game Lottery 214; "Ace in the Hole" (effective 9/4/01)

Director's Order Number Forty-Eight (01)

Virginia's Instant Game Lottery 317; "Classic Bingo" (effective 9/4/01)

Director's Order Number Fifty (01)

Virginia's Instant Game Lottery 492; "Spooky Loot" (effective 9/4/01)

Director's Order Number Fifty-One (01)

Virginia's Instant Game Lottery 493; "Virginia's Lucky 13 Anniversary Celebration" (effective 9/4/01)

Director's Order Number Fifty-Two (01)

"Jump Start" Virginia Lottery Retailer Incentive Program Rules (effective 8/28/01)

Director's Order Number Fifty-Three (01)

Virginia's Instant Game Lottery 496; "High Roller" (effective 9/4/01)

Director's Order Number Fifty-Four (01)

Virginia's Instant Game Lottery 220; "Wizard of Odds" (effective 9/4/01)

Director's Order Number Fifty-Five (01)

Virginia's Instant Game Lottery 221; "Turkey Tripler" (effective 9/4/01)

Director's Order Number Fifty-Eight (01)

Virginia's Instant Game Lottery 219; "Double Down" (effective 9/10/01)

Director's Order Number Sixty-One (01)

Virginia's First On-Line Game Lottery; "Pick 3," Sixth Revision (effective 9/9/01)

Director's Order Number Sixty-Two (01)

Virginia's Fourth On-Line Game Lottery; "Cash 5," Sixth Revision (effective 9/9/01)

Director's Order Number Sixty-Four (01)

Virginia's Instant Game Lottery 497; "Elvis" (effective 9/21/01)

* * * * *

Director's Order Number Sixty-Five (01)

Certain Virginia Instant Game Lotteries; End Of Games.

In accordance with the authority granted by §§ 58.1-4006A and 9-6.14:4.1B(15) of the Code of Virginia, I hereby give notice that the following Virginia Lottery instant games will officially end at midnight on Friday, October 19, 2001:

Game 177 - Red Hot Money
Game 187 - Lucky Dog
Game 194 - High Card Doubler
Game 201 - 4 Leaf Cash
Game 314 - High Stakes Bingo
Game 463 - Show Me the Money
Game 467 - Red Hot Numbers
Game 472 - 4 Wheel Fortune
Game 473 - Bucks in a Row
Game 482 - Firecracker Cash

The last day for lottery retailers to return for credit unsold tickets from any of these games will be Friday, December 14, 2001. The last day to redeem winning tickets for any of these games will be Wednesday, April 17, 2002, 180 days from the declared official end of the game. Claims for winning tickets from any of these games will not be accepted after that date. Claims that are mailed and received in an envelope bearing a United States Postal Service postmark of April 17, 2002, will be deemed to have been received on time. This notice amplifies and conforms to the duly adopted State Lottery Board regulations for the conduct of instant game lotteries.

This order is available for inspection and copying during normal business hours at the State Lottery Department headquarters, 900 East Main Street, Richmond, Virginia; and at any State Lottery Department regional office. A copy may be requested by mail by writing to: Public Affairs Office, State Lottery Department, 900 East Main Street, Richmond, Virginia 23219.

This Director's Order becomes effective on the date of its signing and shall remain in full force and effect unless amended or rescinded by further Director's Order.

/s/ Richard G. Wilkinson
Director, Lottery Operations
Date: September 26, 2001

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Legal Notice

Notice of Intent to Make Additional Medical Assistance Payments to Non-State Government-owned Hospitals

Notice is hereby given that the Department of Medical Assistance Services (DMAS) intends to modify its reimbursement plan for qualifying non-State government-owned hospitals pursuant to the department's authority under Title XIX of the Social Security Act. A non-state government-owned hospital is defined as a "a government facilit[y] that [is] neither owned nor operated by the State." 42 CFR 447.272(a)(2), 321(a)(2) (see 66 FR 3175-3176 (January 12,

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2001)). A "qualifying" nonstate government-owned hospital is defined as one that enters into an intergovernmental transfer agreement with the Commonwealth. This notice is intended to satisfy the requirements of 42 CFR 447.205 and of § 1902(a)(13) of the Social Security Act, 42 USC § 1396a(a)(13).

The department acknowledges that non-state government-owned hospitals fulfill an important and unique role within the Virginia health care system. Subject to the availability of local government, state, and federal funds, the department intends to make additional payments to non-state government-owned hospitals up to the amount permitted under federal regulations, that is, "150 percent of a reasonable estimate of the amount that would be paid for the services furnished by these hospitals under Medicare payment principles." 42 CFR 447.272(c)(1), 321(c)(1).

The cost of this revision is estimated to be \$50 million.

A copy of this notice is available for public review from N. Stanley Fields, Director, Division of Cost Settlement and Audit, DMAS, 600 Broad Street, Suite 1300, Richmond VA 23219. Comments or inquiries may be submitted, in writing, within 30 days of this notice publication to Mr. Fields at the same address.

DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES

Commonwealth of Virginia Local Contract for Continuing Participation in Part C Early Intervention for Infants and Toddlers with Disabilities and their Families

Public comment will be accepted in writing beginning November 12, 2001, through January 21, 2002 on revisions to the Commonwealth of Virginia Local Contract for Continuing Participation in Part C Early Intervention for Infants and Toddlers with Disabilities and their Families. The Part C local contract is the mechanism by which DMHMRSAS, as the Part C Lead Agency, contracts with the 40 local interagency coordinating councils (LICCs) in Virginia. The local contract specifies the responsibilities of all participating agencies, including DMHMRSAS as the Contracting Agency, and sets forth both the federal and State requirements for continuing participation.

For a copy of the public comment exposure draft of the Commonwealth of Virginia Local Contract for Continuing Participation in Part C, additional information, and to submit public comment contact: Beth A. Skufca, Part C Administrative Consultant, DMHMRSAS, Early Intervention Office, 9th Floor, P.O. Box 1797, Richmond VA 23218-1797, telephone (804) 786-5817, FAX (804) 371-7959 or e-mail bskufca@dmhmrsas.state.va.us

STATE WATER CONTROL BOARD

Notice of Periodic Reviews

Pursuant to Executive Order Number Twenty-five (1998), the Department of Environmental Quality on behalf of the State Water Control Board, is initiating a review of three regulations to determine whether the regulations should be terminated, amended or retained in their current form. The review of the regulations will be guided by the principles listed in Executive Order Number Twenty-five (1998).

The department and the board are seeking public comment on the review of any issue relating to these regulations including whether (i) the regulations are effective in achieving their goals; (ii) the regulations are essential to protect the health, safety of welfare of citizens or for the economical performance of important governmental functions; (iii) there are less burdensome and less intrusive alternatives for achieving the purpose of the regulations; and (iv) the regulations are clearly written and easily understandable by the affected persons.

Comments on the above are welcome and will be accepted until November 26, 2001.

The regulations being reviewed, the goals of the regulation and the contact person for each regulation are:

Virginia Pollution Abatement General Permit for Confined Animal Feeding Operations (9 VAC 25-192). The purpose of these regulations is to protect public health and/or welfare with the least possible costs and intrusiveness to the citizens and businesses of the Commonwealth and establish consistent procedures and requirements for the issuance of VPA permits to manage pollutants from confined animal feeding operations in order to effectuate the proper and comprehensive protection of state waters. Comments should be sent to Richard W. Ayers, Department of Environmental Quality, P.O. Box 10009, 629 East Main Street, Richmond, VA 23240-0009, telephone (804) 698-4075 or email rwayers@deq.state.va.us. (Note: Please include your full name and mailing address in the email.)

General Virginia Pollutant Discharge Elimination System Permit for Ready-Mix Concrete Plants (9 VAC 25-193). The purpose of these regulations is to protect public health and/or welfare with the least possible costs and intrusiveness to the citizens and businesses of the Commonwealth and establish consistent procedures and requirements for the issuance of VPDES permits to discharge pollutants from ready-mix concrete facilities in order to effectuate the proper and comprehensive protection of state waters. Comments should be sent to Richard W. Ayers, Department of Environmental Quality, P.O. Box 10009, 629 East Main Street, Richmond, VA 23240-0009, telephone (804) 698-4375 or email rwayers@deq.state.va.us. (Note: Please include your full name and mailing address in the email.)

Water Resources Policy (9 VAC 25-390). The purpose of these regulations is to protect public health and/or welfare with the least possible costs and intrusiveness to the

citizens and businesses of the Commonwealth and provide guidance to agency staff in preparing water resources management plans, advising on the adequacy and desirability of water resources projects, authorizing specific water resource projects or in commenting on projects which affect water resources. Comments should be sent to Terry Wagner, Department of Environmental Quality, P.O. Box 10009, 629 East Main Street, Richmond, VA 23240-0009, telephone (804) 698-4043 or e-mail tdwagner@deq.state.va.us. (Note: Please include your full name and mailing address in the email.)

Proposed Amended Consent Special Order King George County Service Authority

The State Water Control Board (board) proposes to issue an amended Consent Special Order (order) to King George County Service Authority (county) regarding the Dahlgren wastewater treatment plant (WWTP) located in King George County, Virginia.

The WWTP is subject to VPDES Permit No. VA0026514. The proposed amended order includes a schedule of compliance that requires the county to complete construction of the upgrade and expansion of the WWTP by September 30, 2003, and achieve compliance with final permit effluent limits by December 31, 2003. The county has agreed to issuance of the amended order and to payment of a civil charge.

On behalf of the board, the Department of Environmental Quality's Northern Virginia Regional Office will receive comments relating to the amended order through December 5, 2001. Please address comments to Elizabeth Anne Crosier, Northern Virginia Regional Office, Department of Environmental Quality, 13901 Crown Court, Woodbridge, VA 22193. Please address comments sent via e-mail to eacrosier@deq.state.va.us. In order to be considered, comments provided by e-mail must include the commenter's name, address, and telephone number. Please write or visit the Woodbridge address, or call (703) 583-3886, in order to obtain or examine a copy of the amended order.

Proposed Amended Consent Special Order Town of Purcellville

The State Water Control Board (board) proposes to issue an amended Consent Special Order (order) to the Town of Purcellville (town) regarding the Purcellville sewage treatment plant (STP) located in Loudoun County, Virginia.

The STP is subject to VPDES Permit No. VA0022802. The proposed amended order extends the deadline by which the town shall complete construction of the new WWTP from October 1, 2001 until March 1, 2002. The proposed order also extends the deadline by which the town shall achieve compliance with final permit limits from December 1, 2001 until May 1, 2002.

On behalf of the board, the Department of Environmental Quality's Northern Virginia Regional Office will receive comments relating to the amended order through December 5, 2001. Please address comments to Elizabeth Anne

Crosier, Northern Virginia Regional Office, Department of Environmental Quality, 13901 Crown Court, Woodbridge, VA 22193. Please address comments sent via e-mail to eacrosier@deq.state.va.us. In order to be considered, comments provided by e-mail must include the commenter's name, address, and telephone number. Please write or visit the Woodbridge address, or call (703) 583-3886, in order to obtain or examine a copy of the amended order.

Proposed Amended Consent Special Order South Wales Utility, Inc.

The State Water Control Board (board) proposes to issue an amended Consent Special Order (order) to the South Wales Utility, Inc. (South Wales) regarding the South Wales wastewater treatment plant (WWTP) located in Culpeper County, Virginia.

The WWTP is subject to VPDES Permit No. VA0029238. The proposed amended order extends the deadline by which South Wales shall obtain a conditional use permit from Culpeper County for the construction of the new WWTP from November 1, 2001, until March 1, 2002.

On behalf of the board, the Department of Environmental Quality's Northern Virginia Regional Office will receive comments relating to the amended order through December 5, 2001. Please address comments to Elizabeth Anne Crosier, Northern Virginia Regional Office, Department of Environmental Quality, 13901 Crown Court, Woodbridge, VA 22193. Please address comments sent via e-mail to eacrosier@deq.state.va.us. In order to be considered, comments provided by e-mail must include the commenter's name, address, and telephone number. Please write or visit the Woodbridge address, or call (703) 583-3886, in order to obtain or examine a copy of the amended order.

Proposed Amendment to Consent Special Order Town of Boones Mill

The State Water Control Board (SWCB) proposes to issue an amendment to a Consent Special Order (CSOA) to the Town of Boones Mill regarding settlement of a civil enforcement action related to compliance with certain environmental regulations. On behalf of the SWCB, the department will consider written comments relating to this settlement for 30 days after the date of publication of this notice. Comments should be addressed to Jerry R. Ford, Jr., DEQ, West Central Regional Office, 3019 Peters Creek Road, NW, Roanoke, VA 24019.

The final CSOA may be examined at the department during regular business hours. Copies are available from Mr. Ford at the address above or by calling him at (540) 562-6700.

Proposed Amendment to Consent Special Order Mr. D.J. Cooper

The State Water Control Board (SWCB) proposes to issue an amendment to a Consent Special Order (CSOA) to Mr. D.J. Cooper regarding settlement of a civil enforcement action

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related to compliance with certain environmental regulations. On behalf of the SWCB, the department will consider written comments relating to this settlement for 30 days after the date of publication of this notice. Comments should be addressed to Jerry R. Ford, Jr., DEQ, West Central Regional Office, 3019 Peters Creek Road, NW, Roanoke, VA 24019.

The final CSOA may be examined at the department during regular business hours. Copies are available from Mr. Ford at the address above or by calling him at (540) 562-6700.

Proposed Consent Special Order Alexandria Diamond Cab Company, Inc.

The State Water Control Board (board) proposes to issue a Consent Special Order (order) to the Alexandria Diamond Cab Company, Inc. regarding their Underground Storage Tank (UST) Facility at 3035 Mount Vernon Avenue, located in Alexandria (City), Virginia.

The order provides, among other things, that Alexandria Diamond Cab Company, Inc., properly close the USTs, submit a closure assessment, and file a closure packet within 30 days of the UST closure, but not later than January 30, 2002. The proper closure of the UST's should ensure compliance with applicable statutory and regulatory requirements. Alexandria Diamond Cab Company, Inc. has agreed to the issuance of the order.

On behalf of the board, the Department of Environmental Quality's Northern Virginia Regional Office will receive written comments relating to the order through December 5, 2001. Address comments to Douglas E. Washington, Northern Virginia Regional Office, Department of Environmental Quality, 13901 Crown Court, Woodbridge, VA 22193. Please address comments sent via e-mail to dewashingt@deq.state.va.us. In order to be considered, the commenter's name, address, and telephone number should be included. Write or visit the Woodbridge office, or call at (703) 583-3888. In order to obtain or examine a copy of the of the consent order.

Proposed Consent Special Order Town of Clifton Forge

The State Water Control Board (SWCB) proposes to issue a Consent Special Order (CSO) to the Town of Clifton Forge for settlement of a civil enforcement action related to compliance with the Permit Regulation, 9 VAC 25-31. On behalf of the SWCB, the department will consider written comments relating to this settlement for 30 days after the date of publication of this notice. Comments should be addressed to Robert Steele, DEQ West Central Regional Office, 3019 Peters Creek Road, NW, Roanoke, VA 24019.

The final CSO may be examined at the department during regular business hours. Copies are available from Mr. Steele at the address above or by calling him at (540) 562-6777.

Proposed Consent Special Order Lawrence H. Watson, Jr.; Highland Oil Co., Inc.; Maury River Oil Co., Inc.; Reynolds Chevron, Inc.; & Energy Marketing Corporation

The State Water Control Board proposes to take an enforcement action against Lawrence H. Watson, Jr., Highland Oil Company, Inc., Maury River Oil Co., Inc., Reynolds Chevron, Inc., and Energy Marketing Corporation. The companies have agreed to the terms of a consent special order to address violations of the State Water Control Law and regulations at nine facilities owned by Lawrence Watson under the above corporate names in the counties of Augusta, Highland, and Rockbridge, and the cities of Lexington and Lynchburg. Facilities covered by the order include the Highland Oil Bulk Plant, East Lexington Store, Energy Marketing t/a Williams Oil Company, Kerr's Creek General Store, Maury River Oil Company AST facility, Reynolds Chevron AST and UST facilities, Riverside Auto Clinic, and 3-B BP Station. Violations include the failure to take actions necessary to upgrade facilities to meet the December 22, 1998, deadline for underground storage tank compliance, failure to meet regulatory requirements for aboveground storage tank compliance, failure to properly respond to releases of petroleum from tank systems, and late submittal of financial responsibility demonstrations.

To settle these violations, the companies have agreed to a schedule of corrective action at the facilities. The companies have also agreed to pay civil charges for the violations.

The board will receive written comments relating to the proposed consent special order for 30 days from the date of publication of this notice. Comments should be addressed to Elizabeth V. Scott, Department of Environmental Quality, Post Office Box 3000, Harrisonburg, VA 22801, and should refer to the consent special order. Comments may also be submitted via electronic mail to evscott@deq.state.va.us. In order to be considered, electronic comments must be received prior to the close of the comment period and must include the name, address, and telephone number of the person making the comment.

The proposed order may be examined at the Department of Environmental Quality, Valley Regional Office, 4411 Early Road, Harrisonburg, VA 22801. A copy of the order may be obtained in person or by mail from this office.

Proposed Consent Special Order Newton Mobil Court Incorporated

The State Water Control Board (SWCB) proposes to issue a Consent Special Order (CSO) to Newton Mobil Court Incorporated in Mecklenburg County related to compliance with the Permit Regulation, 9 VAC 25-31-10 et seq. On behalf of the SWCB, the Department of Environmental Quality (DEQ) will consider written comments relating to this order for 30 days after the date of the publication of this notice. Comments are to be addressed to Harry F. Waggoner, DEQ – South Central Regional Office, 7705 Timberlake Road, Lynchburg, VA 24502.

The final CSO may be examined at the department during regular business hours. Copies are available from Mr. Waggoner at the address above or by calling (434) 582-5120.

Proposed Consent Special Orders
City Of Norfolk/Hampton Roads Sanitation District
Margie & Ray's, Inc.
Bobjack Ltd. dba Country Village Mobile Home Park
Norfolk Airport Authority

The State Water Control Board proposes to take enforcement actions against the facilities listed above.

The proposed enforcement actions against these facilities are consent special orders. The proposed orders will require corrective actions and/or the payment of a civil charge to settle violations of the Virginia Water Control Law.

The Department of Environmental Quality will receive written comments relating to the board's proposed consent special orders from November 5, 2001 through December 5, 2001. Comments should be addressed to David S. Gussman, Department of Environmental Quality - Tidewater Regional Office, 5636 Southern Boulevard, Virginia Beach, VA 23462 and should refer to one of the orders specified above. The proposed orders may be examined at the above address and copies of the orders may be obtained in person or by mail.

Proposed Consent Special Order
Town of Round Hill

The State Water Control Board (board) proposes to issue a Consent Special Order (order) to the Town of Round Hill regarding the Town of Round Hill Sewage Treatment Plant (VPDES Permit No. VA0026212) located in Loudoun County, Virginia.

The order provides, among other things, that the Town of Round Hill commences construction to upgrade and expand the existing sewage treatment plant and to comply with final effluent limits for Total Kjeldahl Nitrogen (TKN) and Biochemical Oxygen Demand (BOD) by May 1, 2003. In addition, the order provides interim limits for TKN and BOD until the upgrade and expansion requirements have been completed. The upgrade and expansion should ensure compliance with applicable statutory and regulatory requirements. The Town of Round Hill has agreed to the issuance of the order.

On behalf of the board, the Department of Environmental Quality's Northern Virginia Regional Office will receive written comments relating to the Order through December 5, 2001. Address comments to Douglas E. Washington, Northern Virginia Regional Office, Department of Environmental Quality, 13901 Crown Court, Woodbridge, VA 22193. Please address comments sent via e-mail to dewashingt@deq.state.va.us. In order to be considered, the commenter's name, address, and telephone number must be included. Write or visit the Woodbridge office, or call at (703) 583-3888. In order to obtain or examine a copy of the of the consent order.

Proposed Consent Special Order
Smith-Midland Corporation

The State Water Control Board (board) proposes to issue a Consent Special Order (order) to the Smith-Midland Corporation (Smith-Midland) regarding the Smith-Midland facility (facility) located in Fauquier County, Virginia.

The facility's STP is subject to VPDES Permit No. VA0084298. The proposed order includes a schedule of compliance that requires Smith-Midland construct a new acid etching operation process wastewater treatment system and to close the existing acid etching operation. Smith-Midland has agreed to the issuance of the order and to payment of a civil charge.

On behalf of the board, the Department of Environmental Quality's Northern Virginia Regional Office will receive comments relating to the amended order through December 5, 2001. Please address comments to Elizabeth Anne Crosier, Northern Virginia Regional Office, Department of Environmental Quality, 13901 Crown Court, Woodbridge, VA 22193. Please address comments sent via e-mail to eacrosier@deq.state.va.us. In order to be considered, comments provided by e-mail must include the commenter's name, address, and telephone number. Please write or visit the Woodbridge address, or call (703) 583-3886, in order to obtain or examine a copy of the amended order.

Enforcement Action--Proposed Settlement
Agreement
Government of the District of Columbia

The State Water Control Board (board) proposes to enter into a settlement agreement with the Government of the District of Columbia (District) to be issued as a Final Order by the Circuit Court of the County of Fairfax regarding the Lorton Correctional Complex Sewage Treatment Plant (STP) located in Fairfax County, Virginia.

The STP is subject to VPDES Permit No. VA0030163. The proposed agreement requires that the District pay a civil penalty of \$325,000.

On behalf of the board, the Department of Environmental Quality's Northern Virginia Regional Office will receive comments relating to the proposed final order through December 5, 2001. Please address comments to: Elizabeth Anne Crosier, Northern Virginia Regional Office, Department of Environmental Quality, 13901 Crown Court, Woodbridge, Virginia 22193. Please address comments sent via e-mail to eacrosier@deq.state.va.us. In order to be considered, comments provided by e-mail must include the commenter's name, address, and telephone number. Please write or visit the Woodbridge address, or call (703) 583-3886, in order to obtain or examine a copy of the proposed final order.

General Notices/Errata

VIRGINIA CODE COMMISSION

Notice Regarding The Legislative Record

The Legislative Record will no longer be published in the Virginia Register of Regulations beginning with Volume 18 of the Register. For information regarding subscriptions to The Legislative Record, please contact Special Projects, Division of Legislative Services, 910 Capitol Street, 2nd Floor, Richmond, VA 23219. The Legislative Record is also available on-line at <http://dls.state.va.us/pubs/legisrec/2001/>.

Notice to State Agencies

Mailing Address: Virginia Code Commission, 910 Capitol Street, General Assembly Building, 2nd Floor, Richmond, VA 23219, FAX (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

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Civil Penalties Matrix for the Agriculture Stewardship Act

Publication: 18:2 VA.R. 197 October 8, 2001.

Correction to the General Notice:

Page 197, column 1, before the last two lines of text insert "FACTORS TO BE CONSIDERED, PURSUANT TO SECTION 10.1-559.7(B) OF THE CODE OF VIRGINIA"

BOARD FOR CONTRACTORS

Title of Regulation: 18 VAC 50-30. Tradesman Rules and Regulations.

Publication: 17:26 VA.R. 3756 September 10, 2001.

Correction to Final Regulation:



In 18 VAC 50-30-50 B 4 a, delete "within one year of the effective date of the board's final regulations" and insert "by November 1, 2002"

In 18 VAC 50-30-50 B 5 a, delete "within one year of the effective date of the board's final regulations" and insert "by November 1, 2002,"

In 18 VAC 50-30-90 H, delete "on the effective date of the board's final regulations" and insert "November 1, 2002"


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

BOARD OF ACCOUNTANCY

† **November 13, 2001 - 10 a.m.** -- Open Meeting
Sheraton Richmond West Hotel, Jefferson Room, 6624 West Broad Street, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A meeting to discuss regulatory review and other matters requiring board action. A public comment period will be held at the beginning of the meeting.

Contact: Nancy Taylor Feldman, Executive Director, Board of Accountancy, 3600 W. Broad St., Suite 696, Richmond, VA 23230-4916, telephone (804) 367-8505, FAX (804) 367-2174, (804) 367-9753/TTY , e-mail accountancy@dpor.state.va.us.

BOARD OF AGRICULTURE AND CONSUMER SERVICES

† **December 6, 2001 - 9 a.m.** -- Open Meeting
Department of Agriculture and Consumer Services, Washington Building, 1100 Bank Street, 2nd Floor, Board Room, Richmond, Virginia. 

New board members will participate in an orientation on Wednesday, December 5, 2001, at 1 p.m. The board will meet on December 6 to discuss issues related to Virginia agriculture and consumer services. 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 Roy Seward at least five days before the meeting date so that suitable arrangements can be made.

Contact: Roy E. Seward, Board Secretary, Department of Agriculture and Consumer Services, Washington Bldg., 1100 Bank St., Richmond, VA 23219, telephone (804) 786-3538, FAX (804) 371-2945, e-mail jknight@vdacs.state.va.us.

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

March 14, 2002 - 10 a.m. -- Public Hearing
Washington Building, 1100 Bank Street, 2nd Floor, Board Room, Richmond, Virginia.

February 8, 2002 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Agriculture and Consumer Services intends to amend regulations entitled: **2 VAC 5-400. Rules and Regulations for the Enforcement of the Virginia Fertilizer Law.** The purpose of the proposed amendments is to ensure that: (i) regulated products are properly formulated and labeled; (ii) the manufacturer's recommendations for use of these regulated products are in accordance with methods and procedures that enhance the safety, quality and quantity of the food supply for both humans and animals; (iii) guidelines are established for the methods used to provide verification of labeling claims for regulated products; and (iv) assessments against the manufacturer of a product is deficient when compared to its guarantee, or that is not properly labeled and thus has caused a negative economic impact on a consumer, are paid to the consumer when he may be identified. The amendments also include changes needed to make the regulation compatible with the 1994 changes to the Virginia Fertilizer Act.

Statutory Authority: § 3.1-106.4 of the Code of Virginia.

Contact: J. Alan Rogers, Program Manager, Department of Agriculture and Consumer Services, P.O. Box 1163, Richmond, VA 23218, telephone (804) 786-2476, FAX (804) 786-1571 or (804) 828-1120/TTY 

March 14, 2002 - 10 a.m. -- Public Hearing
Washington Building, 1100 Bank Street, 2nd Floor, Board Room, Richmond, Virginia.

February 8, 2002 - Public comments may be submitted until this date.

Calendar of Events

Notice is hereby given in accordance with § 2.2-4007 that the State Board of Agriculture and Consumer Services intends to amend regulations entitled: **2 VAC 5-610. Rules Governing the Solicitation of Contributions.** The purpose of the proposed regulatory action is to amend the regulation to conform with amendments to the Virginia Solicitation of Contributions Law relating to (i) the annual registration process and exemption to such registration, (ii) rules governing a professional solicitor, and (iii) general provisions relating to disclosure requirements by for-profit organizations and the use of private mailboxes by the regulated entities.

Statutory Authority: § 57-66 of the Code of Virginia.

Contact: Andy Alvarez, Program Manager, Office of Consumer Affairs, Department of Agriculture and Consumer Services, 1100 Bank St., Suite 1101, Richmond, VA 23219, telephone (804) 786-1381, FAX (804) 786-5112, toll-free 1-800-9963 or 1-800-828-1120/TTY ☎

Virginia State Apple Board

November 13, 2001 - 9:30 a.m. -- Open Meeting
Rowe's Restaurant, 74 Rowe Road (Intersection of I-81 and Rte 250), Staunton, Virginia. ☎

A meeting to approve the minutes of the last meeting, discuss business arising from the board meeting of July 17, 2001, and discuss new business brought before the board. 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 David Robishaw at least five days before the meeting date so that suitable arrangements can be made.

Contact: David Robishaw, Regional Marketing Development Manager, Department of Agriculture and Consumer Services, 900 Natural Resources Dr., Suite 300, Charlottesville, VA 22903, telephone (804) 984-0573, FAX (804) 984-4156.

Virginia Corn Board

† **December 13, 2001 - 9 a.m.** -- Open Meeting
Parker Ridge, 6311 Courthouse Road, Providence Forge, Virginia. ☎

A meeting to hear and approve previous meeting minutes, review checkoff revenues, and the financial status resulting from the sale of the 2001 Virginia corn crop. Reports will be heard from the chairman, board member representation to the U.S. Grains Council, the National Corn Growers Association, and the Virginia Corn Growers Association. In addition, the nomination and election of 2002 officers will take place at this meeting. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs any accommodation in order to participate at the meeting should contact Philip Hickman at least five days before the meeting date so that suitable arrangements can be made.

Contact: Philip T. Hickman, Program Director, Department of Agriculture and Consumer Services, Washington Bldg., 1100

Bank St., Room 1005, Richmond, VA 23219, telephone (804) 371-6157, FAX (804) 371-7786.

Virginia Winegrowers Advisory Board

November 7, 2001 - 10 a.m. -- Open Meeting
Department of Agriculture and Consumer Services, Washington Building, 1100 Bank Street, 2nd Floor, Board Room, Richmond, Virginia. ☎

The first general business meeting of the Virginia Winegrowers Advisory Board for fiscal year 2002. The board will elect officers, and review and approve the board's financial report and the minutes from the last meeting. In addition, viticulture, enology, and marketing reports will be heard. 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 Mary Davis-Barton at least two days before the meeting date so that suitable arrangements can be made.

Contact: Mary Davis-Barton, Board Secretary, Department of Agriculture and Consumer Services, 1100 Bank Street, Suite 1010, Richmond, VA 23219, telephone (804) 371-7685, FAX (804) 786-3122.

STATE AIR POLLUTION CONTROL BOARD

November 7, 2001 - 9:30 a.m. -- Open Meeting
Wyndham Garden, 4600 South Laburnum Avenue, Richmond, Virginia. ☎

A regular meeting of the board and joint meeting with the State Advisory Board on Air Pollution.

Contact: Cindy Berndt, Regulatory Coordinator, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4378, FAX (804) 698-4346, e-mail cberndt@deq.state.va.us.

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November 13, 2001 - 10 a.m. -- Public Hearing
Department of Environmental Quality, Northern Regional Office, 13901 Crown Court, Conference Room, Woodbridge, Virginia.

January 7, 2002 - Public comments may be submitted this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Air Pollution Control Board intends to amend regulations entitled: **9 VAC 5-91. Regulation for the Control of Motor Vehicle Emissions in Northern Virginia (Rev. MG).** The purpose of the proposed amendments is to conform the regulation to state law and federal Clean Air Act requirements for the testing of emissions from motor vehicles located or primarily operated in Northern Virginia.

Statutory Authority: § 46.2-1180 of the Code of Virginia.

Public comments may be submitted until November 13, 2001, to Director, Office of Air Regulatory Development, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240.

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

December 7, 2001 - 9 a.m. -- Public Hearing
Department of Environmental Quality, 600 East Main Street, Lower Level, Conference Room, Richmond, Virginia.

December 24, 2001 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Air Pollution Control Board intends to amend regulations entitled: **Regulations for the Control and Abatement of Air Pollution (Rev. G00)**.

9 VAC 5-40. Existing Stationary Sources (repealing 9 VAC 5-40-160 through 9 VAC 5-40-230).

9 VAC 5-50. New and Modified Stationary Sources (repealing 9 VAC 5-50-160 through 9 VAC 5-50-230).

9 VAC 5-60. Hazardous Air Pollutants (adding 9 VAC 5-60-200 through 9 VAC 5-60-270 and 9 VAC 5-60-300 through 9 VAC 5-60-370).

The purpose of the proposed amendments is to (i) reduce the number of regulated pollutants to those regulated under the federal program, and (ii) exempt from applicability those sources that are subject to a federal hazardous air pollutant standard. This action will integrate the state's program more logically with the federal Clean Air Act and transfers the standards from 9 VAC 5-40 and 9 VAC 5-50 into 9 VAC 5-60.

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

Contact: Dr. Kathleen Sands, Policy Analyst, Office of Air Regulatory Development, Department of Environmental 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 ☎

November 27, 2001 - 9 a.m. -- Public Hearing
Department of Environmental Quality, 629 East Main Street, 1st Floor, Conference Room, Richmond, Virginia.

December 21, 2001 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Air Pollution Control Board intends to amend regulations entitled: **9 VAC 5-80. Permits for Stationary Sources (Rev. D00)**. The purpose of the proposed amendments is to (i) revise the emission reduction offset ratio, (ii) provide for state-only permit terms

and conditions, (iii) clarify the regulation's applicability, and (iv) make the regulation consistent with the other new source review regulations.

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

Contact: Karen G. Sabasteanski, Policy Analyst, Office of Air Regulatory Development, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4426, FAX (804) 698-4510, toll-free 1-800-592-5482 or (804) 698-4021/TTY ☎

BOARD FOR ARCHITECTS, PROFESSIONAL ENGINEERS, LAND SURVEYORS, CERTIFIED INTERIOR DESIGNERS AND LANDSCAPE ARCHITECTS

November 8, 2001 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A meeting of the Professional Engineers Section. Persons desiring to participate in the meeting and requiring special accommodations or interpretative services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: Mark N. Courtney, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8514, FAX (804) 367-2475, (804) 367-9753/TTY ☎, e-mail apelsla@dpor.state.va.us.

November 14, 2001 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A meeting of the Land Surveyors Section. Persons desiring to participate in the meeting and requiring special accommodations or interpretative services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: Mark N. Courtney, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8514, FAX (804) 367-2475, (804) 367-9753/TTY ☎, e-mail apelsla@dpor.state.va.us.

November 28, 2001 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A meeting of the Landscape Architects Section. Persons desiring to participate in the meeting and requiring special accommodations or interpretative services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Calendar of Events

Contact: Mark N. Courtney, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8514, FAX (804) 367-2475, (804) 367-9753/TTY ☎, e-mail apelsla@dpor.state.va.us.

December 5, 2001 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A meeting of the Certified Interior Designers Section. Persons desiring to participate in the meeting and requiring special accommodations or interpretative services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: Mark N. Courtney, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8514, FAX (804) 367-2475, (804) 367-9753/TTY ☎, e-mail apelsla@dpor.state.va.us.

December 13, 2001 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, 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 least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: Mark N. Courtney, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8514, FAX (804) 367-2475, (804) 367-9753/TTY ☎, e-mail apelsla@dpor.state.va.us.

ART AND ARCHITECTURAL REVIEW BOARD

† **November 9, 2001 - 10 a.m.** -- Open Meeting
December 7, 2001 - 10 a.m. -- Open Meeting
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, AIA, 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 ☎

COMPREHENSIVE SERVICES FOR AT-RISK YOUTH AND FAMILIES

State Executive Council

November 28, 2001 - 9 a.m. -- Open Meeting
December 19, 2001 - 9 a.m. -- Open Meeting
Department of Social Services, 730 East Broad Street, Lower Level, Training Room 1, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A regular meeting. An agenda will be posted on the web (<http://www.csa.state.va.us>) 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) 662-9831, e-mail AGS992@central.dss.state.va.us.

BOARD OF AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY

November 8, 2001 - 9:30 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Room 3, Richmond, Virginia. ♿

A meeting to conduct regular business. Public comments will be heard for 15 minutes prior to the start of the meeting.

Contact: Senita Booker, Administrative Staff Assistant, Board of Audiology and Speech-Language Pathology, 6606 W. Broad St, 4th Floor, Richmond, VA 23230, telephone (804) 662-7390, FAX (804) 662-9523, (804) 662-7197/TTY ☎, e-mail Senita.Booker@dhp.state.va.us.

DEPARTMENT FOR THE BLIND AND VISION IMPAIRED

Statewide Rehabilitation Council for the Blind


† **December 1, 2001 - 10 a.m.** -- Open Meeting
Administrative Headquarters, 397 Azalea Avenue, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A quarterly meeting to advise the Department for the Blind and Vision Impaired on matters related to vocational rehabilitation services for the blind and visually impaired citizens of the Commonwealth.


Contact: James G. Taylor, Vocational Rehabilitation Program Director, Department for the Blind and Vision Impaired, 397 Azalea Ave., Richmond, VA 23227, telephone (804) 371-3111, FAX (804) 371-3390, toll-free (800) 622-2155, (804) 371-3140/TTY ☎, e-mail taylorjg@dbvi.state.va.us.


BOARD FOR BRANCH PILOTS

† **December 4, 2001 - 9 a.m.** -- Open Meeting
† **December 5, 2001 - 9 a.m.** -- Open Meeting
† **December 11, 2001 - 9 a.m.** -- Open Meeting


† **December 12, 2001 - 9 a.m.** -- Open Meeting
Virginia Pilot Association, 3329 Shore Drive, Virginia Beach, Virginia.  (Interpreter for the deaf provided upon request)

Meetings to conduct examinations and renewals. Persons who desire to participate in a meeting and require special accommodations or interpretive services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: Mark N. Courtney, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8514, FAX (804) 367-2475, (804) 367-9753/TTY , e-mail branchpilots@dpor.state.va.us.

December 11, 2001 - 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 who desire to participate in the meeting and require special accommodations or interpreter services should contact the department 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., Richmond, VA 23230-4917, telephone (804) 367-8514, FAX (804) 367-2475, (804) 367-9753/TTY , e-mail branchpilots@dpor.state.va.us.


CEMETERY BOARD

November 14, 2001 - 8:30 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia.

A general meeting of the Regulatory Review Committee at 8:30 a.m. and the full board at 9:30 a.m.

Contact: Karen W. O'Neal, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2039, FAX (804) 367-2475.


CHARITABLE GAMING COMMISSION

December 18, 2001 - 10 a.m. -- Open Meeting
General Assembly Building, 9th and Broad Streets, House Room C, Richmond, Virginia. 

A commission meeting; agenda to be announced.

Contact: Frances C. Jones, Administrative Staff Assistant, Charitable Gaming Commission, 101 N. 14th St., 17th Floor, Richmond, VA 23219, telephone (804) 786-3014, FAX (804) 786-1079, e-mail jones@cgc.state.va.us.

CHILD DAY-CARE COUNCIL

† **November 8, 2001 - 9 a.m.** -- Open Meeting
Theater Row Building, 730 East Broad Street, Conference Room 1, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A meeting to discuss issues and concerns that impact child day centers, camps, school age programs and preschools/nursery schools. Public comment period will be at noon. Please call ahead for possible changes in meeting time.

Contact: Arlene Kasper, Program Development Consultant, Child Day-Care Council, 730 E. Broad St., Richmond, VA 23219-1849, telephone (804) 692-1791, FAX (804) 692-2370.

* * * * *


December 7, 2001 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Child Day-Care Council intends to amend regulations entitled: **22 VAC 15-10. Public Participation Guidelines**. The purpose of the proposed amendments is to provide for electronic transmission of information and make changes for clarity, especially regarding the responsibilities of the Child Day-Care Council and Department of Social Services.


Statutory Authority: § 63.1-202.1 of the Code of Virginia.


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

STATE BOARD FOR COMMUNITY COLLEGES

† **November 13, 2001 - 10 a.m.** -- Open Meeting
† **November 14, 2001 - 1:30 p.m.** -- Open Meeting
Sheraton Park South Hotel, 9901 Midlothian Turnpike, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

The annual meeting of the State Board for Community Colleges and the Virginia Community College System. Committees will meet.

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) 819-4961, FAX (804) 819-4768, (804) 371-8504/TTY 

† **November 15, 2001 - 9 a.m.** -- Open Meeting
Sheraton Park South Hotel, 9901 Midlothian Turnpike, Eppington Room, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A regular meeting. Public comment will be received at the beginning of the meeting.

Contact: D. Susan Hayden, Public Relations Manager, State Board for Community Colleges, James Monroe Bldg., 101 N.

Calendar of Events

14th St., 15th Floor, Richmond, VA 23219, telephone (804) 819-4961, FAX (804) 819-4768, (804) 371-8504/TTY ☎

Richmond, VA 23219, telephone (804) 786-6124, FAX (804) 786-6141, e-mail leonapp@dcr.state.va.us.

COMPENSATION BOARD

November 27, 2001 - 11 a.m. -- Open Meeting
Compensation Board, 9th Street Office Building, 202 North 9th Street, 10th Floor, Richmond, Virginia. ♿

A monthly board meeting.

Contact: Cindy Waddell, Administrative Assistant, Compensation Board, P.O. Box 710, Richmond, VA 23219, telephone (804) 786-0786, FAX (804) 371-0235, e-mail cwaddell@scb.state.va.us.

DEPARTMENT OF CONSERVATION AND RECREATION

Falls of the James Scenic River Advisory Board

December 6, 2001 - Noon -- Open Meeting
Richmond City Hall, 900 East Broad Street, 5th Floor, Planning Commission Conference Room, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

Discussion of river issues. Requests for an interpreter for the deaf should be made two weeks prior to the meeting date.

Contact: Richard Gibbons, Environmental Program Manager, Department of Conservation and Recreation, 203 Governor St., Suite 326, Richmond, VA 23219, telephone (804) 756-4132, FAX (804) 371-7899, e-mail rgibbons@dcr.state.va.us.

Virginia Soil and Water Conservation Board

December 12, 2001 - 9 a.m. -- Open Meeting
Sheraton Norfolk Waterside, 777 Waterside Drive, Norfolk, Virginia. ♿ (Interpreter for the deaf provided upon request)

A regular business meeting to include a joint meeting with the Virginia Association of Soil and Water Conservation Districts Board of Directors. Requests for an interpreter for the deaf should be made two weeks prior to the 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.

Virginia State Parks Foundation

December 3, 2001 - 10 a.m. -- Open Meeting
Twin Lakes State Park, Cedar Crest Conference Center, Route 2, Green Bay, Virginia. ♿ (Interpreter for the deaf provided upon request)

A regular business meeting. Requests for an interpreter for the deaf should be made two weeks prior to the meeting.

Contact: Leon E. App, Acting Deputy Director, Department of Conservation and Recreation, 203 Governor St., Suite 302,

BOARD OF CORRECTIONS

† **November 13, 2001 - 10 a.m.** -- Open Meeting
Department of Corrections, 6900 Atmore Drive, Board Room, Richmond, Virginia. ♿

A meeting to discuss correctional services/policy and regulations matters that may be presented to the board.

Contact: Barbara Reyes, Executive Secretary, Board of Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3288, FAX (804) 674-3509, e-mail reyesbb@vadoc.state.va.us.

† **November 14, 2001 - 10 a.m.** -- Open Meeting
Department of Corrections, 6900 Atmore Drive, Board Room, Richmond, Virginia. ♿

A monthly meeting.

Contact: Barbara Reyes, Executive Secretary, Board of Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3288, FAX (804) 674-3509, e-mail reyesbb@vadoc.state.va.us.

CRIMINAL JUSTICE SERVICES BOARD

December 13, 2001 - 9 a.m. -- Public Hearing
General Assembly Building, 9th and Broad Streets, House Room D, Richmond, Virginia.

November 23, 2001 - Written comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Criminal Justice Services Board intends to amend regulations entitled: **6 VAC 20-60. Rules Relating to Compulsory Minimum Training Standards for Dispatchers**. Current minimum training standards were not developed with data from a job task analysis. In November 1998 a job task analysis was conducted statewide to gather data relevant to the job of dispatcher. Minimum training standards were revised based on this data and advisory input.

Statutory Authority: § 9.1-102 of the Code of Virginia.

Contact: Judith Kirkendall, Job Task Analysis Administrator, Department of Criminal Justice Services, 805 E. Broad St., Richmond, VA 23219, telephone (804) 786-8003 or FAX (804) 786-0410.

† **December 13, 2001 - 11 a.m.** -- Open Meeting
Richmond Marriott Hotel, 500 E. Broad Street, Richmond, Virginia. ♿

A meeting to include the director's report, the report from the Committee on Training, an ICJIS Report, grant considerations, and other pertinent issues relating to public safety.

Contact: Christine Wiedemer, Administrative Staff Assistant to the Director, Criminal Justice Services Board, 805 E. Broad

St., Richmond, VA 23219, telephone (804) 786-8718, FAX (804) 786-8981, e-mail cwiedemer@dcjs.state.va.us.

DEPARTMENT FOR THE DEAF AND HARD-OF-HEARING

† **November 7, 2001 - 9:30 a.m.** -- Open Meeting
Department for the Deaf and Hard-of-Hearing, 1602 Rolling Hills Drive, 2nd Floor Conference Room, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A regular quarterly meeting of the Advisory Board. Public comment will be accepted at 11:30 a.m.

Contact: Leslie Hutcheson, Policy and Planning Manager, Department for the Deaf and Hard-of-Hearing, 1602 Rolling Hills Dr., Suite 203, Richmond, VA 23229, telephone (804) 662-9502, FAX (804) 662-9718, toll-free (800) 552-7917, (804) 662-9502/TTY, e-mail ddhinfo@ddhh.state.va.us.

DESIGN-BUILD/CONSTRUCTION MANAGEMENT REVIEW BOARD

† **November 15, 2001 - 11 a.m.** -- Open Meeting
† **December 20, 2001 - 11 a.m.** -- Open Meeting
Virginia War Memorial, 621 S. Belvidere Street, Auditorium, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A monthly meeting to review requests submitted by localities to use design/build or construction management-type contracts. Please contact the Division of Engineering and Buildings to confirm the meeting.

Contact: Freddie M. Adcock, Administrative Assistant, Department of General Services, 805 E. Broad St., Room 101, Richmond, VA 23219, telephone (804) 786-3263, FAX (804) 371-7934, (804) 786-6152/TTY, e-mail fadcock@dgs.state.va.us.

BOARD OF EDUCATION

November 19, 2001 - 9:30 a.m. -- Open Meeting
Glen Allen Arts Center, 2880 Mountain Road, Glen Allen, Virginia. (Interpreter for the deaf provided upon request)

A work session of the Advisory Board for Teacher Education and Licensure. No public comment will be received. Persons requesting the 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, James Monroe Bldg., 101 N. 14th St., 25th Floor, Richmond, VA 23219, telephone (804) 225-2540, FAX (804) 225-2524, e-mail mroberts@mail.vak12ed.edu.

November 28, 2001 - 9 a.m. -- Open Meeting
General Assembly Building, 9th and Broad Streets, Senate Room B, Richmond, Virginia.

January 10, 2002 - 9 a.m. -- Open Meeting
Location to be announced.

A regular business meeting. Public comment will be received. Persons requesting the 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, James Monroe Bldg., 101 N. 14th St., 25th Floor, Richmond, VA 23219, telephone (804) 225-2540, FAX (804) 225-2524, e-mail mroberts@mail.vak12ed.edu.

December 4, 2001 - 9:30 a.m. -- Open Meeting
Henrico County School Board Office, 3820 Nine Mile Road, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A working session of the Accountability Advisory Committee. Public comment will not be received. Persons requesting the services of an interpreter for the deaf should do so in advance.

Contact: Ms. Cam Harris, Department of Education, P.O. Box 2120, 101 N. 14th St., 25th Floor, Richmond, VA 23219, telephone (804) 225-2102, FAX (804) 225-2524.

November 9, 2001 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Education intends to amend regulations entitled: **8 VAC 20-21. Licensure Regulations for School Personnel.** The purpose of the amendments is to expand the teacher licensure provisions to persons from other professions, including military personnel, who wish to be licensed as a teacher in Virginia.

Statutory Authority: §§ 22-1-298 of the Code of Virginia.

Contact: Dr. Thomas Elliott, Assistant Superintendent of Teacher Education, Department of Education, P.O. Box 2120, Richmond, VA 23218-2120, telephone (804) 371-2522 or FAX (804) 225-2524.

December 7, 2001 - Public comments may be submitted until this date.


Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Education intends to amend regulations entitled: **8 VAC 20-21. Licensure Regulations for School Personnel.** The purpose of the proposed amendments is to conform the regulations to several recent changes in the Code of Virginia, to add a fourth option for obtaining a division superintendent license, and to expand the licensure and license renewal requirements.

Statutory Authority: § 22.1-298 of the Code of Virginia.


Contact: Dr. Thomas Elliott, Assistant Superintendent, Department of Education, P.O. Box 2120, Richmond, VA 23218-2120, telephone (804) 371-2522 or FAX (804) 225-2524.

Calendar of Events


STATE BOARD OF ELECTIONS

November 26, 2001 - 1 p.m. -- Open Meeting
State Capitol, House Room 1, Richmond, Virginia. 


Certification of November 6, 2001, election results.


Contact: Vanessa E. Archie, Executive Secretary Senior, State Board of Elections, 200 N. 9th St., Room 101, Richmond, VA 23219, telephone (804) 786-6551, FAX (804) 371-0194, toll-free (800) 552-9745, (804) 260-3466/TTY , e-mail varchie@sbe.state.va.us.

DEPARTMENT OF ENVIRONMENTAL QUALITY

November 7, 2001 - 7 p.m. -- Public Hearing
Cumberland County Public Library Building, 1539 Anderson Highway, Meeting Room, Cumberland, Virginia.  (Interpreter for the deaf provided upon request)


A public hearing to receive comments on the draft permit amendment to incorporate a ground water monitoring plan for the Randolph Sanitary Landfill located in Cumberland County.

Contact: James Bernard, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4222, FAX (804) 698-4327, (804) 698-4021/TTY , e-mail jfbernard@deq.state.va.us.

November 8, 2001 - 7 p.m. -- Open Meeting
Orlean Volunteer Fire Department, 6838 Leeds Manor Road, Orlean, Virginia. 


A public meeting to receive comments on the development of a Total Maximum Daily Load for fecal coliform bacteria on an approximate 7.4-mile segment of Thumb Run located in Fauquier County.

Contact: Bryant H. Thomas, Department of Environmental Quality, 13901 Crown Court, Woodbridge, VA 22193, telephone (703) 583-3843, FAX (703) 583-3841, e-mail bhthomas@deq.state.va.us.


† **November 15, 2001 - 7 p.m.** -- Open Meeting
Jefferson Pre-school Center, 201 4th Street, N.W., Charlottesville, Virginia. 


The second public meeting on the development of the Moore's Creek total maximum daily load for fecal coliform for a 6.37 mile segment of Moore's Creek located in Albemarle County and the City of Charlottesville.

Contact: Sandra Mueller, Department of Environmental Quality, 4411 Early Rd., Harrisonburg, VA 22801, telephone (540) 574-7848, FAX (540) 574-7844, e-mail stmuller@deq.state.va.us.

† **November 20, 2001 - 9 a.m.** -- Open Meeting
Department of Environmental Quality, 629 East Main Street, 1st Floor, Conference Room, Richmond, Virginia. 

A meeting of the Ground Water Protection Steering Committee. Anyone interested in ground water protection issues is welcome to attend. Meeting minutes and agenda are available from Mary Ann Massie.

Contact: Mary Ann Massie, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4042, FAX (804) 698-4032, (804) 698-4021/TTY , e-mail mamassie@deq.state.va.us.


November 29, 2001 - 7 p.m. -- Public Hearing
Central Elementary School, RR1, Box 340, Palmyra, Virginia.  (Interpreter for the deaf provided upon request)

A public hearing to receive comments on the proposed air permit for Tenaska Virginia Partners, L.P. to construct and operate a combined cycle power plant 1.0 mile southeast of the intersection of Route 619 and Route 680 in Fluvanna County. The official public comment period on this permit begins on October 30, 2001, and ends on December 14, 2001.

Contact: Kevin D. Gossett, Department of Environmental Quality, 806 Westwood Office Park, Fredericksburg, VA 22401, telephone (540) 899-4600, FAX (540) 899-4647, e-mail kdgossett@deq.state.va.us.


BOARD OF FUNERAL DIRECTORS AND EMBALMERS

November 14, 2001 - 9 a.m. -- Open Meeting

November 15, 2001 - 9 a.m. -- Open Meeting
Experior, Inc., 3813 Gaskins Road, Richmond, Virginia. 


A meeting to review and develop new questions for the state board examination data bank. The meeting will begin with a 15-minute public hearing.

Contact: Cheri Emma-Leigh, Administrative Staff Assistant, Board of Funeral Directors and Embalmers, 6606 W. Broad Street, 4th Floor, Richmond, VA, telephone (804) 662-9907, FAX (804) 662-9523, e-mail CEmma-Leigh@dhp.state.va.us.

† **December 4, 2001 - 1 p.m.** -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 1, Richmond, Virginia. 

A meeting to hold formal hearings. There will not be a public comment period.


Contact: Cheri Emma-Leigh, Administrative Staff Assistant, Board of Funeral Directors and Embalmers, 6606 W. Broad St., 4th Floor, Richmond, VA, telephone (804) 662-9907, FAX (804) 662-9523, e-mail CEmma-Leigh@dhp.state.va.us.

† **December 12, 2001 - 9 a.m.** -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 3, Richmond, Virginia. 

A meeting of the Special Conference Committee to hold informal hearings. There will not be a public comment period.

Contact: Cheri Emma-Leigh, Administrative Staff Assistant, Board of Funeral Directors and Embalmers, 6606 W. Broad St., 4th Floor, Richmond, VA, telephone (804) 662-9907, FAX (804) 662-9523, e-mail CEmma-Leigh@dhp.state.va.us.

GEORGE MASON UNIVERSITY


November 28, 2001 - 3 p.m. -- Open Meeting
George Mason University, Mason Hall, Room D23, Fairfax,
Virginia. 

A meeting of the Board of Visitors to hear reports of the standing committees and to act on recommendations presented by the committees. An agenda will be available seven days prior to the meeting.

Contact: Mary Roper, Administrative Staff Assistant, Office of the President, 4400 University Dr., Fairfax, VA 22030, telephone (703) 993-8703 or FAX (703) 993-8707.

OFFICE OF THE GOVERNOR

Virginia Preparedness and Security Panel

† **November 9, 2001 - 10 a.m.** -- Open Meeting
Federal Reserve Building, 701 East Byrd Street, Richmond,
Virginia.  (Interpreter for the deaf provided upon request)

The meeting is open only to those with Executive Session privileges.

Contact: Brenda Jones, Staff, Virginia Preparedness and Security Panel, Virginia State Police Academy, 7700 Midlothian Turnpike, Richmond, VA 23235, telephone (804) 674-4687, FAX (804) 674-2089, e-mail bjones@vdfp.state.va.us.

STATE BOARD OF HEALTH

December 21, 2001 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Health intends to adopt regulations entitled: **12 VAC 5-120. Regulations for Testing Children for Elevated Blood-Lead Levels.** The purpose of the proposed regulations is to establish a protocol, based on 1997 guidelines from the federal Centers for Disease Control and Prevention, for testing children for elevated blood-lead levels and reporting laboratory results to the department.

Statutory Authority: § 32.1-46.1 of the Code of Virginia.

Contact: Clayton Pape, Director, Lead Safe Program, Department of Health, 1500 E. Main St., Richmond, VA 23219, telephone (804) 225-4463, FAX (804) 371-6031 or toll-free 1-800-668-7987.

December 21, 2001 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Health intends to adopt regulations entitled: **12 VAC 5-475. Regulations Implementing the Virginia Organ and Tissue Donor Registry.** These regulations will create a statewide organ

and tissue donor registry that will maintain limited information on Virginians who are willing to donate their organs, eyes and tissues for transplantation or research.

Statutory Authority: § 32.1-292.2 of the Code of Virginia.

Contact: Eileen Guertler, Director, Virginia Transplant Council, Department of Health, 1500 E. Main St., Richmond, VA 23219, telephone (804) 786-5589 or FAX (804) 786-0892.

December 21, 2001 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Health intends to amend regulations entitled: **12 VAC 5-520. Regulations Governing the Dental Scholarship and Loan Repayment Program.** The purpose of the proposed action is to provide for administration of the dentist loan repayment program, which was recently established as a complement to the existing scholarship program. The repayment program will provide incentives for dentists to practice in underserved areas of Virginia.

Statutory Authority: §§ 32.1-122.9 and 32.1-122.9:1 of the Code of Virginia.

Contact: Karen Day, Department of Health, 1500 E. Main St., Richmond, VA 23219, telephone (804) 371-4000 or (804) 371-4004.

November 9, 2001 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Health intends to amend regulations entitled: **12 VAC 5-408. Certificate of Quality Assurance of Managed Care Health Insurance Plan Licensees.** The purpose of the proposed amendments is to (i) continue meeting the agency's responsibility to protect public health by ensuring the quality of MCHIPs, and (ii) promote fairness by recognizing distinctions among MCHIPs and avoiding regulating MCHIPs in a homogenous manner.

Statutory Authority: § 32.1-137.3 of the Code of Virginia.

Contact: Rene Cabral-Daniels, Department of Health, 3600 W. Broad St., Suite 216, Richmond, VA 23230, telephone (804) 367-2100 or FAX (804) 367-2149.

November 7, 2001 - 7 p.m. -- Public Hearing
Roanoke County Administration Building, 5204 Bernard Drive,
Roanoke, Virginia.

November 29, 2001 - 10 a.m. -- Public Hearing
Henrico County Government Center, 4301 East Parham
Road, Henrico County Complex, Richmond, Virginia.

Calendar of Events

December 7, 2001 - Public comments may be submitted until this date.


Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Health intends to adopt regulations entitled: **12 VAC 5-615. Authorized Onsite Soil Evaluator Regulations.** These regulations will set forth a program by which the agency may accept private site evaluations and designs, in compliance with the board's regulations for onsite sewage systems, designed and certified by an authorized onsite soil evaluator (AOSE) or a licensed professional engineer (PE) in consultation with an AOSE.

Statutory Authority: §§ 32.1-163.5 and 32.1-164 of the Code of Virginia.


Contact: Donald J. Alexander, Director, Division Onsite Sewage Water Services, Department of Health, Office of Environmental Health Services, P.O. Box 2448, Room 115, Richmond, VA 23218, telephone (804) 786-1620 or FAX (804) 225-4003.

DEPARTMENT OF HEALTH PROFESSIONS

Health Practitioners' Intervention Program Committee

† **December 14, 2001 - 9 a.m.** -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A meeting to review reports, policies, and procedures. The committee will meet in open session for general discussion of the program, and may meet in executive session to consider specific requests from applicants or participants in the program.

Contact: John W. Hasty, Director, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9424, FAX (804) 662-9114, (804) 662-9197/TTY 

STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA

† **November 20, 2001 - 10 a.m.** -- Open Meeting
State Capitol, House Rooms 1 and 2, Richmond, Virginia.

Agenda materials will be available on the Web site approximately one week prior to the meeting at www.schev.edu.

Contact: Lee Ann Rung, State Council of Higher Education for Virginia, James Monroe Bldg., 101 N. 14th St., Richmond, VA 23219, telephone (804) 225-2502, e-mail lrung@schev.edu.

VIRGINIA HOUSING DEVELOPMENT AUTHORITY

† **November 13, 2001 - 9 a.m.** -- Open Meeting
Virginia Housing Development Authority, 601 South Belvidere Street, Richmond, Virginia. 

A regular meeting of the Board of Commissioners to (i) prior monthly meeting; (ii) consider for approval and ratification mortgage loan commitments under its various amendments to its Rules and Regulations for Allocation of Low-Income Housing Tax Credits; (iv) review the authority's matters and take other actions as it may deem appropriate. Various committees, including the Programs Committee, Committee of the Whole, may also meet during the day preceding the regular meeting and before and after the purview. The planned agenda of the meeting will be available at the offices of the authority one week prior to the

Contact: J. Judson McKellar, Jr., General Counsel, Virginia Richmond, VA 23220, telephone (804) 343-5540, FAX (804) 783-6701, toll-free (800) 968-7837, (804) 783-6705/TTY


JAMESTOWN-YORKTOWN FOUNDATION

November 8, 2001 - 10 a.m.
November 9, 2001 - 8 a.m. -- Open Meeting

Williamsburg, Virginia.  (Interpreter for the deaf provided)

A semi-annual meeting of the Board of Trustees. Specific schedules to be confirmed. Public comment will not be

Contact: Laura W. Bailey, Executive Assistant to the Board, Williamsburg, VA 23187, telephone (757) 253-4840, FAX (757) 253-5299, (757) 253-7236/TTY, e-mail lwbailey@jyf.state.va.us.

† **November 14, 2001 - 9 a.m.** -- Open Meeting 

Committees meet at 9 a.m. to receive certification audit reports; the full board meets at 10 a.m. to take certification action. Also, the board will receive comments from the public on proposed amendments to "Standards for non-residential services available to Juvenile and Domestic Relations District Courts" and "Minimum standards for Virginia delinquency prevention and youth development act grant programs."


Contact: Donald Carignan, Regulatory Coordinator, State Board of Juvenile Justice, 700 Centre, 700 E. Franklin St., 4th

Calendar of Events


Floor, Richmond, VA 23219, telephone (804) 371-0743, FAX (804) 371-0773, e-mail carigndr@djj.va.state.us.

Virginia Apprenticeship Council

† **December 13, 2001 - 10 a.m.**


Confederate Hills Recreation Building, 301 Lee Avenue, Highland Springs, Virginia.  (Interpreter for the deaf provided upon request)

A quarterly meeting.


Contact: Beverley Donati, Assistant Program Manager, Department of Labor and Industry, Powers-Taylor Bldg., 13 S. 13th St., Richmond, VA 23219, telephone (804) 786-2382, FAX (804) 786-8418, (804) 786-2376/TTY , e-mail bgd@doli.state.va.us.

Virginia Apprenticeship Council Exemption from Examination Subcommittee

† **November 8, 2001 - 11 a.m.** -- Open Meeting


Department of Labor and Industry, Powers-Taylor Building, 13 South 13th Street, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A general meeting.


Contact: Beverley Donati, Assistant Program Manager, Department of Labor and Industry, Powers-Taylor Bldg., 13 S. 13th St., Richmond, VA 23219, telephone (804) 786-2382, FAX (804) 786-8418, (804) 786-2376/TTY , e-mail bgd@doli.state.va.us.

Virginia Apprenticeship Council Subcommittee

† **November 8, 2001 - 9:30 a.m.** -- Open Meeting


Department of Labor and Industry, Powers-Taylor Building, 13 South 13th Street, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A general meeting.

Contact: Beverley Donati, Assistant Program Manager, Department of Labor and Industry, Powers-Taylor Bldg., 13 S. 13th St., Richmond, VA 23219, telephone (804) 786-2382, FAX (804) 786-8418, (804) 786-2376/TTY , e-mail bgd@doli.state.va.us.


THE LIBRARY OF VIRGINIA

† **November 13, 2001 - 10:30 a.m.** -- Open Meeting

Library of Virginia, Orientation Room, 800 East Broad Street, Richmond, Virginia. 


A meeting of the State Public Records Advisory Council to review and discuss ongoing projects and other information.

Contact: Jean H. Taylor, Executive Secretary to the Librarian of Virginia, The Library of Virginia, 800 E. Broad St., Richmond, VA 23219-2000, telephone (804) 692-3535, FAX

(804) 692-3594, (804) 692-3976/TTY , e-mail jtaylor@lva.lib.va.us.

November 19, 2001 - 7:30 a.m. -- Open Meeting

† **January 25, 2002 - 8:15 a.m.** -- Open Meeting

The Library of Virginia, 800 East Broad Street, Richmond, Virginia. 


A meeting of the board to discuss matters pertaining to the Library of Virginia and the board. Committees of the board will meet as follows:

7:30 a.m. - Executive Committee, Conference Room B.

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. - Library Board, Conference Room 2M.


Contact: Jean H. Taylor, Executive Secretary to the Librarian, The Library of Virginia, 800 E. Broad St., Richmond, VA 23219-2000, telephone (804) 692-3535, FAX (804) 692-3594, (804) 692-3976/TTY , e-mail jtaylor@lva.lib.va.us.

COMMISSION ON LOCAL GOVERNMENT

November 14, 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 matters that may be presented.

Contact: Barbara Bingham, Administrative Assistant, Commission on Local Government, Pocahontas Building, 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.


MARINE RESOURCES COMMISSION

November 27, 2001 - 9:30 a.m. -- Open Meeting

December 18, 2001 - 9:30 a.m. -- Open Meeting

Marine Resources Commission, 2600 Washington Avenue, 4th Floor, Newport News, Virginia. 

A monthly meeting.

Contact: Ginny Chappell, Commission Secretary, Marine Resources Commission, 2600 Washington Ave., Newport News, VA 23607, telephone (757) 247-2206, FAX (757) 247-2020, toll-free (800) 541-4646, (757) 247-2292/TTY , e-mail gchappell@mrc.state.va.us.

Calendar of Events

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Public comments may be submitted until this date.

Code of Virginia that the Department of Medical Assistance Services intends to amend regulations entitled:

110. Eligibility and Appeals (Married and Institutionalized Individuals Eligibility and Patient Pay).

hardship rule definition used to determine Medicaid eligibility for institutionalized individuals who have spouses

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

Public comments may be submitted until December 7, 2001,

Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219.

Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., or FAX (804) 786-1680.

* * * * *

Public comments may be submitted until this date.

Code of Virginia that the Department of Medical Assistance Services intends to adopt regulations entitled:

150. Uninsured Medical Catastrophe Fund. The purpose

and criteria by which DMAS will administer the Uninsured Medical Catastrophe Fund.

Public comments may be submitted until December 7, 2001, to Jack Quigley, Division of Program Operations, Department

1300, Richmond, VA 23219.

Contact:

Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7959

BOARD OF MEDICINE


† November 28, 2001 - 8:45 a.m.

Mimslyn Inn, 40 West Main Street, Luray, Virginia.

A panel of the board will convene, pursuant to §§ 2.2-4020

allegations that a practitioner may have violated laws governing the practice of medicine. The panel will meet in

A 15 of the Code of Virginia. Public comment will not be received.

Peggy Sadler/Renee Dixson, Staff, Board of Medicine, 6606 W. Broad St., Richmond, VA, telephone (804) , e-


December 7, 2001 - 8 a.m. -- Open Meeting

5th Floor, Conference Room 2, Richmond, Virginia. 

and closed session to review disciplinary files requiring administrative action, adopt amendments or take regulatory

come before the board. Public comment will be received at the beginning of the meeting.

William L. Harp, M.D., Executive Director, Board of Medicine, Southern States Bldg., 6606 W. Broad St., 4th

FAX (804) 662-9943, (804) 662-7197/TTY  wharp@dhp.state.va.us.

Informal Conference Committee

-- Open Meeting

Holiday Inn Select, 2801 Plank Road, Fredericksburg,


November 14, 2001 - 8:30 a.m. -- Open Meeting

Richmond, Virginia.

An informal conference committee composed of three

certain practitioners may have violated laws and regulations governing the practice of medicine and other

and closed sessions pursuant to the Code of Virginia. Public comment will not be received.

Peggy Sadler/Renee Dixson, Staff, Board of Medicine, 6606 W. Broad St., Richmond, VA, telephone (804) , e-

STATE BOARD OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE

† December 4, 2001 - 4 p.m. -- Public Hearing

Circle, Virginia Highlands Community College Campus, Abingdon, Virginia.

-- Public Hearing

Chesapeake City Hall Council Chamber, 306 Cedar Road,

† December 5, 2001 - 4 p.m. -- Public Hearing

Verona, Virginia.

† December 6, 2001 - 5 p.m.

Hollins Branch Library, 6624 Peters Creek Road, Roanoke, Virginia.

† **December 11, 2001 - 6 p.m.** -- Public Hearing
Dumbarton Area Library, 6800 Staples Mill Road, Richmond,
Virginia.

† **January 5, 2002** - Public comments may be submitted until
this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Mental Health, Mental Retardation and Substance Abuse Services Board intends to repeal regulations entitled: **12 VAC 35-102. Rules and Regulations for the Licensure of Facilities and Providers of Mental Health, Mental Retardation and Substance Abuse**; repeal regulations entitled: **12 VAC 35-170. Regulations for the Certification of Case Management**; and adopt regulations entitled: **12 VAC 35-105. Rules and Regulations for the Licensing of Facilities and Providers of Mental Health, Mental Retardation and Substance Abuse Services**. The purpose of the proposed action is to repeal two regulations and replace them with a new regulation to provide specific standards governing the administration, clinical services, support functions and physical environment of a licensed provider organization that are designed to protect the health, safety and welfare of clients receiving services. The new regulation will update certain requirements to reflect current practice and technology, clarify provisions, and incorporate recent statutory changes.

Statutory Authority: §§ 37.1-179.1 and 37.1-182 of the Code of Virginia.

Contact: William J. Lessard, Jr., Regional Manager, Office of Licensing, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23218-1797, telephone (804) 786-3475, FAX (804) 692-0066, e-mail wlessard@dmhmrsas.state.va.us.

† **December 5, 2001 - 6 p.m.** -- Public Hearing
Fairfax County Government Center, 12000 Government
Center Parkway, Fairfax, Virginia.

December 5, 2001 - 6 p.m. -- Public Hearing
J. Sargent Reynolds Community College, Corporate Center,
North Run Business Park, 1630 East Parham Road,
Richmond, Virginia.

December 24, 2001 - Public comments may be submitted
until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Mental Health, Mental Retardation and Substance Abuse Services intends to amend regulations entitled: **12 VAC 35-200. Regulations for Respite and Emergency Care Admission to Mental Retardation Facilities**. The purpose of the proposed action is to revise the maximum length of stay for respite and emergency care admissions, clarify the case management community services board's responsibility for assuring discharges, and update provisions consistent with current practice and statutory requirements.

Statutory Authority: §§ 37.1-10 and 37.1-65.2 of the Code of Virginia.

Contact: Cynthia Smith, Office of Mental Retardation Services, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23218-1797, telephone (804) 786-0946 or FAX (804) 692-0077

December 24, 2001 - Public comments may be submitted
until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Mental Health, Mental Retardation and Substance Abuse Services intends to repeal regulations entitled:

12 VAC 35-20. Mandatory Standards for the Certification of First Offender Drug Abuse Diversion and Education Program.

12 VAC 35-140. Mandatory Standards for Community Mental Health Programs.

12 VAC 35-150. Mandatory Standards for Community Mental Retardation Programs.


12 VAC 35-160. Mandatory Standards for Community Substance Abuse Programs.

The purpose of the proposed action is to repeal regulations that are outdated and duplicate the function and intent of the existing licensing regulations.


Statutory Authority: § 37.1-10 of the Code of Virginia.

Contact: Wendy V. Brown, Policy Analyst, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23218-1797, telephone (804) 225-2252 or FAX (804) 371-0092.

STATE MILK COMMISSION

December 12, 2001 - 10:30 a.m. -- Open Meeting
Department of Forestry, 900 Natural Resources Drive, Room
3301, Charlottesville, Virginia. 

A regular meeting to consider industry issues, distributor licensing, base transfers, and reports from staff. The commission will also review a request to repeal subdivisions b, c, and d of subsection 6 of 2 VAC 15-20-100, Regulations for the Control and Supervision of Virginia's Milk Industry.

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.

November 5, 2001 - 8:30 a.m. -- Open Meeting

Room 702, Richmond, Virginia.  (Interpreter for the deaf provided upon request)


Committees will meet as follows:

- Dealer Practices Committee - 8:30 a.m.
- Franchise Law Committee - Five minutes after Dealer Practices Committee
- Licensing Committee - 9:30 a.m. or five minutes after Franchise Law
- Advertising Committee - 10 a.m. or five minutes after Licensing Committee
- Finance Committee - 10:30 a.m. or five to 45 minutes after Personnel Committee
- Personnel Committee - Five minutes after Advertising Committee
- Transaction Recovery Fund Committee - 11 a.m. or five to 45 minutes after Finance


The full board will meet at 1 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.

VIRGINIA MUSEUM OF FINE ARTS

November 6, 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.


Contact: Suzanne Broyles, 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.


November 14, 2001 - 10 a.m. -- Open Meeting
Virginia Museum of Fine Arts, 2800 Grove Avenue, Richmond, Virginia. 

Committee meetings as follows:

- Program Review Committee - 10 a.m. - Main Lobby Conference Room
- Architect Search Committee - 11 a.m. - CEO 2nd Floor Meeting Room
- Legislative Committee - 12:30 p.m. - Auditorium
- Planning Committee - 12:30 p.m. - Auditorium
- Education and Programs Committee - 2 p.m. - CEO 1st Floor Meeting Room


Communications and Marketing Committee - 3:15 p.m. - CEO 2nd Floor Meeting Room
Exhibitions Committee - 4:30 p.m. - CEO 1st Floor Meeting Room

Contact: Suzanne Broyles, 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.


November 15, 2001 - 8:30 a.m. -- Open Meeting
Virginia Museum of Fine Arts, 2800 Grove Avenue, Richmond, Virginia. 

Committee meetings as follows:

- Buildings and Grounds Committee - 8:30 a.m. - CEO 2nd Floor Meeting Room
- Collections Committee - 9:30 a.m. - Auditorium
- Finance Committee 11 a.m. - Auditorium
- Board of Trustees - 12:30 p.m. - Auditorium

Contact: Suzanne Broyles, 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

† **November 7, 2001 - 9 a.m.** -- Public Hearing
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 1, Richmond, Virginia. 


† **January 4, 2002** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Nursing intends to amend regulations entitled: **18 VAC 90-30. Regulations Governing the Licensure of Nurse Practitioners;** and **18 VAC 90-40. Regulations Governing Prescriptive Authority for Nurse Practitioners.** The purpose of the proposed action is to establish continuing competency requirements for renewal of a license or prescriptive authority for nurse practitioners and to authorize the Executive Director to grant extensions for compliance in accordance with regulations.

Statutory Authority: §§ 54.1-103, 54.1-2400, 54.1-2912.1 and 54.1-2957.01 of the Code of Virginia.

Contact: Nancy K. Durrett, R.N., Executive Director, Board of Nursing, 6606 West 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.

Committee of Joint Boards of Nursing and Medicine

† **November 7, 2001 - 9:15 a.m.** -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 1, Richmond, Virginia. 

A general business meeting, including consideration of regulatory and disciplinary matters as may be presented on

the agenda. Public comment on agenda items will be received at the beginning of the meeting.

Contact: Nancy K. Durrett, R.N., Executive Director, Board of Nursing, Southern States Bldg., 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9909, FAX (804) 662-9512, (804) 662-7197/TTY ☎, e-mail ndurrett@dhp.state.va.us.

November 26, 2001 - 8:30 a.m. -- Open Meeting

November 28, 2001 - 8:30 a.m. -- Open Meeting

November 29, 2001 - 8:30 a.m. -- Open Meeting

Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia. ♿

A panel of the board will conduct formal hearings with licensees and certificate holders. Public comment will not be received.

Contact: Nancy K. Durrett, R.N., Executive Director, Board of Nursing, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9909, FAX (804) 662-9512, (804) 662-7197/TTY ☎, e-mail nursebd@dhp.state.va.us.

Special Conference Committee

December 4, 2001 - 8:30 a.m. -- Open Meeting

December 5, 2001 - 8:30 a.m. -- Open Meeting

December 6, 2001 - 8:30 a.m. -- Open Meeting

December 10, 2001 - 8:30 a.m. -- Open Meeting

December 11, 2001 - 8:30 a.m. -- Open Meeting

December 18, 2001 - 8:30 a.m. -- Open Meeting

Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Rooms 3 and 4, 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 St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9909, FAX (804) 662-9512, (804) 662-7197/TTY ☎, e-mail nursebd@dhp.state.va.us.

BOARD OF OPTOMETRY

† **November 14, 2001 - 8:30 a.m.** -- Open Meeting

Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 1, Richmond, Virginia. ♿

A formal hearing. This is a public meeting; however, public comment will not be received.

Contact: Carol Stamey, Administrative Assistant, Board of Optometry, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9910, FAX (804) 662-7098, (804) 662-7197/TTY ☎, e-mail cstamey@dhp.state.va.us.

† **November 14, 2001 - 10:30 a.m.** -- Open Meeting

Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 1, Richmond, Virginia. ♿

A general business meeting to include consideration of comment of the periodic review of regulations, will review requests for extensions/waivers of the continuing education

requirement and will consider questions posed to it concerning the dispensing of contact lenses in Virginia and concerning the acceptability of certain electronic medical records systems in the practice of optometry. The board will also consider their position relative to the acceptability of ethics courses for continuing education credit, and its endorsement of the World Health Organization's "VISION2020 - The Right to Sight" program. Public comment will be received at the beginning of the meeting.

Contact: Elizabeth A. Carter, Ph.D., Executive Director, Board of Optometry, Southern States Bldg., 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9910, FAX (804) 662-9504, (804) 662-7197/TTY ☎, e-mail ecarter@dhp.state.va.us.

VIRGINIA OUTDOORS FOUNDATION

December 4, 2001 - 10 a.m. -- Open Meeting

December 5, 2001 - 9 a.m. -- Open Meeting

State Capitol, House Room 2, Richmond, Virginia. ♿

A regularly scheduled meeting of the Board of Trustees to discuss the business of the foundation and accept conservation easements. Public input will be accepted after the regular business meeting.

Contact: Tamara A. Vance, Executive Director, Virginia Outdoors Foundation, 203 Governor Street, Richmond, VA 23219, telephone (804) 225-2147.

VIRGINIA BOARD FOR PEOPLE WITH DISABILITIES

† **December 5, 2001 - 9 a.m.** -- Open Meeting

Virginia Housing Development Authority, 601 South Belvidere Street, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A regular quarterly meeting of the board. During this meeting the Wheat Award recipient will be announced. Public comment is welcome.

Contact: Glendora Reed Swain, Administrative Assistant, Virginia Board for People with Disabilities, 202 N. 9th St., 9th Floor, Richmond, VA 23219, telephone (804) 786-0116, FAX (804) 786-1118, toll-free (800) 846-4464, (800) 846-4464/TTY ☎, e-mail reedgr@vbpd.state.va.us.

BOARD OF PHARMACY

† **November 7, 2001 - 1 p.m.** -- Open Meeting

Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 3, Richmond, Virginia. ♿

The subcommittee will review pharmacy regulations as they affect retail practice. Public comment will be received at the beginning of the meeting.

Contact: Elizabeth Scott Russell, RPh, Executive Director, Board of Pharmacy, Southern States Bldg., 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9911, FAX (804) 662-9313, (804) 662-7197/TTY ☎, e-mail erussell@dhp.state.va.us.

Calendar of Events

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November 8, 2001 - 9 a.m. -- Public Hearing
Department of Health Professions, 6606 West Broad Street,
5th Floor, Conference Room 2, Richmond, Virginia.

December 21, 2001 - Public comments may be submitted
until this date.

Notice is hereby given in accordance with § 2.2-4007 of the
Code of Virginia that the Board of Pharmacy intends to
amend regulations entitled: **18 VAC 110-20. Regulations
Governing the Practice of Pharmacy.** The amendments
are required in order to comply with Chapter 876 of the
2000 Acts of Assembly requiring the board to promulgate
regulations for approval of innovative programs (pilot
projects) in pharmacy for which some waiver of law or
regulation would be necessary. The proposed regulations
replace emergency regulations that became effective on
January 10, 2000, and are identical to those regulations.

Statutory Authority: §§ 54.1-2400 and 54.1-3307.2 of the
Code of Virginia.

Contact: Elizabeth Scott Russell, Executive Director, Board
of Pharmacy, 6606 W. Broad St., 4th Floor, Richmond, VA
23230, telephone (804) 662-9911, FAX (804) 662-9313.

November 8, 2001 - 9:15 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street,
5th Floor, Conference Room 2, Richmond, Virginia.

The board will receive comment on a draft proposal to
increase fees and on a draft proposal for registration of
pharmacy technicians.

Contact: Elizabeth Scott Russell, RPh, Executive Director,
Board of Pharmacy, Southern States Bldg., 6606 W. Broad
St., 4th Floor, Richmond, VA 23230-1717, telephone (804)
662-9911, FAX (804) 662-9313, (804) 662-7197/TTY , e-
mail erussell@dhp.state.va.us.

† **November 15, 2001 - 9 a.m.** -- Open Meeting
Department of Health Professions, 6606 West Broad Street,
5th Floor, Conference Room 3, Richmond, Virginia.

The Special Conference Committee will discuss disciplinary
matters. Public comments will not be received.

Contact: Elizabeth Scott Russell, Executive Director, Board
of Pharmacy, 6606 W. Broad St., 4th Floor, Richmond, VA
23230, telephone (804) 662-9911, FAX (804) 662-9313.

POLYGRAPH EXAMINERS ADVISORY BOARD

December 12, 2001 - 10 a.m. -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, Richmond, 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 least 10 days prior to the meeting so that
suitable arrangements can be made. The department fully
complies with the Americans with Disabilities Act.

Contact: Mark N. Courtney, Assistant Director, Department of
Professional and Occupational Regulation, 3600 W. Broad
St., Richmond, VA 23230-4917, telephone (804) 367-8514,
FAX (804) 367-2475, (804) 367-9753/TTY , e-mail
polygraph@dpor.state.va.us.

BOARD FOR PROFESSIONAL AND OCCUPATIONAL REGULATION

November 13, 2001 - 10 a.m. -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, 4th Floor, Conference Room 4W,
Richmond, Virginia. (Interpreter for the deaf provided upon
request)

A regular board meeting.

Contact: Judy Spiller, Executive Secretary, Board for
Professional and Occupational Regulation, 3600 W. Broad
St., Richmond, VA 23230, telephone (804) 367-8519, FAX
(804) 367-9537, (804) 367-9753/TTY , e-mail
spiller@dpor.state.va.us.

VIRGINIA RACING COMMISSION

November 14, 2001 - 9:30 a.m. -- Open Meeting
December 19, 2001 - 9:30 a.m. -- Open Meeting
Tyler Building, 1300 East Main Street, Richmond, Virginia.
(Interpreter for the deaf provided upon request)

A monthly meeting with a segment for public participation.
The commission will hear a report from Colonial Downs.

Contact: William H. Anderson, Policy Analyst Senior, Virginia
Racing Commission, 10700 Horsemen's Rd., New Kent, VA
23214, telephone (804) 966-7404, FAX (804) 966-7418, e-
mail Anderson@vrc.state.va.us

REAL ESTATE BOARD

December 6, 2001 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, Richmond, Virginia.

A general business meeting. The board will consider the
adoption of proposed regulations.

Contact: Karen W. O'Neal, Assistant Director, Department of
Professional and Occupational Regulation, 3600 W. Broad
St., Richmond, VA 23230, telephone (804) 367-8552, FAX
(804) 367-2475, e-mail reboard@dpor.state.va.us.

VIRGINIA RECYCLING MARKETS DEVELOPMENT COUNCIL

† **November 13, 2001 - 10 a.m.** -- Open Meeting
Central Virginia Waste Management Authority, 2104 West
Laburnum Avenue, Board Room, Richmond, Virginia.
(Interpreter for the deaf provided upon request)

A regular meeting. Subcommittee meetings may be held
prior to or after the general council meeting.

Contact: Michael P. Murphy, Director, Environmental Enhancement, Department of Environmental Quality, Virginia Recycling Markets Development Council, P.O. Box 10009, Richmond, VA 23240-0009, telephone (804) 698-4003, FAX (804) 698-4319, toll-free (800) 592-5482, (804) 698-4021/TTY ☎

BOARD OF REHABILITATIVE SERVICES

November 15, 2001 - 10 a.m. -- Open Meeting
Department of Rehabilitative Services, 8004 Franklin Farms Drive, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A meeting to conduct quarterly business. Public comments will be received during the morning session.

Contact: Barbara Tyson, Department of Rehabilitative Services, 8004 Franklin Farms Dr., P.O. Box K-300, Richmond, VA 23288-0300, telephone (804) 662-7010, toll-free (800) 552-5019, (804) 662-9040/TTY ☎, e-mail DRS@DRS.state.va.us.

DEPARTMENT OF REHABILITATIVE SERVICES

November 19, 2001 - 4 p.m. -- Open Meeting
Woodrow Wilson Rehabilitation Center, The William Caschette Chapel, Fishersville, Virginia. ♿ (Interpreter for the deaf provided upon request)

November 27, 2001 - 4 p.m. -- Open Meeting
Higher Education Center, Grand Hall Left, 1 Partnership Circle, Abingdon, Virginia. ♿ (Interpreter for the deaf provided upon request)

A public forum for Virginians to discuss vocational rehabilitation and supported employment planning.

Contact: Katherine Lawson, Planner, Department of Rehabilitative Services, 8004 Franklin Farms Dr., P.O. Box K-300, Richmond, VA 23288-0300, telephone (804) 662-7255, FAX (804) 662-7696, toll-free (800) 552-5019, (804) 662-9040/TTY ☎, e-mail lawsonkw@drs.state.va.us.

VIRGINIA RESOURCES AUTHORITY

NOTE: CHANGE IN MEETING DATE

† **November 14, 2001 - 9 a.m.** -- Open Meeting
December 11, 2001 - 9 a.m. -- Open Meeting
Virginia Resources Authority, 707 East Main Street, 2nd 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 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.

VIRGINIA SMALL BUSINESS FINANCING AUTHORITY

† **November 27, 2001 - 10 a.m.** -- Open Meeting
Department of Business Assistance, 707 East Main Street, 3rd Floor, Richmond, Virginia. ♿

A meeting to review applications for loans submitted to the authority for approval and to conduct general business of the board. Meeting time is subject to change depending upon the agenda of the board.

Contact: Scott E. Parsons, Executive Director, Department of Business Assistance, P.O. Box 446, Richmond, VA 23218-0446, telephone (804) 371-8254, FAX (804) 225-3384, e-mail sparsons@dba.state.va.us.

DEPARTMENT OF SOCIAL SERVICES

November 23, 2001 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Social Services intends to amend regulations entitled: **22 VAC 40-41. Neighborhood Assistance Tax Credit Program.** The purpose of the proposed action is to amend the regulation to reflect changes to the controlling statute. Changes include adding additional health professionals and building contractors to those able to donate services and allowing individuals to receive tax credits for cash donations to approved projects.

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

Contact: Phyl Parrish, Program Consultant, Department of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1895 or FAX (804) 692-1869.

December 7, 2001 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Social Services intends to repeal regulations entitled:

22 VAC 40-32. Aid to Families with Dependent Children (AFDC) Program - Determining AFDC Eligibility When Only Dependent Child Receives Foster Care Benefits.

Calendar of Events

22 VAC 40-290. Earned Income Disregards/Student Earnings in the Aid to Families with Dependent Children (AFDC) Program.

22 VAC 40-300. Lump Sum Ineligibility Period in the Aid to Families with Dependent Children (AFDC) Program.

22 VAC 40-310. Maximum Resource Limit in the Aid to Families with Dependent Children (AFDC) Program.

22 VAC 40-320. Disclosure of Information to Law-Enforcement Officers in the Aid to Families with Dependent Children (AFDC) Program.

22 VAC 40-350. Real Property Disposition Period in the Aid to Families with Dependent Children (AFDC) Program.

22 VAC 40-360. Definition of a Home in the Aid to Families with Dependent Children (AFDC) and General Relief (GR) Programs.

22 VAC 40-370. Job Training Partnership Act (JTPA) Income Disregards in the Aid to Families with Dependent Children (AFDC) Program.

22 VAC 40-380. Disregard of Certain Income Received by Indian Tribes in the Aid to Families with Dependent Children (AFDC) Program.

22 VAC 40-390. Persons and Income Required to be Considered When Evaluating Eligibility for Assistance in the Aid to Families with Dependent Children (AFDC) Program.

22 VAC 40-420. Aid to Families with Dependent Children: Unemployed Parent Demonstration (AFDC-UPDEMO) Project.

22 VAC 40-430. Treatment of Casual and Inconsequential Income in the Aid to Families with Dependent Children (AFDC) Program.

22 VAC 40-440. Aid to Families with Dependent Children (AFDC) Program Allocation of Income.

22 VAC 40-450. Lump Sum Payments in the Aid to Families with Dependent Children (AFDC) Program.

22 VAC 40-460. Deeming of Stepparent Income in the Aid to Families with Dependent Children (AFDC) Program.

22 VAC 40-490. Aid to Families with Dependent Children (AFDC) Program - Deprivation Due to the Incapacity of a Parent.

22 VAC 40-500. Work-Related Child Care Expenses Disregarded in the Aid to Families with Dependent Children (AFDC) Program.

22 VAC 40-510. Aid to Families with Dependent Children (AFDC) Program - Entitlement Date.

22 VAC 40-520. Aid to Families with Dependent Children (AFDC) Program – Disregarded Income and Resources.

22 VAC 40-530. Aid to Families with Dependent Children (AFDC) Program - Deprivation Due to Continued Absence.

22 VAC 40-550. Aid to Families with Dependent Children Program - Unemployed Parent (AFDC-UP) Program.

22 VAC 40-580. Aid to Families with Dependent Children (AFDC) – Elimination of Monthly Reporting.

22 VAC 40-590. Aid to Families with Dependent Children - Earned Income Tax Credit (EITC) Disregard.

22 VAC 40-610. Aid to Families with Dependent Children (AFDC) Program - Exclusion of Children Receiving Adoption Assistance and Foster Care Maintenance Payment.

22 VAC 40-620. Aid to Families with Dependent Children (AFDC) Program - Fifth Degree Specified Relative.

22 VAC 40-650. Aid to Families with Dependent Children (AFDC) Program - Disqualification for Intentional Program Violation.

22 VAC 40-750. Grant Diversion.

22 VAC 40-760. Employment Services Program Policy.

The Board of Social Services proposes to repeal 28 regulations that apply to the now obsolete Aid to Families with Dependent Children (AFDC) program. The Temporary Assistance for Needy Families (TANF) program has replaced the AFDC program and all rules regarding this program have been consolidated into one regulation, 22 VAC 40-295, Temporary Assistance for Needy Families, which is currently in the promulgation process.

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

Contact: Mark L. Golden, TANF Program Consultant, 730 E. Broad St, Richmond, VA 23219, telephone (804) 692-1735 or FAX (804) 692-1704.

* * * * *

December 7, 2001 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Social Services intends to amend regulations entitled: **22 VAC 40-330. Collection of Overpayments in the Refugee Other Assistance Programs.** This regulation provides rules for collecting payment of funds erroneously paid to recipients of AFDC and Refugee Other Assistance Programs. The regulation is being amended so that the regulation only applies to Refugee Other Assistance Programs and not AFDC.

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

Contact: Mark L. Golden, TANF Program Consultant, 730 E. Broad St, Richmond, VA 23219, telephone (804) 692-1735 or FAX (804) 692-1704.

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December 7, 2001 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Social Services intends to amend regulations entitled: **22 VAC 40-340. Protective Payments in the Refugee Other Assistance Programs.** This regulation is being amended by removing references to AFDC. Provisions regarding protective payments will be included in the comprehensive regulation, Temporary Assistance for Needy Families, 22 VAC 40-295.

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

Contact: Mark L. Golden, TANF Program Consultant, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1735 or FAX (804) 692-1704.

† **January 4, 2002** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Social Services intends to amend regulations entitled: **22 VAC 40-880. Child Support Enforcement Program.** The purpose of the proposed action is to update selected sections of the current child support enforcement regulation impacted by recent state and federal legislation.

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

Contact: Bill Brownfield, Manager, Division of Child Support Enforcement, Department of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-2401.

† **January 18, 2002 - 10 a.m.** -- Open Meeting
Department of Social Services, 730 East Broad Street, 8th Floor, Conference Room, Richmond, Virginia. ☎

A regular meeting of the Family and Children's Trust Fund Board of Trustees. Contact the Office of the Family and Children's Trust Fund for more information.

Contact: Nan McKenney, Executive Director, State Board of Social Services, 730 E. Broad St., Richmond, VA 23219-1849, telephone (804) 692-1823, FAX (804) 692-1869.

BOARD OF SOCIAL WORK

November 9, 2001 - 9 a.m. -- Open Meeting
Sheraton Oceanfront Hotel, 36th and Atlantic Avenue, Virginia Beach, Virginia. ☎

A general business meeting with such regulatory and disciplinary items as may be presented on the agenda. Public comment will be received at the beginning of the meeting.

Contact: Evelyn B. Brown, Executive Director, Board of Social Work, Southern States Bldg., 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9914, FAX (804) 662-9943, (804) 662-7197/TTY ☎, e-mail ebrown@dhp.state.va.us.

BOARD FOR PROFESSIONAL SOIL SCIENTISTS

November 13, 2001 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☎

A regular business meeting to consider the adoption of final regulations.

Contact: Karen W. O'Neal, Regulatory Programs Coordinator, Board for Professional Soil Scientists, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8537, FAX (804) 367-2475, (804) 367-9753/TTY ☎, e-mail oneal@dpor.state.va.us.

COUNCIL ON TECHNOLOGY SERVICES

November 8, 2001 - 9 a.m. -- Open Meeting
VDOT Auditorium, 1221 East Broad Street, Richmond, Virginia. ☎

A full COTS meeting.

Contact: Jenny Wootton, Council on Technology Services, Washington Bldg., 1100 Bank St., Suite 901, Richmond, VA 23219, telephone (804) 786-0744, FAX (804) 371-7952, e-mail jwootton@egov.state.va.us.

November 8, 2001 - 1:30 p.m. -- Open Meeting
December 6, 2001 - 1:30 p.m. -- Open Meeting
110 South 7th Street, 3rd Floor, Executive Conference Room, Richmond, Virginia. ☎

A regular monthly meeting of the Enterprise Architecture Workgroup.

Contact: Paul Lubic, Information Technology Manager, Council on Technology Services, 110 S. 7th St., Suite 135, Richmond, VA 23219, telephone (804) 371-0004, FAX (804) 371-2795, e-mail plubic@ntp.state.va.us.

COMMONWEALTH TRANSPORTATION BOARD

November 14, 2001 - 2 p.m. -- Open Meeting
Department of Transportation, 1221 East Broad Street, Auditorium, Richmond, Virginia. ☎

A work session of the Commonwealth Transportation Board and the Department of Transportation staff.

Contact: Cathy M. Ghidotti, Assistant Secretary to the Board, Commonwealth Transportation Board, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-6675, FAX (804) 786-6683, e-mail ghidotti_cm@vdot.state.va.us.

November 15, 2001 - 10 a.m. -- Open Meeting
Department of Transportation, 1221 East Broad Street, Auditorium, Richmond, Virginia. ☎


A monthly meeting to vote on proposals presented regarding bids, permits, additions and deletions to the highway system, and any other matters requiring board approval. Public comment will be received at the outset of the meeting on items on the meeting agenda for which the opportunity for public comment has not been afforded the public in another forum. Remarks will be limited to five

Calendar of Events

minutes. Large groups are asked to select one individual to speak for the group. The board reserves the right to amend these conditions. Separate committee meetings may be held on call of the chairman. Contact VDOT Public Affairs at (804) 786-2715 for schedule.

Contact: Cathy M. Ghidotti, Assistant Secretary to the Board, Commonwealth Transportation Board, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-6675, FAX (804) 786-6683, e-mail ghidotti_cm@vdot.state.va.us.

VIRGINIA WASTE MANAGEMENT BOARD

November 7, 2001 - 9 a.m. -- Open Meeting
Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia. 

Tentatively scheduled meeting of the advisory committee assisting in the development of amendments to the solid waste management regulations. Persons interested in attending should confirm that the meeting will be held by contacting the person listed below prior to the meeting.

Contact: Michael J. Dieter, Virginia Waste Management Board, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4146, e-mail mjdieter@deq.state.va.us.

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November 26, 2001 - 1:00 p.m.-- Public Hearing
The Salem Church Library, 2607 Salem Church Road, Library Room A, Fredericksburg, Virginia.

November 27, 2001 - 1:00 p.m. -- Public Hearing
Department of Environmental Quality, West, Central Regional Office, 3019 Peter's Creek Road, Roanoke, Virginia.

November 29, 2001 - 10:30 a.m. -- Public Hearing
Department of Environmental Quality, Tidewater Regional Office, 5635 Southern Blvd, Virginia Beach, Virginia.


December 27, 2001 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Virginia Waste Management Board intends to amend regulations entitled: **9 VAC 20-160, Voluntary Remediation Regulations**. The purpose of the proposed action is the amendment of the Voluntary Remediation Regulations. Review of the regulations has indicated a need for updating to include current sampling and analysis methods and deletion of obsolete language.

Statutory Authority: § 10.1-1429.1 of the Code of Virginia

Public comments may be submitted until 5 p.m. on December 27, 2001.


Contact: Melissa Porterfield, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone: 804-698-4238, or e-mail: msporterfi@deq.state.va.us.

† **December 13, 2001 - 10 a.m.** -- Open Meeting
Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia. 

A meeting of the advisory committee established to assist in the development of regulations for the transportation of solid and medical wastes on state waters.


Contact: Dan 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

November 5, 2001 - 9:30 a.m. -- Open Meeting
Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia. 


A meeting of the technical advisory committee assisting in the development of the draft regulation for wastewater reclamation and reuse.

Contact: Lily Choi, State Water Control Board, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4054, e-mail ychoi@deq.state.va.us.

November 13, 2001 - 10 a.m. -- Open Meeting
Department of Environmental Quality, 629 East Main Street, 10th Floor Conference Room, Richmond, Virginia. 


A meeting of the advisory committee assisting the department in the development of amendments to the storm water general VPDES permit for construction activities.

Contact: Burton Tuxford, State Water Control Board, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4086, FAX (804) 698-4032, e-mail brtuxford@deq.state.va.us.

† **November 20, 2001 - 7 p.m.** -- Public Hearing
Powhatan County Administration Building, 3834 Old Buckingham Road, Powhatan, Virginia.  (Interpreter for the deaf provided upon request)

A public hearing to receive comments on the proposed issuance of a VPDES Permit to the County of Powhatan for a proposed municipal wastewater treatment plant (Dutoy Creek WWTF) located at 1920 Anderson Highway in Powhatan County.

Contact: Allan Brockenbrough, State Water Control Board, 4949-A Cox Rd., Glen Allen, VA 23060, telephone (804) 527-5027, FAX (804) 527-5106, e-mail abrockenb@deq.state.va.us.

November 28, 2001 - 2 p.m. -- Open Meeting
Department of Environmental Quality, 4949-A Cox Road, Glen Allen, Virginia. 

A public meeting to receive comments on the notice of intent to adopt a regulation for the James River (Richmond Regional West) Surface Water Management Area.

Contact: Erlinda Patron, State Water Control Board, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4047, FAX (804) 698-4136, e-mail elpatron@deq.state.va.us.

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† **December 10, 2001 - 2 p.m.** -- Public Hearing
Department of Environmental Quality, Piedmont Regional
Office, 4949-A Cox Road, Glen Allen, Virginia.

† **January 11, 2002** - Public comments may be submitted
until this date.

Notice is hereby given in accordance with § 2.2-4007 of the
Code of Virginia that the State Water Control Board intends
to promulgate regulations entitled: **9 VAC 25-720. Water
Quality Management Planning Public Participation
Guidelines Regulation**, and repeal regulations entitled:

**9 VAC 25-420. James River 3(C) Wastewater
Management Plan Peninsula Area.**

**9 VAC 25-430. Roanoke River Basin Water Quality
Management Plan.**

**9 VAC 25-440. Upper Roanoke River Subarea Water
Quality Management Plan .**

**9 VAC 25-450. Upper James River Basin Water Quality
Management Plan.**

**9 VAC 25-452. Upper James-Jackson River Subarea
Water Quality Management Plan.**

**9 VAC 25-460. Metropolitan/Regional Water Quality
Management Plan for Northern Neck Planning District
(No. 17).**

**9 VAC 25-470. York River Basin Water Quality
Management Plan.**

**9 VAC 25-480. Tennessee and Big Sandy River Basins
Water Quality Management Plan**

**9 VAC 25-490. Rappahannock Area Development
Commission (RADCO) 208 Areawide Waste Treatment
Management Plan and Potomac-Shenandoah River
Basin 303(E) Water Quality Management Plan.**

**9 VAC 25-500. State Water Quality Management Plan
for the Fifth Planning District.**

**9 VAC 25-510. Water Quality Management Plan for the
Southwest Virginia 208 Planning Area.**

**9 VAC 25-520. Water Quality Management Plan for the
First Tennessee-Virginia Development District.**

**9 VAC 25-530. Water Quality Management Plan for the
Hampton Roads Planning Area (Planning Districts 20 &
21).**

**9 VAC 25-540. Water Quality Management Plan for the
New River Basin.**

**9 VAC 25-550. Small Coastal River Basins and
Chesapeake Bay Virginia Eastern Shore Portion Water
Quality Management Plan.**

**9 VAC 25-560. Potomac-Shenandoah River Basin Water
Quality Management Plan.**

**9 VAC 25-570. Richmond-Crater Interim Water Quality
Management Plan.**

9 VAC 25-572. Water Quality Management Plans.

The purpose of the proposed action is to establish, among
other planning items, the procedures for public participation
during TMDL development, submittal of proposed TMDLs
to EPA and inclusion of approved TMDLs and TMDL
implementation plans in the water quality management
plans. The action will also include repeal of existing water
quality management plans.

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

Contact: Charles Martin, Department of Environmental
Quality, P.O. Box 10009, Richmond, VA 23240, telephone
804-698-4462, FAX 804-698-4136, e-mail
chmartin@deq.state.va.us.

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† **January 8, 2002 - 2 p.m.** -- Public Hearing
Department of Environmental Quality, Piedmont Regional
Office, 4949-A Cox Road, Glen Allen, Virginia.

† **January 9, 2002 - 2 p.m.** -- Public Hearing
Department of Environmental Quality, West Central Regional
Office, 3019 Peters Creek Road, Roanoke, Virginia.

† **January 31, 2002** - Public comments may be submitted
until this date.

Notice is hereby given in accordance with § 2.2-4007 of the
Code of Virginia that the State Water Control Board intends
to amend regulations entitled: **9 VAC 25-260. Water
Quality Standards**. The purpose of the proposed action is
to update surface water criteria for ammonia in freshwater,
provide new alternative indicators for assessing bacterial
water quality, and update contact recreational use
designations for primary and secondary or seasonal uses,
etc.

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

Contact: Eleanore Daub, Department of Environmental
Quality, P.O. Box 10009, Richmond, VA 23240, telephone
(804) 698-4111, e-mail emdaub@deq.state.va.us.

VIRGINIA BOARD FOR WATERWORKS AND WASTEWATER WORKS OPERATORS

December 13, 2001 - 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.

Contact: Christine Martine, Acting 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.

Calendar of Events

INDEPENDENT

STATE LOTTERY BOARD

† **November 14, 2001 - 9:30 a.m.** -- Open Meeting
State Lottery Department, 900 East Main Street Richmond, Virginia. (Interpreter for the deaf provided upon request)

A regular meeting. Public comment will be received at the beginning of the meeting.

Contact: Barbara L. Robertson, Legislative & Regulatory Coordinator, State Lottery Board, 900 E. Main St., Richmond, VA 23219, telephone (804) 692-7105, FAX (804) 692-7775, e-mail brobertson@valottery.state.va.us.

VIRGINIA RETIREMENT SYSTEM

November 14, 2001 - Noon -- Open Meeting
VRS Headquarters, 1200 East Main Street, Richmond, Virginia.

A regular meeting of the Audit and Compliance 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 dkestner@vrs.state.va.us.

November 14, 2001 - 1 p.m. -- Open Meeting
VRS Headquarters, 1200 East Main Street, Richmond, Virginia.

The regular meeting of the Benefits and Actuarial Committee.

Contact: Darla K. Glazier, Office Manager, Virginia Retirement System, VRS, 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.

NOTE: CHANGE IN MEETING DATE

November 14, 2001 - 2:30 p.m. -- Open Meeting
VRS Headquarters, 1200 East Main Street, Richmond, Virginia.

The regular meeting of the Administration and Personnel 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 dkestner@vrs.state.va.us.

November 14, 2001 - 3 p.m. -- Open Meeting
December 19, 2001 - 3 p.m. -- Open Meeting
VRS 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.

November 15, 2001 - 9 a.m. -- Open Meeting
December 20, 2001 - 9 a.m. -- Open Meeting
VRS 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 dkestner@vrs.state.va.us.

LEGISLATIVE

ADMINISTRATIVE LAW ADVISORY COMMITTEE

November 8, 2001 - 10 a.m. -- Open Meeting
General Assembly Building, 9th and Broad Streets, Speaker's Conference Room, Sixth Floor, Richmond, Virginia.

The Administrative Law Advisory Committee (ALAC), an advisory committee to the Virginia Code Commission, will meet to receive and act upon the reports of study subcommittees appointed in accordance with the ALAC 2001 Work Plan.

Contact: Bess Hodges, Program Director, Administrative Law Advisory Committee, Division of Legislative Services, 2nd Floor, General Assembly Building, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591, FAX (804) 692-0625, e-mail bhodges@leg.state.va.us.

VIRGINIA CODE COMMISSION

November 15, 2001 - 10 a.m. -- Open Meeting
General Assembly Building, 9th and Broad Streets, 6th Floor, Speaker's Conference Room, Richmond, Virginia.

A meeting to continue with the recodification of Title 63.1 of the Code of Virginia and to conduct any other business that may come before the commission. Public comment will be received at the end of the meeting.

Contact: Jane Chaffin, Registrar of Regulations, General Assembly Bldg., 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591 FAX (804) 692-0625, e-mail jchaffin@leg.state.va.us.

CHESAPEAKE BAY RESTORATION FUND ADVISORY COMMITTEE

† **November 20, 2001 - 9:30 a.m.** -- Open Meeting
General Assembly Building, 9th and Broad Streets, 3rd Floor West Conference Room, Richmond, Virginia.

A regular meeting. Questions regarding the meeting should be directed to Marty Farber, Division of Legislative Services, at (804) 786-3591.

Contact: Patty Lung, Senate Committee Operations, P.O. Box 396, Richmond, VA 23218, telephone (804) 698-7450.

JOINT SUBCOMMITTEE STUDYING ECONOMIC INCENTIVES TO PROMOTE THE GROWTH AND COMPETITIVENESS OF VIRGINIA'S SHIPBUILDING INDUSTRY (SJR 351, 2001)

† **November 19, 2001 - 2 p.m.** -- Open Meeting
General Assembly Building, 9th and Broad Streets, Senate Room A, Richmond, Virginia.

A regular meeting. Individuals requiring interpreter services or other special accommodations should contact Senate Committee Operations at least seven days prior to the meeting.

Contact: John McE. Garrett, Senate Committee Operations, P.O. Box 396, Richmond, VA 23218, telephone (804) 698-7450.

COMMISSION ON EDUCATIONAL ACCOUNTABILITY

† **November 15, 2001 - 10 a.m.** -- Open Meeting
General Assembly Building, 9th and Broad Streets, Senate Room A, Richmond, Virginia.

A regular meeting. Questions regarding the meeting should be directed to Kathy Harris, Division of Legislative Services, at (804) 786-3591.

Contact: Patty Lung, Senate Committee Operations, P.O. Box 396, Richmond, VA 23218, telephone (804) 698-7450.

CONSUMER ADVISORY BOARD OF THE VIRGINIA ELECTRIC UTILITY RESTRUCTURING ACT

† **November 14, 2001 - 9:30 a.m.** -- Open Meeting
† **December 4, 2001 - 9:30 a.m.** -- Open Meeting
General Assembly Building, 9th and Broad Streets, Senate Room B, Richmond, Virginia.

A regular meeting. Individuals requiring interpreter services or other special accommodations should contact Senate Committee Operations at least seven days prior to the meeting.

Contact: Tommy Gilman, Senate Committee Operations, P.O. Box 396, Richmond, VA 23218, telephone (804) 698-7450.

COMMISSION ON ACCESS AND DIVERSITY IN HIGHER EDUCATION IN VIRGINIA

† **November 28, 2001 - 10 a.m.** -- Open Meeting
General Assembly Building, 9th and Broad Streets, House Room C, Richmond, Virginia.

A regular meeting. Questions regarding the meeting should be directed to Brenda Edwards, Division of Legislative Services, at (804) 786-3591.

Contact: Dawn B. Smith, House Committee Operations, P.O. Box 406, Richmond, VA 23218, telephone (804) 698-1540 or (804) 786-2369/TTY ☎

JOINT SUBCOMMITTEE TO STUDY THE IMPACT OF INCENTIVES TO ATTRACT NEW BUSINESSES ON EXISTING BUSINESSES IN THE COMMONWEALTH, PARTICULARLY SCRAP RECYCLERS

† **November 19, 2001 - 2 p.m.** -- Open Meeting
General Assembly Building, 9th and Broad Streets, House Room C, Richmond, Virginia.

A regular meeting. Questions regarding the meeting should be directed to Joan Putney, Division of Legislative Services, at (804) 786-3591.

Contact: Lori Maynard, House Committee Operations, P.O. Box 406, Richmond, VA 23218, telephone (804) 698-1540 or (804) 786-2369/TTY ☎

JOINT COMMISSION ON PRESCRIPTION DRUG ASSISTANCE (HJR 810)

November 13, 2001 - 2 p.m. -- Open Meeting
General Assembly Building, 9th and Broad Streets, House Room D, Richmond, Virginia. ☎

A meeting of the joint commission to develop ways and means to provide prescription drug assistance to needy senior citizens and to coordinate state and federal programs providing such assistance. Questions about the agenda should be addressed to Gayle Vergara, Division of Legislative Services, (804) 786-3591.

Contact: Lois V. Johnson, House Committee Operations, P.O. Box 406, Richmond, VA 23218, telephone (804) 698-1540 or (804) 786-2369/TTY ☎

CHRONOLOGICAL LIST

OPEN MEETINGS

November 5

- Motor Vehicle Dealer Board
 - Advertising Committee
 - Dealer Practices Committee
 - Finance Committee
 - Franchise Law Committee
 - Licensing Committee
 - Personnel Committee
 - Transaction Recovery Fund Committee
- Water Control Board, State
 - Advisory Committee on Wastewater Reclamation and Reuse

November 6

- Museum of Fine Arts, Virginia
 - Executive Committee

November 7

- Agriculture and Consumer Services, Department of
 - Virginia Winegrowers Advisory Board
- Air Pollution Control Board, State

Calendar of Events

- † Deaf and Hard-of-Hearing, Department for the
 - Advisory Board
- † Nursing, Board of
 - Committee of Joint Boards of Nursing and Medicine
- † Pharmacy, Board of
- Waste Management Board, Virginia
 - Advisory Committee on Solid Waste Management Regulations

November 8

- Administrative Law Advisory Committee
- Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects, Board for
 - Professional Engineers Section
- Audiology and Speech-Language Pathology, Board of
- † Child Day-Care Council
- Environmental Quality, Department of
- Jamestown-Yorktown Foundation
 - Board of Trustees
- † Labor and Industry, Department of
 - Virginia Apprenticeship Council Exemption from Examination Subcommittee
 - Virginia Apprenticeship Council Subcommittee
- Medicine, Board of
 - Informal Conference Committee
- † Pharmacy, Board of
- Technology Services, Council on
 - Enterprise Architecture Workgroup

November 9

- † Art and Architectural Review Board
- † Governor, Office of the
 - Virginia Preparedness and Security Panel
- Jamestown-Yorktown Foundation
 - Board of Trustees
- Social Work, Board of

November 13

- † Accountancy, Board of
- Agriculture and Consumer Services, Department of
 - Virginia State Apple Board
- † Community Colleges, State Board for
- † Corrections, Board of
 - Correctional Services/Policy and Regulations Committee
- † Housing Development Authority, Virginia
 - Board of Commissioners
- † Library of Virginia
 - State Public Records Advisory Council
- Prescription Drug Assistance, Joint Commission on (HJR 810)
- Professional and Occupational Regulation, Board for
- † Recycling Markets Development Council, Virginia
- Soil Scientists, Board for Professional
- Water Control Board, State

November 14

- Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects, Board for
 - Land Surveyors Section
- Cemetery Board
 - Regulatory Review Committee
- † Community Colleges, State Board for
 - Academic and Student Affairs Committee

- Audit Committee
- Budget and Finance Committee
- Facilities and Personnel Committee
- † Consumer Advisory Board of the Virginia Electric Utility Restructuring Act
- † Corrections, Board of
- Funeral Directors and Embalmers, Board of
 - Examination Committee
- † Juvenile Justice, State Board of
- Local Government, Commission on
- † Lottery Board, State
- Medicine, Board of
 - Informal Conference Committee
- Museum of Fine Arts, Virginia
 - Architect Search Committee
 - Communications and Marketing Committee
 - Education and Programs Committee
 - Exhibitions Committee
 - Legislative Committee
 - Program Review Committee
- † Optometry, Board of
- Racing Commission, Virginia
- † Resources Authority, Virginia
 - Board of Directors
- Retirement System, Virginia
 - Administration and Personnel Committee
 - Audit and Compliance Committee
 - Benefits and Actuarial Committee
 - Investment Advisory Committee
- Transportation Board, Commonwealth

November 15

- Code Commission, Virginia
- † Community Colleges, State Board for
- † Design-Build/Construction Management Review Board
- † Educational Accountability, Commission on
- † Environmental Quality, Department of
- Funeral Directors and Embalmers, Board of
 - Examination Committee
- Museum of Fine Arts, Virginia
 - Buildings and Grounds Committee
 - Collections Committee
 - Finance Committee
- † Pharmacy, Board of
 - Special Conference Committee
- Rehabilitative Services, Board of
- Retirement System, Virginia
 - Board of Trustees
- Transportation Board, Commonwealth

November 19

- † Economic Incentives to Promote the Growth and Competitiveness of Virginia's Shipbuilding Industry (SJR 351, 2001), Joint Subcommittee Studying
- Education, Board of
 - Advisory Board for Teacher Education and Licensure
- † Incentives to Attract New Businesses, on Existing Businesses in the Commonwealth, Particularly Scrap Recyclers, Joint Subcommittee to Study the Impact of
- The Library of Virginia
 - Archival and Information Services Committee
 - Collection Management Services Committee
 - Executive Committee
 - Legislative and Finance Committee

- Publications and Educational Services Committee
 - Public Library Development Committee
 - Records Management Committee
- Rehabilitative Services, Department of

November 20

- † Chesapeake Bay Restoration Fund Advisory Committee
- † Environmental Quality, Department of
 - Ground Water Protection Steering Committee
- † Higher Education for Virginia, State Council of

November 26

- Elections, State Board of
- Nursing, Board of

November 27

- Compensation Board
- Marine Resources Commission
- Rehabilitative Services, Department of
- † Small Business Financing Authority, Virginia
 - Board of Directors

November 28

- Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects, Board for
 - Landscape Architects Section
- At-Risk Youth and Families, Comprehensive Services for
 - State Executive Council
- Education, Board of
- George Mason University
 - Board of Visitors
- † Higher Education in Virginia, Commission on Access and Diversity in
- † Medicine, Board of
- Nursing, Board of
- Water Control Board, State

November 29

- Nursing, Board of

December 1

- † Blind and Vision Impaired, Department for the
 - Statewide Rehabilitation Council for the Blind

December 3

- Conservation and Recreation, Department of
 - Virginia State Parks Foundation

December 4

- † Branch Pilots, Board for
- † Consumer Advisory Board of the Virginia Electric Utility Restructuring Act
- Education, Board of
 - Accountability Advisory Committee
- † Funeral Directors and Embalmers, Board of
- Nursing, Board of
 - Special Conference Committee
- Outdoors Foundation, Virginia

December 5

- Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects, Board for
 - Certified Interior Designers Section
- † Branch Pilots, Board for
- Nursing, Board of
 - Special Conference Committee
- Outdoors Foundation, Virginia
- † People with Disabilities, Virginia Board for

December 6

- † Agriculture and Consumer Services, Board of Conservation and Recreation, Department of
 - Falls of the James Scenic River Advisory Board
- Nursing, Board of
 - Special Conference Committee
- Real Estate Board
- Technology Services, Council on
 - Enterprise Architecture Workgroup

December 7

- Art and Architectural Review Board
- Medicine, Board of
 - Executive Committee

December 10

- Nursing, Board of
 - Special Conference Committee

December 11

- † Branch Pilots, Board for
- Nursing, Board of
 - Special Conference Committee
- Resources Authority, Virginia

December 12

- † Branch Pilots, Board for
- Conservation and Recreation, Department of
 - Virginia Soil and Water Conservation Board
- † Funeral Directors and Embalmers, Board of
 - Special Conference Committee
- Milk Commission, State
- Polygraph Examiners Advisory Board

December 13

- † Agriculture and Consumer Services, Department of
 - Virginia Corn Board
- Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects, Board for
- † Criminal Justice Services Board
- † Labor and Industry, Department of
 - Virginia Apprenticeship Council
- † Waste Management Board, Virginia
- Waterworks and Wastewater Works Operators, Virginia Board for

December 14

- † Health Practitioners' Intervention Program Committee
- † Health Professions, Department of

December 18

- Charitable Gaming Commission
- Marine Resources Commission
- Nursing, Board of
 - Special Conference Committee

December 19

- At-Risk Youth and Families, Comprehensive Services for
 - State Executive Council
- Racing Commission, Virginia
- Retirement System, Virginia
 - Investment Advisory Committee

December 20

- † Design-Build/Construction Management Review Board
- Retirement System, Virginia
 - Board of Trustees

January 10, 2002

- Education, Board of

January 18

- † Social Services, State Board of

Calendar of Events

- Family and Children's Trust Fund Board of Trustees

January 25

- † Library of Virginia
 - Archival and Information Services Committee
 - Collection Management Services Committee
 - Executive Committee
 - Legislative and Finance Committee
 - Publications and Educational Services Committee
 - Public Library Development Committee
 - Records Management Committee

PUBLIC HEARINGS

November 7

Environmental Quality, Department of
Health, State Board of
† Nursing, Board of

November 8

Pharmacy, Board of

November 13

Air Pollution Control Board

November 20

† Water Control Board, State

November 26

Waste Management Board, Virginia

November 27

Air Pollution Control Board, State
Waste Management Board, Virginia

November 29

Environmental Quality, Department of
Health, State Board of
Waste Management Board, Virginia

December 4

† Mental Health, Mental Retardation and Substance Abuse
Services, State Board of

December 5

† Mental Health, Mental Retardation and Substance Abuse
Services, State Board of

December 6

† Mental Health, Mental Retardation and Substance Abuse
Services, State Board of

December 7

Air Pollution Control Board, State

December 10

† Water Control Board, State

December 11

† Mental Health, Mental Retardation and Substance Abuse
Services, State Board of

December 13

Criminal Justice Services Board

January 8, 2002

† Water Control Board, State

January 9

† Water Control Board, State

March 14

Agriculture and Consumer Services, Department of